

Agenda of Horton City Administrator

Commission Chambers, Board of the Horton City Commission,
Horton City Hall, 205 East 8th Street, P.O. Box 30
Horton, Kans. 66439-0030

Regularly Scheduled Meeting: **7:15 p.m., January 18, 2008.**

AGENDA OF THE CITY ADMINISTRATOR:

ACTION AGENDA

1. Job Description for Utilities Billing Clerk.
2. Mission Lake Request for Qualifications.
3. Special Meeting Request for Mission Lake Financing.
4. Ratification of Emergency Water Plant Purchase.
5. Procurement Code (Action Embargoed).

ADVISORY AGENDA

1. Personnel Leave.
 2. Preliminary Disaster Costs & Federal Assistance Bulletin.
 3. Water Pollution Control (Sewer) Testing.
 4. Central Avenue Improvement Project.
 5. Blue Building KAN STEP Project.
 6. Municipal Swimming Pool Preliminary Engineering Procurement.
 7. Wholesale Electric Procurement.
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The City of Horton, Kansas
Established 1886

205 E. 8th St., P.O. Box 30
Horton, Kans. 66439-0030

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ACTION AGENDA

1. Job Description for Utilities Billing Clerk. The position of Utilities Billing Clerk was erroneously created without a written job description and, in order to help provide guidance to the employee filling the position, City Administration has jointly developed a job description for the Utilities Billing Clerk. The position description recommended by Administration for review and approval is attached under Attachment No. 1.

2. Mission Lake Request for Qualifications. The Mission Lake Request for Qualifications (“RFQ”) has been reviewed by the Kansas Water Office, Kansas State Conservation Commission and the City Attorney. The document has been provided to the Commission for review and approval for release of the RFQ in order to begin the engineering procurement for the Mission Lake Renovation Project. The RFQ is attached under Attachment No. 2.

3. Special Meeting Request for Mission Lake Financing. David Arteberry, Senior Vice President with George K. Baum & Co. (“GKB”) and principle contact for the City of Horton’s Mission Lake financing account, as developed a comprehensive financial report of the City design to boost investor confidence in the City’s repayment capacity on municipal bonds. Mr. Arteberry has requested, due to a conflict in scheduling, that a special meeting of approximately one-hour in duration be held on any of the following days: February 7th (Thursday), 8th (Friday), 12th (Tuesday), 13th (Wednesday), 14th (Thursday), or 15th (Friday). The purpose of the special meeting, as described by Mr. Arteberry, is to review the Municipal Financial Profile, which “examines the City’s outstanding debt, financial operations of utilities, sales tax collections, and general credit statistics.” The findings of the Municipal Financial Profile are important

for the development of the Capital Financing Report, which will provide the specific details about the financing of the Mission Lake Renovation Project.

4. Ratification of Emergency Water Plant Purchase. During the week of January 13—18, 2008, the Water Treatment Plant experience failure of both an air dryer to prevent condensation within the plant and, also, the failure of pneumatic actuator used for the opening and closing of the sand filters used for treating the influent raw water. Dawn Succi, Water Treatment Operator, e-mailed a statement of the issues with the actuators, which has been included herein for review by the Commission.

E-Mail: Thursday, January 17, 2008, 10:39 a.m.
FR: Dawn Succi [dawn.succi@hortonkansas.net]
TO: Levi Henry [levi.henry@hortonkansas.net]
RE: Actuator Problems

Time line of issues

Early in the year – January to February – the water plant stated experiencing issues with the 12” Valves that allow water to come in on the Filters at the Plant were malfunctioning, and not opening up to allow water to come in. The valve would fail to open, and the air cylinder would just blow air by, failing to open the valve. This started to occur on the North Filter. We (Bill & I) replaced the insides of the cylinder in late February of 2007. We also opened the bottom side of the gear box, and cleaned it to the best of our ability and after noticing some potentially serious wear; we applied lithium grease and put the valve back into operation. I notified Administration of what was going on, and this appeared to resolve our problem

Late June to July – we started experiencing the same problem on the South Filter. Got the exact parts ordered, and replaced the insides of the cylinder to the south filter. At the time, we were pressed for time, due to the Central Project, and did not open the gear box. The South Filter Valve appeared to work properly for about a 1 month time period, and then it started to act up again. We then took the bottom plate of the gear box off, to clean and grease it. We (Bill, Lonnie, Rex, Andy, Jory & I) observed a serious amount of wear inside this gear box. I notified Administration of what was going on, and we gave it a shot that our efforts would have fixed our issues.

Mid October – this is when the intermittent failure of the South Filter Influent Valve (top of the filter) started to cause a water loss. The water plant would come on, the valve would fail to open and allow the water to come onto the filter, hence, all of the incoming water would enter the Solids Contact Basin outside, and with the valve not opening, would dump to the ground outside.

This issue has happened at least 5 times, I made contact with Mid-America Valve Company, spoke with Tom, and discussed my problems with him. He came to the water plant, and took a good look at the valve, noticed its age (25-30 years old), noticed the serious wear in the gear box, observed its failure to work properly, noted several issues, and deemed the gear box and cylinder as non-repairable. Tom has come up with a replacement part, that is less expensive to resolve our issue, for both filters.

The use of these valves is important, and we cannot afford to keep dumping water to the ground. I have done everything that I can do to fix my issues with the failure of the Influent Filter Valves, prior to getting to this point.

The approximate cost for the replacement of the actuator was \$4,100.00 and was approved by the City Administrator under the Emergency Procurement authority of the 2000 Purchasing Manual. However, ratification of the purchase is required by the Horton City Commission.

5. Procurement Code (Action Embargoed). While full review of the updated Horton Purchasing Policy and Code had been planned for the January 18, 2008, meeting, there are still items that will require legal advice and review. The draft, to its current stage, has been provided to the Commission for early review; however, the Commission is urged to understand that this is still a working draft and a fluid copy, so some changes will result after legal review. The draft has been attached under Attachment No. 3 for Commission review.

ADVISORY AGENDA

1. Personnel Sick Leave Update. Human resources since the last meeting have been impacted due to a widespread cold and/or flu bug that is making its course through the community. There were nearly 170 hours of total sick time reported during this period, and accomplishing all goals for the last two weeks has proven to be a difficult task. Employees who do get sick are being urged to remain at home in order to prevent the spread of the illness, so that municipal human resources can be fully staffed again.

Particularly, while a real estate inventory, which was requested by Commissioner Krug, has been nearly completed, the staff that was assigned the task of analyzing and making recommendations on the property has also been sick; therefore, City Administration plans on this information being available by the Monday, February 4, 2008, meeting.

2. Preliminary Disaster Costs & Federal Assistance Bulletin. Preliminary total costs have been tallied for municipal costs associated with the December 10 ice storm. While there are still invoices that have yet to be received, the current cost of the storm has totaled nearly \$106,000.00. This price does *not* include an approximate \$52,000.00 invoice to Rogers & Sons for contract services performed. The actual total bill is likely closer to \$40,000.00, and City Administration is mediating this payment dispute. After further review, the City Administrator will keep the Commission updated to further developments regarding both the costs associated with the ice storm and the Rogers & Sons invoice dispute.

Also, in the morning of Tuesday, January 8, 2008, City Administrator, City Clerk, Assistant Chief of Police and the Street Foreman attended the joint Kansas Division of Emergency Management (“KDEM”) and Federal Emergency Management Agency (“FEMA”) preliminary damage assessment meeting. While it appears that the City will be reimbursed for up to 75 percent for storm damage related to debris removal and emergency management during the disaster, the City has learned that it will be required to submit costs under two different programs for federal assistance due to the losses associated with the electric utility, e.g., down lines, dropped meter loops, power generation.

3. Water Pollution Control (Sewer) Testing Results. During the ice storm, there was high amounts of infiltration and inflow (“I&I”) reported at the wastewater treatment plant (“WWTP”), and the City was forced to bypass treatment when the I&I equalization basin overflowed. Plant operators spent nearly 10-days working the I&I back through the plant and, during that time, testing revealed an extremely high reading of fecal coliform bacteria (“FCB”), which is limited to an average geometric reading per month of

2,000 colonies per unit. The average geometric FCB count during the month of December was 2,008 colonies per unit, which is nominal.

City Administration and the WWTP Operator have been in touch with the Northeast Kansas District Office for KDHE in Lawrence, and NEK District Office staff has reported that this is such a nominal amount that it is in substantial compliance with its NPDES point source permit. This item should not concern the Commission or members of the Community: the reading was substantially compliant and remained so even during a large natural disaster. This item was listed as an advisory bulletin only to keep the Commission updated regarding NPDES compliance at the WWTP. The testing results have been attached under Attachment No. 4.

4. Central Avenue Improvement Project ("CAIP"). The CAIP project, once the weather clears and the ground is given the opportunity to dry, is approximately four (4) days from completion. The remaining item for the project, in regards to contractor responsibility, is laying the hot-mix asphalt. Meadows Construction is anxious to see this project completed, especially since the liquidated damages provision of the construction contract begins to toll on March 1, 2008.

City Administration has worked hard to respond to calls from the Super Store to keep the west entrance open and passable; however, the City Administrator has refrained, to date, from allowing the City to maintain the entry, because Meadows has not released the City from any liability for damage done to the curb. Therefore, until Meadows releases the City from liability for the curb, requests to maintain the western entry will be required to be submitted through the engineer to Meadows Construction.

5. Blue Building KAN STEP Project. The City Administrator, Salih Doughramaji (KDOC Field Representative) and Shane Holthaus (KRWA Construction Technician) were scheduled, again, to meet and receive final approval to forward with plans submitted to KDOC and KRWA on Friday, January 18, 2008 at 1:00 p.m. This meeting, just as the previous two meetings, was cancelled. In the cancellation e-mail, Mr. Doughramaji stated that it wouldn't be until February 18 that he could meet again. The City Administrator responded to that e-mail that it was unacceptable and that an immediate date would need to be selected so that the City Administrator could again organize volunteers for the completion of the project. There has been no response to the e-mail at the time of this writing. The City Administrator will continue to work towards a meeting and final approval of a remediation plan of the building's foundation issues.

6. Municipal Swimming Pool Preliminary Engineering Procurement. The Parks and Recreation Board ("PRB") approved the form and substance of the municipal pool request for proposals for preliminary engineering, and the RFP is currently in the hands of interested parties. The PRB will be interviewing respondent firms on Wednesday, February 13, 2008, and a recommendation, with proposed contract, is likely to be before the Commission for review and action on Monday, March 4, 2008.

7. Wholesale Electric Procurement Advisory. The City Administrator, while working with Scott Shreve from EMG, Inc., is also maintaining communications with Transmission Director Lance Boyd of the Kansas Municipal Energy Agency ("KMEA") in order to maximize possibilities for electricity. While EMG and KMEA traditionally do not work together, both Scott and Lance have agreed to a Tuesday conference call in order to explore all of the possibilities, which include a possible short-term (five-year)

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Regular Meeting Date: Monday, January 18, 2008
Prepared by Levi Henry, City Administrator

wholesale agreement with Nemaha-Marshall REA; a long-term (20-year) Westar contract renewal; or a diversified, long-term contract with the Kansas Power Pool. Both Scott and Lance believe that Westar will be willing to grant a one-year extension to the current power contract, which is advantageous for the City in order to minimize generating costs. Scott will be available at the February 4 meeting to present all of the power options; however, City Administration believed it was important to update the Commission regarding new wholesale power options and the collaboration between EMG and KMEA, two very good and highly respected companies.

END OF DOCUMENT

Attachment No. 1

Proposed Job Description

Utilities Billing Clerk

UTILITIES BILLING CLERK

City of Horton, Kansas

Administration

POSITION SUMMARY. The Utilities Billing Clerk is a non-exempt position under the Fair Labor Standards Act ("FLSA"). The primary of focus of the position is to serve (a) as the Utilities Billing Clerk to the City Clerk; and (b) Administrative Assistant to the City Administrator.

The primary responsibilities of the Utilities Billing Clerk are to provide citizen assistance, receive utility payments, and perform data entry. This employee should possess excellent communications, organizational, and public relation skills.

The primary responsibilities of the Administrative Assistant are to provide administrative assistance to the City Administrator. This employee provides a wide variety of highly complex and responsible secretarial and administrative support services for the City Administrator. In addition to performing secretarial services for the City Administrator, the employee in this position is responsible for on going administrative assignments including, but not limited to, coordinating, assembling, and reviewing pertinent materials for the City Council meeting agenda; independently researching and compiling information on issues as needed for the City Administrator's consideration; acting as primary liaison for external inquiries; resolving issues by referring callers to other sources; and processing highly confidential and sensitive information frequently requiring the application of discretion and tact.

POSITION SUMMARY.

- Provides citizen assistance by fielding questions, concerns, and complaints;
- Records all utility receipts;
- Prepares monthly utility billings;
- Assists in maintaining records of utilities billed and monies received;
- Sets-up new customer accounts and records changes in customer account information;
- May serve as hearing officer for delinquent utility customers in absence or as assigned by the City Administrator;
- Responsible for computer hardware and software;
- Maintains bookkeeping and accounting records;
- Assists with the preparation of the payroll;
- Performs general clerical duties;
- Assists with incoming telephone calls;
- Coordinates scheduling arrangements, maintains calendar and schedules tentative appointments and advises staff of important meetings;
- Prepares from brief oral or written instruction, or independently composes correspondence requiring discrimination and judgment in the selection or interpretation of rules, policies, procedures, or the resolution of inquiries where mistaken judgment may entail serious consequences;
- Serves as a primary resource point for citizens or visitors answering policy, procedural or technical inquiries, requiring a thorough knowledge of City programs, functions, organizational

Classification Quick View

FLSA: NON-EXEMPT

ADA: APPLICABLE

FMLA: ELIGIBLE

OSHA: N/A

WORKING CONDITIONS:
NO ADVERSE WORKING
CONDITIONS

structure, as well as the use of independent judgment and discretion in the release of confidential or sensitive information.

- Researches issues for the City Administrator's consideration by abstracting, compiling, reviewing and analyzing appropriate source documents or persons, and prepares statistical or narrative reports or summaries for review.
- Perform related duties and responsibilities as required by the City Clerk or City Administrator.

MARGINAL FUNCTIONS.

- Performs support functions for City Clerk and Deputy City Clerk.
- Other duties as deemed necessary or assigned.

POSITION REQUIREMENTS. Any combination of education and experience that provides the skills, knowledge and abilities required as qualifying. The typical way to obtain these requirements is:

1. Experience. Three to five years of similar or related experience is required. Employee is expected to have acquired the necessary information and skills to perform the job reasonably well within six months of employment.
2. Education. A high school diploma or tested equivalent is required. Successful completion of two years of college-level course work (60 semester units) in Business or Public Administration, Secretarial Science or a directly related field is preferred.
3. Technical Skills. Knowledge of English composition, general math, office practices and procedures; knowledge of personal computers and the use of various software packages, including, but not limited to Microsoft Office Suite, Adobe Acrobat and Adobe Photoshop; and ability to transcribe dictation, proofread documents and identify errors, and independently on complex and confidential secretarial assignments.
4. Problem Solving. Problem solving is a factor in this position. Problems include assisting citizens with questions about city services.
5. Decision Making. Decision making is a factor in this position. Decisions encountered include interpretation of research material, ordinances and city policies and scheduling of City Administrator's calendar.
6. Financial Responsibility. Employee is responsible for department resources. Employee does not participate in the annual departmental budget process.
7. Supervision. Limited supervision from City Clerk and City Administrator is required. Employee does not have supervisory responsibility over subordinate personnel.
8. Personal Relations. Contact with general public, City Commission, co-workers, state agencies, staff members and supervisory personnel.
9. Working Conditions. No adverse working conditions exist with this position.
10. Special Requirement. Excellent verbal and written communication skills required. Highly organized and possess the ability to conduct research and develop reports. Ability to handle many and varied tasks simultaneously. Work is sedentary in nature and involves working at a desk.

The specific statements shown in each section of this description are not intended to be all inclusive. They represent typical elements and criteria considered necessary to successfully perform the job.

END OF DOCUMENT

Attachment No. 2

Mission Lake Renovation Project

Professional Design Engineering Services Procurement

Request for Qualifications

REQUEST FOR QUALIFICATIONS
Design Engineering, Bid Management, and
Construction Management and Inspection.
Mission Lake Restoration Project
W-07-001

QUALIFICATIONS SOUGHT BY:

The City of Horton, Kansas
205 E 8th Street, P.O. Box 30
Horton, Kansas 66439-0030

1. **Advertisement for Requests for Proposals.** Statements of Qualifications and Experience (“SOQ” or “SOQs”) for the design, bid document production, bid management, construction management and construction inspection for the Mission Lake Restoration Project are being solicited. The Mission Lake Restoration Project (“MLRP”) is a comprehensive project to restore and revitalize Mission Lake, the City of Horton’s primary public water supply (“PWS”). Restoration efforts will include the dredging of approximately 500,000 to 650,000 cubic yards of materials from Mission Lake; the design and construction of a confined disposal facility for the containment and dewatering of dredged materials; and the design and construction of anti-sedimentation measures and management plans for the Upper Mission Lake Watershed to mitigate future sedimentation.

The MLRP is being funded by the City of Horton, Kansas, and the Kansas State Conservation Commission under the Multipurpose Small Lakes Program (“MPSLP”). Total project budget is anticipated not to exceed \$7,000,000.00. The MLRP is being procured as design-bid-build and interested parties shall not submit any qualifications proposing a design-build contract.

Statements of qualifications will be accepted until 5:00 p.m., Friday, February 22, 2008. There shall be eight (8) copies of the SOQ delivered, and no SOQ shall exceed 25 pages in total length (exempting cover pages and document preparation materials). Each SOQ will be evaluated by City Administration and the Board of the Horton City Commission (“Commission”). All decisions are made by the Commission, and the Commission may choose, if it finds necessary, to select a two-to-three responsive SOQs for interviews with the respective responsive entity. The Commission, however, reserves the right to offer a contract based solely upon SOQs submitted in response to this Request for Qualifications (“RFQ”). Preliminary review of the SOQs will

begin on Monday, March 3, 2008 during the regularly scheduled Commission meeting at 6:15 p.m. in the Commission Chambers, Horton City Hall. Interviews, if necessary, will be held on Monday, March 17, 2008, beginning at 7:15 p.m., Commission Chambers, Horton City Hall.

All SOQs shall be delivered personally, by the United State Postal Service or other parcel post to:

City of Horton, Kansas
ATTN: MLRP Design SOQ
205 East 8th Street, P.O. Box 30
Horton, Kansas 66439-0030

The City of Horton, Kansas, reserves the right to reject any or all Statements of Qualifications submitted and to waive any informalities or minor defects in responsive SOQs received in response to this RFQ. Small and disadvantaged-owned business enterprises (“DBEs”) are encouraged to submit an SOQ in response to this RFQ.

Requests for qualifications are available at the Office of the Horton City Clerk, 205 East 8th Street, P.O. Box 30, Horton, Kansas 66439-0030, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excepting holidays; or the RFQ may be downloaded at <http://www.hortonkansas.net/government/procurement>.

2. Engagement.

2.1. General Information. The City of Horton, Kansas (the “City”), is seeking a qualified engineering entity or partnership of qualified engineering entities with a demonstrated capacity in large hydraulic dredge and watershed management projects and the ability to successfully propose a specific scope of services based upon the scope of services detailed herein at §___. The City was forced in approximately 2002 to cease treating the surface waters from Mission Lake, which was constructed in 1925, because of increased regulation of impaired waters and decreased capacity of Mission Lake due to sedimentation.

After the 1998 Stipulation Agreement between the Kansas Natural Resources Council/Sierra Club and the Environmental Protection Agency (“EPA”), the EPA begin implementation of Section 303(d) of the Clean Water Act (“CWA”), which is the provision of the CWA responsible

for regulating non-point source pollution through the establish of total maximum daily loads (“TMDL” or “TMDLs”). In 1998, the Kansas Department of Health and Environment (“KDHE”), under order from the EPA, began development of TMDLs for all of Kansas’ waters. On January 26, 2000, KDHE declared Mission Lake as having an 303(d) impairment for eutrophication and atrazine.

Even after the issuance of the TMDLs, the City of Horton continued to treat surface water from Mission Lake until an alternative, temporary public water supply could be developed. Between 2000 and 2003, the City of Horton, in cooperation with the Kansas Department of Commerce (“KDOC”) and United States Housing and Urban Development (“HUD”), drilled an additional four (4) ground water wells in Atchison County, which compliment the two existing ground water wells that have been in use since 1976 for the City. The impetus of these additional wells was primarily caused by an extended drought, which left Mission Lake with approximately four-days of water supply remaining.

In 2004, Horton City officials were approached by the Kansas Governor’s Natural Resources Sub-Cabinet regarding the possibility of using Mission Lake as a pilot, demonstrative project to test the effectiveness of restoring existing lakes instead of constructing new lakes. From 2004 to 2006, the City of Horton worked with the Kansas State Legislature, officials of the Kansas Executive Branch, and staff with the Kansas State Conservation Commission (the “SCC”). During the 2005 Kansas legislative session, the Kansas Legislature approved the transfer of nearly \$3,000,000.00 for Clean Drinking Water Fee Funds from the General Fund to the State Water Plan Fund in order to fund the requirements of the Multipurpose Small Lakes Act. During that same time, in April 2005, the City of Horton submitted a question for \$4,000,000.00 in bonding authority to the residents of the City of Horton, wherein the question-submitted passed by a margin of nearly 2-to-1. In November 2006, the City made its *Phase I Letter of Interest* to the SCC for application funding of \$2,600,000.00; and, in December 2006, the SCC notified the City of Horton that it had been ranked as the number one applicant for funding under the MPLSP.

In April 2006, the City of Horton, in preparation for its *Phase II Letter of Intent* for funding under the MPLSP, executed a contract with the Black & Veatch Corporation (“BVC”), Kansas City, Missouri, to conduct a *Renovation Plan* for Mission Lake. The purpose of the Renovation Plan, which was a required document to secure state funding for the MLRP, was to identify the (a) scope of the project; (b) permitting that would be required to conduct the project; (c) possible locations for the construction of a confined disposal facility for removed sedimentation from

Mission Lake; and (d) significant sources of current sedimentation and nutrient enrichment within the watershed.

In September 2007, BVC finalized the Mission Lake Renovation Plan and submitted the findings from the report to the Commission and to the regulatory agencies required to review the Renovation Plan under the regulations of the MPSLP. See K.A.R. §11-4-1 et seq.

The City of Horton, in November 2007, signed final contracts with the SCC for dedicated funding in the amount of \$2,600,000.00, and the City Commission has authorized the procurement for professional design engineering services via the qualifications-based selection procurement methodology.

2.2. Titles and Headings. The titles or headings of the sections and subsections of this request for qualifications and all other contract documents are intended by both parties to be used for convenience of reference and shall not be considered as having any bearing on the interpretation of this Request for Qualifications or any subsequent contract documents.

2.3. Solicitation of an Offer. This Request for Qualifications does not commit the City to enter into any contract, award for any services related to this Request for Qualifications, nor obligate the City to pay any costs incurred in preparation and/or submission of any statement of qualifications and experience in anticipation of a contract to perform the services herein or otherwise described. This Request for Qualifications shall not be interpreted as an offer, but only as a solicitation of an offer to negotiate for a contract, if chosen by the City.

2.4. Relationship of Selected Respondent(s) as Independent Contractor. Respondents to this Request for Qualifications agree and understand that, if selected to perform the services outlined herein, it and all agents designated by the Respondent to provide services in connection with the contract is, are and shall be deemed to be an independent contractor, response for its respective acts or omissions to act and assumes vicarious liability for acts and omissions to act of the respondent's agents; that the City shall in no way be responsible for the Respondent's actions or omissions; and that none of the parties hereto will have authority to bind the others or to hold out to third parties that it has such authority.

2.5. Responsibility of Respondents Submitting Statements of Qualifications. Each respondent to this Request for Qualifications is responsible for inspecting the site; for reading and being

thoroughly familiar with available information regarding Mission Lake and the Renovation Project; and for satisfying themselves as to the accuracy for performing the services solicited herein. The submission of a Statement of Qualifications by a respondent shall be considered *prima facie* evidence that the respondent has made such examination and is satisfied as to the conditions to be encountered in performing the work defined by the Scope of Services defined herein under §3 of this RFQ.

3. **Qualifications-Based Selection Procedure.** The City, in selecting a qualified and responsible professional engineering design group, will use the Qualifications-Based Selection (“QBS”) procedure generally detailed by the American Council of Engineering Companies (the “ACEC”). The ACEC has produced Qualifications-Based Selection: Why Value Outweighs Cost in the Selection of Engineering Services, November 2004 (available at <http://www.hortonkansas.net/government/procurement/policies.>), and the City will, generally, follow the form outlined by the ACEC publication. The ACEC publication, however, should not be relied on as an integral reference to this Request for Qualifications, and should only be relied upon as a general outline. Specific suggestions within the publication not specifically re-stated within this RFQ may or may not control where there is ambiguity.

The QBS procedure used for Mission Lake Renovation Project design engineering procurement shall be based on the following procurement methodology.

3.1. **Establishment of a Procurement Calendar.** The procurement calendar for professional design services in connection with the Mission Lake Renovation Project is included for review by interested parties under Section 4 herein.

3.2. **Advertisement of Procurement (Public Notice).** The Mission Lake Renovation Project Request for Qualifications will be sent to registered vendors with the City (vendors who have previously expressed interest in the project), be made available for download at hortonkansas.net, and will be advertised with local, state and national trade publications.

The RFQ will be advertised with:

American Council of Engineering Companies of Kansas (“ACEC-KS”);
Kansas Contractors Association (the “KCA”);
The Kansas City Star;

The Topeka Capital-Journal; and
The Horton Headlight.

3.3. Pre-Submittal Conference. The pre-submittal conference will be held at **1:00 p.m., Tuesday, February 12, 2008** at Horton City Hall, Commission Chambers, 205 East 8th Street, Horton, Kansas 66439. All interested parties are encouraged to attend the Pre-Submittal Conference in order to take advantage of exempt verbal communications in accordance with §8.1 of this Request for Qualifications. Additionally, interested parties are encouraged to attend the Pre-Submittal Conference in order to encourage consistent communication with all interested parties.

3.4. Submission of Statements of Qualifications. All Statements of Qualifications are required to be submitted by no later than 5:00 p.m. (CST), Tuesday, February 22, 2008. Statements of Qualifications may be hand-delivered or mailed directly via United States Postal Service or private parcel post to:

**Office of the Horton City Clerk
Horton City Hall, City of Horton
ATTN: Mission Lake Design
205 East 8th Street, P.O. Box 30
Horton, Kans. 66439-0030**

The City will not accept the electronic or facsimiled transmissions of any respondent's Statements of Qualifications.

Interested respondents shall submit one (1) original Statement of Qualifications signed in blue ink; and shall submit ten (10) original copies of the Statements of Qualifications. All Statements of Qualifications shall be clearly addressed "ATTN: Mission Lake Design".

3.4.1. Format of Statement of Qualifications. Each proposal shall be typewritten and submitted on 8 ½" x 11" white paper. Font size shall be no less than 12-point font type. All pages shall be printed on one side only, and margins shall be no less than 1" around the perimeter of the page. The maximum number of pages allowed shall be twenty-five (25) pages, including any appendices or other attachments. Only 25-pages will be reviewed, and

Statements of Qualifications having more than 25-pages shall be reviewed only to the 25th page or, at the discretion of the Governing Body, be altogether dismissed from consideration.

3.4.2. Disclosure Statement. Respondents who submit a Statement of Qualifications in response to this Request for Qualifications shall correctly reveal, disclose and state the true and correct name of the individual, proprietorship, corporation and/or partnership, clearly identifying all responsible partners who would be associated with the Contract, if any is executed. Additionally, any agent acting on behalf of the Respondent shall submit an executed Affidavit of Agency with each Statement of Qualifications.

3.5. Evaluation & Ranking of Qualifications Submissions. The City Commission shall serve as the Selection Committee for the evaluation of responsive Statements of Qualifications. In evaluating those entities that have submitted a Statement of Qualifications, the City of Horton has relied heavily upon the evaluation criteria defined within A Guide to the Procurement of Engineering & Architectural Services, American Council of Engineering Companies (ACEC), 1991 (available online at <http://www.acec-ks.org/qbs/qbs.html>). While the City, in preparation of the evaluation criteria, has relied upon the ACEC publication, the City has taken liberties in helping to more accurately reflect important criteria of a responsible and qualified professional design engineering entity in relation to the specific Mission Lake Restoration Project.

3.5.1. Identification and Review of Project Principals and Key Employees. The education, experience and expertise of the firm's principals and key employees, the amount of time they can be expected to give to the project, and their availability to the client. Project principals and key employees (a) proposed project responsibilities and activities and (b) qualifications, competence and past performance is suggested for inclusion in any responsive Statement of Qualifications, because it will be given greater consideration. Other relevant information of project principals and key employees involved with the project suggested to be included are special awards, publications or specific experience to public water supply restoration projects via hydraulic dredging and watershed restoration.

3.5.2. Experience of Professional Design Engineering Firm. The general experience, financial and human resources stability, and history of performance of projects similar to the Mission Lake Restoration Project of the professional design engineering entity or firm will be given considerable weight in evaluation of responsible and qualified submissions. Specifically, history of contract award price versus engineer's estimate; final construction costs compared with the

contract award price; quality of services during construction; and post-construction award start-up and operations; and maintenance problems. Additional consideration will be given to the overall philosophy and approach to project engineering and construction management, including the firm's institutional methods of planning and organization. Finally, firm's reputation and integrity, as evidenced by submitted awards or other recognitions, will be considered.

3.5.3. Availability of Adequate Firm Resources & Firm Financial Stability. An illustration demonstrating an accurate overview of the availability of adequate firm resources and how those resources will be appropriated among the tasks of the Mission Lake Restoration Project is required to be submitted with each Statement of Qualifications. Also having weight on consideration is the proximity of the professional design engineering firm or entity to Mission Lake, because the project is considered to be complex and highly-involved. Finally, an evidenced statement of the financial stability of the professional design engineering entity's financial stability, including responsiveness to questions of bankruptcy or re-organization.

3.5.4. Interpretation and Approach to General Scope of Services. Statements of Qualifications will be evaluated, overall, for conformance to instructions and directions provided by this Request for Qualifications, as well as responsiveness and honesty in response to questions submitted. Additionally, the professional design engineering entity's understanding of the project objectives and project scope will be given considerable weight in evaluating Statements of Qualifications. This evaluation by no means, however, is intended to inhibit or otherwise discourage creativity and efficient alternative scope of services suggestions or recommendations. The scope of services provided under §5 of this Request for Qualifications is only a suggested and general scope of services, and the City has provided it only as a means of defining the project objectives and key tasks required to successfully complete the project.

3.5.5. Technologies, Facilities and Equipment Available to the Firm. Technologies, facilities, equipment owned by the professional design engineering firm or entity that are available for the Mission Lake Restoration Project will be given considerable weight in evaluation of Statements of Qualifications. Specifically, facilities and equipment that will impact evaluation are (i) the availability computing hardware and software, including the use of global positioning satellites ("GPS"), having specific relevance in lake restoration and hydraulic dredging projects; (ii) laboratories and analytical testing capacity; and/or (iii) other specialized equipment and/or software applicable to the Mission Lake Renovation Project.

If firm or entity is lacking any of these specific technologies, facilities and/or equipment, the firm or entity shall demonstrate the alternative means for how the firm will perform the services suggested within this Request for Qualifications. For example, specific testing will be required during dredge operations in order to determine whether permit conditions are being exceeded or met. If firm or entity does not have the capacity to perform the specific testing, the alternative means of achieving such testing, either by sub-contract or other means, is suggested to be included in the Statement of Qualifications.

3.5.6. Quality of Work Previously Performed by Firm for Client, Other Similarly Situated Clients and/or Similar Projects. Interested design firms or entities are suggested to include within the Statement of Qualifications, at a maximum, three previous clients that were similarly situated as the City of Horton, both economically and demographically, or clients that have had projects similar to the Mission Lake Restoration Project. Included in the evaluation will be whether the firm or entity has previously performed work for the City of Horton and the quality of the work performed. Contact information must be current and include both e-mail, office telephone, facsimile and physical mailing address.

3.6. Establishing a Short List for Interview, If Necessary. The City of Horton has reserved the right to not conduct interviews if it is clear from the Statements of Qualifications only one or two firms or entities are qualified to conduct the Mission Lake Restoration Project. Rather than requiring interview, the City of Horton has reserved the right to enter directly into negotiations with the most qualified firm or entity or request further information via request for technical proposal. However, if the City of Horton does choose to interview engineering firms, only the two highest ranked and/or qualified firms or entities will be invited to interview before the Horton City Commission and appropriate City Officials, including the City Administrator, City Attorney and City Clerk.

3.7. Interviewing Shortlisted Entities, If Necessary. If the City of Horton does choose to interview firms or entities, each interview shall be discussion-style and conversant rather than adhered to any particular framework or method of interviewing. The purpose for this interview format is to give the firm or entity the opportunity to demonstrate both its degree of understanding of the project and amount of creativity. Interviewees invited will be limited to 45-minutes maximum presentation time with 15-minutes of optional or follow-up questions by the Horton City Commission. In no case will an interview exceed one-hour.

3.8. Selecting a Professional Design Engineering Firm & Negotiating a Specific Scope of Services and Contract. The final selection of a qualified engineer shall be solely the decision of the Horton City Commission, with independent evaluation and recommendation from the City Administrator/Project Administrator. Once a firm or entity has been selected, a specific work and price proposal will be requested from the firm or entity, with such firm being given a maximum of fourteen (14) days to submit the proposal. In response, negotiations may commence and the City will submit a contract for review.

When a firm or entity is chosen, the City will submit correspondence to each engineering entity stating the order of the ranking of each firm. If scope of services and contract negotiations with the top ranked firm or entity shall be expressly terminated by either party, the City shall begin negotiations with next rated firm according to the terms defined herein.

4. Estimated Procurement Calendar. The selection and contracting procedure shall generally conform to the following calendar for procurement. This calendar is for guidance only, and all information regarding the MLRP Procurement Calendar shall be subject to amendment in accordance with §6.1 of this Request for Qualifications.

Date	Benchmark Description
Tues., Jan. 22, 2008	Public Release of Request for Qualifications for Design Engineering.
Tues., Feb. 12, 2008	Pre-Submittal Conference at Horton City Hall, Commission Chambers.
Tues., Feb. 22, 2008	Submission of Statements of Qualifications by 5:00 P.M. CST.
Mon., March 4, 2008	Review & Ranking of Statements of Qualifications by Commission and Administration.
Mon., March 10, 2008	Interviews with Shortlisted Firms, If Necessary; Discretionary by Commission.
Mon., March 17, 2008	Final Ranking by Commission & Authorization of Administrator to Enter Into Negotiations with Top Ranked Submission.
Mon., March 31, 2008	Draft Contract Prepared & Presented to City Attorney for Review.
Mon., April 7, 2008	Submission of Final Contract for Commission Authorization & Execution.

5. Scope of Services. The Scope of Services (the “SOS”) has been only generally defined within this Request for Qualifications, because the City believes that interested parties submitting responsive Statements of Qualifications should have leeway in developing an approach and

methodology that uses accepted and responsible engineering principles to meet the objective of the City in restoring Mission Lake.

As such, it is important that interested parties and possible respondents to this Request for Qualifications clearly understand the objective of the Mission Lake Restoration Project. The City of Horton and partnering state agencies seek to restore Mission Lake as a viable, long-term public water supply; and to maintain such restoration investment and initiative through watershed management and sedimentation mitigation plan implementation.

5.1. Specific Project Goals. Specific project goals include: (i) removal of between 500,000 and 650,000 cubic-yards of sedimentation from Mission Lake in such a manner that is conducive to maximization of lake as a public water supply and other specific goals of the MLRP; (ii) confined disposal facility design, project procurement and construction inspection; (iii) sedimentation mitigation implementation, including design of placement and type of anti-sedimentation structures, such as (for example only and no endorsement given to type of structure) gavian structures and lake forebays; (iii) watershed management plan implementation primarily focused on decreasing nutrient enrichment of Mission Lake and wetland protection and maximization; and (iv) lake ecology restoration for fisheries and recreational maximization.

5.2. Scope of Work.

5.2.1. Project Permitting. Project permitting shall be conducted according to the Mission Lake Dredging Project, Preliminary Permitting Matrix, Renovation Plan at 4-29 (Table 4-10), except that the City has already began the process of Clean Water Act Section 404 jurisdictional determination and, if necessary, permitting. §33 U.S.C. 1311 et seq. The property defined by the Restoration Plan as the suitable CDF for the project may not qualify as jurisdictional for the United States Army Corps of Engineers (the "USACE") under a recent United States Supreme Court, see Rapanos v. United States, 547 U.S. ____ (2006) (available online at <http://www.hortonkansas.net/ecodevo/missionlake/legalresources/>), and the City of Horton is actively engaged in the submission of Jurisdictional Determination documentation to USACE for review.

Additionally exempt from the list of project permits is the Section 401 State Water Quality Standards Certification requirement, which will likely either (i) not be required or (ii) piggyback on a Clean Water Act §404(b) Nationwide Permit ("NWP"). The City is also assuming, based on

statements of USACE, that an Environmental Assessment (“EA”) required under the National Environmental Policy Act of 1968 (“NEPA”) will be satisfied by the submission of the Renovation Plan.

Special emphasis on permitting should also include consideration of threatened and endangered species under both state and federal law, including the Migratory Bird Treat Act (the “MBTA”) and the Endangered Species Act (the “ESA”). Consideration also should be provided upon possible archaeological artifacts and the relevant law regarding those artifacts due to the presence of over four (4) Native American tribes located within the Northeast Kansas region, most locally the Kickapoo Tribe of Kansas.

5.2.2. Confined Disposal Facility Engineering. Confined Disposal Facility (the “CDF”) siting has been conducted, and the City is currently in negotiations for a free market purchase of approximately 160-to-180 acres of real estate for CDF placement. Confined Disposal Facility engineering and construction parameters are, generally, for an estimated storage volume of 1,820,000 cubic yards. Preliminary Renovation Plan, Mission Lake Dredging Project, Black & Veatch Corporation, 3-6, 3-8 (Sept. 2007) (available online at <http://www.hortonkansas.net/ecodevo/missionlake/>) (the “Renovation Plan”).

5.2.3. Hydraulic Dredge Engineering. Upon completion of construction of Mission Lake in 1925, the estimated surface acreage of the lake was 152 acres and the estimated volume of the lake was nearly 1,900 acre-feet. It has been estimated by differing engineering reports, the latter of reports likely most accurate, that Mission Lake has suffered as much as 2.2 million cubic yards of sedimentation over its 83-year history, dramatically reducing the storage capacity of the lake to between 493 acre-feet, see Mission Lake Strategies Report, BG Consultants, 2004 (available online at <http://www.hortonkansas.net/ecodevo/missionlake/engineeringresources/strategiesreport/>), and 849 acre-feet. See Preliminary Mission Lake Renovation Plan, Black & Veatch Corporation, 3-1 *et seq.* (Sept. 2007). It has been estimated by the Kansas Biological Society (the “KBS”) that Mission Lake has approximately 123 surface acres remaining, with a total approximate surface water loss of 28 surface acres.

Professional design engineering entities interested in submitting a Statement of Qualifications in response to this Request for Qualifications are encouraged to consider dredging design, e.g., where sediment should be removed from, for the maximization of Mission Lake as a public water supply, fishery and recreation area. Design engineering entities, however, are also

suggested to adhere to areas of Mission Lake that are “reasonably accessible” by hydraulic dredge. Restoration Plan at 3-1 et seq. “Reasonably accessible” areas, as defined by the Restoration Plan, are:

- a) No sediment dredged from below 26 vertical feet below the normal lake pool elevation. Small dredges routinely excavate this approximate depth below the water surface elevation without the need for special boom extensions or larger dredge equipment. Thus, this minimal criterion is desirable, since it opens the anticipated construction contract to as many bidders as possible.
- b) No sediment dredged in existing thicknesses less than 3 vertical feet. Dredging contractors offer their best prices for efficient dredging operations, which generally translates to dredges operating from stationary positions for extended periods of time rather than in frequent repositioning movement. Dredging thin layers of existing sediment maximizes the number of position changes required, and correspondingly drives down efficiency and drives up cost. Therefore, dredging sediment in layers in less than 3 feet thick is not anticipated.

5.2.4. Watershed Management and Sedimentation Mitigation Implementation. Mission Lake has been listed by the Kansas Department of Health and Environment (“KDHE”), under its Clean Water Act §303(d) authority, as exceeding total maximum daily loads (“TMDLs”) for both atrazine, a herbicidal chemical used in the agricultural production of sorghum, and eutrophication, a by-product of nutrient enrichment of Mission Lake.

In addition to these TMDLs, the City of Horton also treats sedimentation as an identifiable pollutant negatively impacting the ability of the lake to be used as a long-term public water supply. Therefore, the City of Horton and Kansas State Conservation Commission seek to have engineering conducted under the same contract for design engineering to reduce the amount of atrazine and nutrients from entering Mission Lake.

Pre-impoundment, anti-sedimentation structures are likely going to be required in watershed areas, properly identified, where high rain flows can contribute to sedimentation of Mission Lake. Pre-dredge analysis shall be conducted to determine the current total acres per year (“t/a/y”) sedimentation rates; and post-dredge analysis shall also be conducted to illustrate

that t/a/y sedimentation has decreased and that investments in pre-impoundment and other anti-sedimentation measures have proven effective.

5.2.5. Project Procurement and Bid Management. Bid document preparation and bid management shall be required of a chosen design engineer for the Mission Lake Restoration Project.

5.2.6. Construction Inspection. Construction inspection shall also be required of the selected respondent to this Request for Qualifications. A plan for the inspection of construction items and verification of removed sediment claimed by contractor shall be submitted as part of the construction inspection phase of the project.

5.2.7. Permit Testing Administration. Certain testing will be required in order to meet the conditions of certain permits issued for the Mission Lake Restoration Project, such as for the National Pollution Discharge Elimination System (“NPDES”) permits.

6. Requirements and Acknowledgements of Respondents.

6.1. Amendments to Request for Qualifications. Changes, amendments or written responses to questions received in compliance with §8.1 of this Request for Qualifications will be electronically mailed (“e-mailed”) to all interested parties and possible respondents who attended the Pre-Submittal Conference, provided under §3.3 hereinbefore. All amendments will, additionally, be posted on the Mission Lake Restoration Project’s procurement web page at <http://www.hortonkansas.net/government/procurement/mlrp>.

It shall be the responsibility of all interested parties, prior to submitting a Request for Qualifications, to review whether any amendments have been made to the Request for Qualifications.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions, scope of services, and/or specifications stated within this Request for Qualifications. Only notarized amendments issued by Levi Henry, City Administrator, City of Horton, shall qualify for amending this Request for Qualifications.

6.2. Insurance. Interested parties and possible respondents to this Request for Qualifications shall be on notice that all contracts that may be awarded as a result of this Qualifications-Based Selection will require any and all selected respondents to carry a minimum coverage that may be evidenced by Certificate of Insurance.

6.3. Code of Ethics. All interested parties and potential respondents acknowledge that City Officers and Employees are prohibited from receiving, soliciting or accepting gifts, gratuities, favors or anything of value for himself, herself, family or others, which is intended or has the appearance or affect of influencing the performance of his or her duties.

6.4. Kansas Open Records Act. In accordance with Kansas law, interested parties and submitting respondents acknowledge and agree that (a) all Statements of Qualifications submitted in response to this Request for Qualifications are presumed to become a local government record available for public inspection and copy under the Kansas Open Records Act, K.S.A. 45-215 *et seq.*; (b) records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are presumed to be public property and local government records under the Kansas Open Records Act, *supra*; and (c) no local government records prepared in response by selected respondents to this Request for Qualifications shall be the subject of any copyright or proprietary claim by the selected respondent. All reports, information, data, or other findings prepared and/or assembled by the selected respondent and held by selected respondent are confidential and the selected respondent agrees that they shall not be made available to any individual or organization without prior written approval of the City.

6.5. Invoicing. Any respondent chosen as a result of this qualifications-based selection procedure shall be able to formally invoice the City for services rendered, indicating on all invoices the services or partial services rendered requiring payment.

7. Reservations.

7.1. Award of Contract. The City reserves the right to award one, more than one, and/or no contract(s) in response to this Request for Qualifications.

7.2. Reservation of Selection. The City reserves the right to award a contract based on a responsive statement of qualifications and experience and/or an interview process with responsive design engineering consultants to this Request for Qualifications. Additionally, the

City also reserves the right to waive any informalities and/or irregularities in the statements of qualifications and experience received in response to this Request for Qualifications.

7.3. Amendment and Termination. The City reserves the right to amend any portion of this Request of Qualifications prior to the date that such statements of qualifications and experience are required to be submitted to the City. The City also reserves the right to terminate this Request for Qualifications, reissue a subsequent Request for Qualifications, and/or remedy technical errors in this qualifications-based selection process.

8. Restrictions and Limitations.

8.1. Anti-Communications Policy. All interested parties and other possible respondents, or agents thereof, are prohibited from communicating with elected City Officials and appointed and otherwise employed City staff, staff and employees of the Kansas State Conservation Commission, staff and employees of the Kansas Water Office, and staff and employees of the Kansas Biological Survey at the University of Kansas regarding this Request for Qualifications and the Mission Lake Renovation Project from a period of time beginning with the public notice of this Request for Qualifications until a final contract has been executed. This restriction extends to all 'thank you' letters, phone calls, electronic mail ("e-mail") and/or any other contact that results in the direct discussion of this Request for Qualifications or the Mission Lake Restoration Project. Violation of this provision by any party and/or their agent may lead to disqualification of Respondent's qualifications from consideration. Exceptions to the restrictions on communications with City officials and employees are:

- a) Respondents, interested parties and other agents may engage in verbal communication with City staff present at the Pre-Submittal meeting described hereinbefore under §3.3.
- b) Respondents, interested parties and other agents may engage in written questions or comments regarding the technical aspects of this Request for Qualifications by either United States Postal Service (the "USPS") or by e-mail. E-mailed written submissions are suggested in order to encourage efficiency in the procurement process. All questions, clarifications or other written communications shall be received by **5:00 p.m., Monday, February 18, 2008**. Communications received after this time shall not be provided a response.

- c) All communication will be made with interested parties and possible respondents to this Request for Qualifications by e-mail and by posting such communications to the City's Mission Lake Restoration Project procurement web page at <http://www.hortonkansas.net/government/procurement/mlrp>. Respondents shall be placed on notice that any written correspondence to City Administrator will be posted to procurement page in order to keep communications consistent among all interested parties, reduce ambiguity, and increase transparency of procurement process.

8.2. Hold Harmless. Any Respondent selected as a result of this qualifications-based selection procedure shall, within limitations placed on such entities by Kansas state law, save harmless the City of Horton, Kansas, its agents, officers and employees from all claims and actions, and all expenses defining the same that are brought as a result of any injury or damage sustained by any person or property in consequence of any act or omission to act by the Respondent. The Respondent shall, within limitations placed on such entities by Kansas state law, save harmless the City of Horton, Kansas, its agents, officers and employees from any claim or amount recovered as a result of infringement of patent, trademark, copyright or from any claim or amounts arising or recovered under workers compensation law or any other law. In any agreement with any subcontractor for the Respondent, Respondent will specify that such subcontractors or agents shall hold harmless the City of Horton, Kansas, its agents, officers, and employees for all the hereinbefore described expenses, claims, actions or amounts recovered.

END OF DOCUMENT

Attachment No. 3

Draft Procurement Code

Introduction.

The City Administrator of the City of Horton, Kansas, is responsible for the procurement of goods and services used by all City Departments. *Horton City Code § 1-310(g); Ordinance 1055 (2004).*

The Office of the City Administrator is open 9:00 AM – 6:00 PM, Monday through Friday at City Hall, 205 E 8th Street, Horton, KS, 66439. Scheduled visits by sales representatives are welcomed and encouraged. It is recommended that visits be scheduled by telephoning appointments in order to more productively use the time of both buyers and salespersons. The City Administrator can be contacted by telephone at (785) 486-2681 and e-mail at cityofhorton@hortonkansas.net.

Objective.

This Purchasing Manual has been prepared to provide departments within the City of Horton, as well as vendor salespersons and potential contractors, with detailed explanations of our procurement operations by outlining our purchasing policies and procedures. Effective purchasing requires close cooperation between our Administrative Department and all city departments. Therefore, this manual is intended to improve understanding of our requirements and serve as a tool of the purchasing process.

It is the objective of the City to purchase the necessary supplies, equipment and services at the lowest possible cost consistent with the quality needed to meet its requirements and to ensure that its citizens receive the maximum value for each dollar expended.

Updates or modifications will be made as required, ensuring that this manual continues to provide the necessary information and guidelines each department of the municipality is expected to follow.

Sources.

Various sources have been used in the development of this procurement policy. Specifically, heavy reliance was placed upon the 2000 Edition of the City of Horton Purchasing Manual; The 2000 Model Procurement Code for State and Local Governments, American Bar Association, Section of Public Contract Law (ISBN: 1-57073-900-5); documents and regulations of the Kansas Department of Commerce, Small Cities Division, and the United States Department of Housing and Urban Development; and miscellaneous documents provided by the American Council of Engineering Companies (the "ACEC"), which have been cited as used within this policy, for the development of a Qualifications-Based Selection procedure.

1. Purpose and Scope.

1.1. Purpose. ~~The purpose of the adoption of this Purchasing Policy Manual is to serve as a guide to all city personnel, establishing authority, limits, and procedures relating to the purchase of materials, supplies, equipment or services by and for the City of Horton, Kansas. This plan establishes standards and guidelines and a code of conduct for the procurement of supplies, equipment, construction and~~

Comment [MSOffice1]: Substantive repeal of previous purpose. Replacement language is that recommended by KDOC-CDBG guidelines.

other services from private businesses, contractors and consultants, specifically for projects utilizing federal grant and loan funds.

Adherence to the policies set forth in this manual will:

- Ensure the maximum purchasing value of public funds regarding procurement;
- Provide safeguards for maintaining a procurement and disposition system of quality and integrity;
- Provide for effective purchasing functions that allow for the necessary business of our municipality to be accomplished in timely fashion; and
- Provide for fair and equitable treatment of all persons involved in public purchasing by the City of Horton, Kansas.

1.2. Scope. The scope of this manual applies to every disposition for value or expenditure of public funds by the City, irrespective of the source of the funds. When the procurement or disposition involves federal/state assistance or contract funds and is also subject to federal/state regulations, the procurement or disposition shall be conducted in accordance with any applicable mandatory federal/state laws or regulation that is not reflected in this article. Nothing in this policy manual shall prevent the City of Horton from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

2. General Provisions.

2.1. Purchasing Authority Vested in Board of the Horton City Commission; Grant of Authority to City Administrator. The Board of the Horton City Commission shall approve all purchases of supplies, equipment, construction activities, and services only if there are sufficient unencumbered funds properly budgeted by the City; or, in the case of specific federal or state programs that require a request for funds (drawdown) or reimbursement, only if the supplies, equipment, construction activity or services to be purchased are within the specifications, including project budget, of the grant and/or loan. The City Administrator is the chief purchasing agent for the city and is to direct the purchase all merchandise, materials, supplies and/or services needed by the city. *Horton City Code §1-310(g)*. The City Administrator may purchase all items that are \$3,000.00 or less without City Commission approval.

2.2. Local Procurement & Recycled Material Purchasing Preferences. Whenever possible, purchasing will be conducted through local vendors from Horton and Brown County. This can be accomplished by ensuring that local vendors who have goods or services, which the City requires, are included in the competitive procurement processes, which will precede most purchases. The City of Horton has a responsibility to its residents, however, to obtain the maximum value for each public dollar spent. As a general rule, if any given product can be purchased out-of-town for 15 percent less than it can be purchased locally, then such product shall be purchased from the out-of-town vendor.

Comment [MSOffice2]: Standard language recommended by the U.S. Department of Housing & Urban Development and the Kansas Department of Commerce. Previous language deleted from draft procurement code, because it was unnecessary.

Comment [MSOffice3]: From 2000 Purchasing Manual.

Comment [MSOffice4]: New Section of Code Designed to Consolidated HUD and KDOC requirements. Specific amendments or revisions are cited as made herein.

Comment [MSOffice5]: New Section. Language regarding purchasing authority required by HUD and KDOC. City Administrator purchasing authority provided to clarify purchasing authority and limitations.

Comment [MSOffice6]: Minutes of November 11, 2004, provides a \$3,000.00 purchasing limitation without City Commission prior approval.

Comment [MSOffice7]: Previous Section 3.1 (2002 Edition).

When economically feasible, the City is committed to the purchase of materials manufactured from recycled materials. The use of recycled materials, however, may not be used if its use would compromise the integrity of any materials, equipment or other items purchased.

Comment [MSOffice8]: Previous Section 3.5. List of materials was expanded from office supplies to all materials and equipment that is manufactured from recyclables.

2.3. **Procurement Planning; Cash and Reserve Fund Maintenance.** Planning for purchases should be conducted on both a long-term and short-term basis. Small orders and last minute purchases should be minimized, thereby increasing the capability of each department to purchase its goods and services in large quantities in order to obtain the maximum discounts available. Planning will also assist in the reduction of clerical and supervisory time spent in documenting and receipt of purchases. Each employee for the City of Horton should strive to remember that the purchasing process begins with the annual budget.

Comment [MSOffice9]: This caveat was added to prevent the purchase of recycled materials if it would compromise the integrity of the product or total product being procured.

Comment [MSOffice10]: Previous Section 3.2.

Comment [MSOffice11]: Substantive addition to this draft of the procurement policy.

Comment [MSOffice12]: Technical Revision of Statement.

Long-term capital improvement items, such as facility replacement, expansion or other construction, shall be planned by Department Heads and City Administration and reserve funding shall be an integral aspect of the planning process. Cash reserve maintenance for revenue generating utilities and other operations of the City of Horton shall also be given consideration during long-term capital improvement planning.

Comment [MSOffice13]: Substantive Addition.

2.4. **Municipal Exemption from State and Local Sales Tax.** The City of Horton is generally exempt from most state and local sales taxes and/or federal excise taxes. The City Clerk shall provide the necessary exemption documents to any vendor upon request. The City of Horton's tax exempt identification number is 120-0973.

Comment [MSOffice14]: Previous Section 3.3.

2.5. **Free Market Competition Policy.** It is the intent of the City that acquisitions are made under conditions that allow for free and open competition. Bidders, proposing parties, and interest respondents are encouraged to advise the Horton City Administrator whenever specifications do not comply with standard trade practices or impose impractical or unreasonable requirements.

Comment [MSOffice15]: Added to comply with Kansas Department of Commerce CDBG procurement requirements.

2.6. **Alternative or Equivalent Equal Bids; Use of Trade Names for Demonstrative Purposes Only.** Whenever the specifications of an article or material are defined by trade name, brand name, or model and catalog number, the term "or equal," if not written, is implied. Any such reference to a particular manufacturer's product is for the purpose of item identification and to establish standards of performance, quality and features. Bids on equivalent items are invited. Alternate bids may be submitted and, if deemed advantageous to the City, evaluated and considered

Comment [MSOffice16]: Added to comply with Kansas Department of Commerce CDBG procurement requirements.

2.7. **Types of Procurement, Generally.** There are, generally, four types of public sector procurement processes: procurements of \$25,000.00 or more; procurements of less than \$25,000.00; qualifications-

Comment [MSOffice17]: All of §2.8 was added in order to comply with Kansas Department of Commerce CDBG procurement requirements.

based selection procurement procedure for professional architectural and engineering design services; and noncompetitive procurement.

2.7.1. Procurements of \$25,000.00 or More, Generally. Any direct purchase of supplies, equipment, or construction activities exceeding twenty-five thousand dollars (\$25,000) shall require the issuance and publishing of an invitation to bid and the submittal of competitive sealed bids from various vendors, suppliers, or contractors, which will be read aloud at the time, date and place specified in the said invitation, and then only the lowest most responsible bid shall be accepted.

Comment [MSOffice18]: Classification language required by KDOC-CDBG guidelines.

2.7.2. Procurements of Less Than \$25,000.00, Generally. Any direct purchase of supplies, equipment, construction activities, or services of less than twenty-five thousand dollars (\$25,000) shall be handled through a small purchase process that requires written price or rate quotations be obtained from a number, generally three, qualified sources; the maintaining of documentation regarding the businesses contacted and prices quoted, as well as the basis for selection; and the preparation and signing of a contract formalizing the scope of work and the terms of compensation. When the dollar amount of the purchase will be less than five hundred dollars (\$500), telephone solicitation shall be allowed.

Comment [MSOffice19]: Classification language required by KDOC-CDBG guidelines.

2.7.3. Qualifications-Based Selection for Professional Architectural and/or Engineering Design Services. Qualifications-based selection ("QBS") is a public procurement process that enables project owners to obtain the services of a highly qualified design professional at a fair and reasonable cost, an investment in quality which will result in substantial savings over the life cycle of the project. A Guide to Qualification Based Selection of Design Professionals: A Key to Quality, ACEC Guidelines to Practice ("ACEC 1994 Guide"), American Council of Engineering Companies, 3 (1994). The QBS process is the most widely endorsed legal method for selecting design professionals by public owners. Id. The process is recommended by the American Bar Association and the American Public Works Association, and the policy has been codified in both federal and state law. See Pub.L. 92-582 ("Brooks A/E Act") (declaring "it to be the policy of the federal government to publicly announce and that the contracts for these services be negotiated on the basis of demonstrated competence and qualifications...at fair and reasonable prices..."); see also K.S.A. 75-5801.

The procurement process of professional architectural and engineering ("A/E") design services is less comparable to the procurement of other goods and services and is more analogous to the hiring of an individual for employment. Because the City desires to employ the best qualified individuals in order to reduce external costs, such as loss to inefficiency and unforeseen costs, the procurement of the best qualified A/E entities also results in reduced external and unexpected costs. The State of Maryland adopted price-based selection in 1974; however, in 1985, because of the high costs associated with professional design, the state overwhelmingly replaced price-based selection with qualifications-based selection. Public Contract's and Procurement Regulations, April 19, 2007 Presentation by J. Bart Budetti, City Attorney, City of Overland Park, Kansas. Maryland's experience showed that price-based selection

increased the design phase cost by 94 percent and resulted in increased construction cost increases. The increased design phase costs were caused by the design engineers time and effort spent developing a scope of work, which is prepared by the public owner under the QBS selection process. Id.

Because of the overwhelming support and evidence that the QBS procurement process is the more fiscally responsible method of procurement for professional A/E design services, it shall be declared the policy of the City of Horton that the qualifications-based selection procedure be the primary procurement method for professional A/E design services.

2.7.4. Noncompetitive Procurement; General Exceptions to Competitive Procurement Policy. Noncompetitive negotiations shall be allowed for the purchase of supplies, equipment, construction activities, and services only when one or more conditions exist that are described as follows: (i) The use of competitive negotiations is not feasible, such as when there is only one supplier, see §____; (ii) there is a public emergency that the purchase is needed to help eliminate, see §____; or, (iii) the results of competitive negotiations that occurred due to the issuance of a Request for Qualifications (RFQ) or Request for Proposals (RFP) are inadequate.

2.8. Requirements of Federal Assistance; Incorporation by Reference Requirements of Federal Assistance. Any project utilizing federal assistance shall, in addition to adherence to this plan, comply with the “Administrative requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments” (24 CFR Part 85), which is referred to as the “Common Rule” and is applicable to the Small Cities Community Development Block Grant (CDBG) Program to the extent specified in 24 CFR Part 570 at 570.502(a), and any other federal or state labor standards, civil rights and equal employment opportunity requirements, acquisition and relocation regulations, or other regulations applicable to and affecting the specific project involved. As required by certain federal and state programs, all contract and bid documents utilized in projects assisted by the programs shall include reference to the applicable regulations.

Comment [MSOffice20]: Added to comply with Kansas Department of Commerce CDBG procurement requirements.

The Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federal Recognized Indian Tribal Governments that is codified at 24 CFR Part 85 is hereby incorporated into this procurement code by reference. See Appendix ____.

2.9. No Excuse from Contractual Obligations. No provision of this plan or inadvertent omission in these policies, procedures or standards shall relieve any contractor or other vendor from fulfillment of stated contractual obligations, or the contractor’s endorsement of certain federal and state standards and guidelines, if required within the contract.

Comment [MSOffice21]: Substantive addition to Draft Procurement Policy designed to protect the City from having conflicting policy and contract.

3. Assistance to Small and Disadvantaged Businesses; Federal Assistance or Contract Procurement Requirements.

Comment [MSOffice22]: There is not a predecessor section to this section in the 2000 manual; however, HUD & KDOC-CDBG requires that a plan be developed for the inclusion of Small and Disadvantaged Business Enterprises (DBEs). This section of the draft policy manual has been adopted from the 2000 ABA Model Procurement Code in order to ensure compliance with HUD requirements.

3.1. Small- and Disadvantaged-Business Enterprises Defined.

3.1.1. Small-Business Enterprise. A small-business enterprise (“SBE”) is a United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation. ABA-MPC §11-101(2).

Comment [MSOffice23]: Substantive addition to the new policy adapted from ABA-MPC §11-101(2).

3.1.2. Disadvantaged-Business Enterprise. A disadvantaged-business enterprise (“DBE”) is a small business which is owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. ABA-MPC §11-101(1).

Comment [MSOffice24]: Substantive addition to the new policy adapted from ABA-MPC §11-101(1).

3.2. Policy and Implementation. It shall be the policy of the City to assist small and disadvantaged businesses in learning how to do business with the City of Horton, Kansas. The City Administrator shall be responsible for implementing the policy in accordance with the duties defined within §3.3 of this policy. ABA-MPC §11-201(1) and (2).

Comment [MSOffice25]: Substantive addition to the new policy adapted from ABA-MPC §11-201(1) and (2).

3.3. Mandatory Duties of the City Administrator as Chief Procurement Officer. Where feasible, the City Administrator, acting as the Chief Procurement Officer for the City of Horton, shall implement the small- and disadvantaged-business enterprise policy of the City using the following methods of implementation. ABA-MPC §11-202.

Comment [MSOffice26]: Substantive addition to the policy adapted from ABA-MPC §11-202.

3.3.1. Special Publications. The City Administrator shall develop a database of special publications targeting SBEs and DBEs and shall give special publicity to procurement opportunities with the City of Horton. ABA-MPC §11-202(2) and (3).

Comment [MSOffice27]: Substantive addition to the new policy adopted from ABA-MPC §11-202(2) and (3).

3.3.2. Solicitation Mailing Lists. The City Administrator shall include small and disadvantaged-business enterprises and representative trade organizations on solicitation mailing lists. ABA-MPC §11-202(5).

Comment [MSOffice28]: Substantive addition to the new policy adopted from ABA-MPC §11-202(5).

3.4. Discretionary Duties of the City Administrator Acting as Chief Procurement Officer.

Comment [MSOffice29]: Substantive addition to new policy adopted from ABA-MPC §11-203.

3.4.1. Bonding. Notwithstanding other provisions of this Code, the City Administrator acting as the Chief Procurement Officer may reduce the level or change the types of bonding normally required or accept alternative forms of security to the extent reasonably necessary to encourage procurement from small and disadvantaged businesses. ABA-MPC §11-203(1).

Comment [MSOffice30]: Substantive addition to new policy adopted from ABA-MPC §11-203(1).

3.4.2. Progress Payments. The City Administrator, acting as Chief Procurement Officer, may make such special provisions for progress payments as such officer may deem reasonably necessary to encourage procurement from small and disadvantaged businesses. ABA-MPC §11-203(2).

Comment [MSOffice31]: Substantive addition to new policy adopted from ABA-MPC §11-203(2).

3.5. **Federal Assistance and Compliance with Federal Requirements.** Where a procurement involves the expenditure of federal assistance or contract funds, the City Administrator, acting as the Chief Procurement Officer, shall comply with such federal law and regulations that are mandatorily applicable and which are not presently reflected within this policy. ABA-MPC §11-301.

Comment [MSOffice32]: Substantive addition to the new policy adopted from ABA-MPC §11-301.

4. **Public Procurement Ethical Standards of Conduct.** Public employment is a public trust. It is the policy of the City of Horton, Kansas, to promote and balance the objective of protecting government integrity. Therefore, it is, also, the policy of the City of Horton, Kansas, that its employees, officers or agents shall not have a significant financial or personal interest that would impair their proper discharge of official duties. Horton City Code §1-314 (Ed. 2000).

Comment [MSOffice33]: Replacement section on Ethical Standards of Conduct adapted from ABA-MPC Article 12 (Ethical Standards of Conduct in Public Procurement Activities).

4.1. **Conflict of Interest and Substantial Interest Disclosure.**

Comment [MSOffice34]: Authority for sections within the policy are cross-referenced as much as possible in order to provide all persons using the purchasing policy, including staff and outside vendors, with as much as information as is available for the purpose of providing persons with the relevant information used to create the purchasing policy.

4.1.1. **Conflict of Interest.** No employee, officer or agent of the City of Horton shall participate in the selection or in the award of a contract if a conflict of interest, real or apparent, may exist. This requirement also applies to members of an employee, officer or agent's immediate family, their partners, and any organization that employs or is about to employ any of the above, or has the financial or other interest in the firm selected for a contract award.

Comment [MSOffice35]: The current procurement policy has no provisions regarding conflict of interest or disclosure of substantial interests. It is not only wise public policy to maintain this requirements, but it is also required by HUD and KDOC CDBG requirements.

Any employee who knows that he or she has an actual or potential and significant conflict of interest shall disqualify himself or herself from involvement in the procurement process. City of Horton Employee Personnel Manual, Code of Ethics and Standard of Conduct for Horton, Kansas, Part IV, Standard 1101 (March 1, 2005). Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of the public trust. The 2000 Model Procurement Code for State and Local Governments (the "ABA-MPC"), American Bar Association, §12-202(1).

Comment [MSOffice36]: Substantive revision with language adopted from ABA-MPC §12-204(1).

Comment [MSOffice37]: Substantive addition with language adopted from ABA-MPC §12-202(1).

Comment [MSOffice38]: Substantive addition adopted from ABA-MPC §12-202(1).

4.1.2. **Disclosure of Financial, Material Interests.** Any city official or appointed or hired employee who has, or obtains any benefit from, any contract to which the City is a party with a business in which the employee has a financial or material interest shall report such benefit to the Board of the Horton City Commission; provided, however, this section shall not apply to a contract with a business where the employee's interest in the business has been placed in a disclosed blind trust. ABA-MPC §12-205(2).

Comment [MSOffice39]: Substantive addition with language adopted from the ABA-MPC §12-202(1).

Comment [MSOffice40]: Substantive addition from the ABA-MPC §12-205(2).

Blind trust means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in, or other dispositions of, the property subject to the trust. ABA-MPC §12-101(1).

Comment [MSOffice41]: Substantive addition of addition from language of ABA-MPC §12-101(1).

Any employee who knows or should have known of such benefit, and fails to report such benefit to the Board of the Horton City Commission is in breach of the ethical standards of conduct of this section.

4.2. Prohibited Activities.

4.2.1. Kickbacks Prohibited. A kickback is the defined as the return of a portion of a monetary sum received, especially as a result of coercion or secret agreement. Black's Law Dictionary, Seventh Abridged Version, West 2000. It shall be a breach of ethical standards of conduct for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or high tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order. ABA-MPC §12-206 (2). The City reserves the authority to recover monies produced from kickbacks via the provisions of this policy under §3.4.4.

Comment [MSOffice42]: Substantive addition that is required by HUD & KDOC-CDBG program. Language, however, is adopted from Black's Law Dictionary and the ABA-MPC.

4.2.2. Gratuities Prohibited. The City of Horton strictly prohibits the acceptance of any type of gift by all employees. Employees and appointed officials must not become obligated to any supplier/firm and shall not conduct any City purchasing transactions from which they may personally benefit.

Comment [MSOffice43]: Non-Substantive Revision. This paragraph is the previous §3.6. It was moved in order to remove ambiguity and provide clarity on the issue of what is deemed a gift and what is an incidental gratuity that is permitted by the purchasing policy and the employee personnel manual. By consolidating this information into a single section, employees and vendors are less likely to be confused by two separate sections providing guidance on gifts and/or incidental gratuities.

Soliciting or accepting any gift, gratuity, favor or kickback from any person who has or is seeking to do business with the City of Horton is also prohibited. City of Horton Employee Personnel Manual, Code of Ethics and Standard of Conduct for Horton, Kansas, Part IV, Standard 901 (March 1, 2005).

Comment [MSOffice44]: Addition.

Gratuity means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received. ABA MPC §12-101(6) at 89. Gratuities shall not mean pens, pencils, matchbooks, calendars, holiday gifts used for advertising purposes, or meals or other meeting-related incidentals for the purpose of conducting or discussing official city business, so long as such incidentals do not exceed \$4 0.00 in value. City of Horton Employee Personnel Manual, Code of Ethics and Standard of Conduct for Horton, Kansas, Part V (C)(1)(c) (March 1, 2005).

Comment [MSOffice45]: Substantive amendment to define gratuity.

Any effort to influence any public employee or official to breach the standards of ethical conduct set forth within this policy is a breach of ethical standards. ABA MPC §12-202(2) at 91.

Comment [MSOffice46]: Addition.

Comment [MSOffice47]: Substantive addition.

4.2.3. Endorsements Prohibited; Exceptions. It is City policy not to endorse or in any way permit an employee's name or position, or the City's name to be used and advertised as supporting a specific product or vendor. Requests for references shall not be considered to be an endorsement, will be handled if received in writing and will be limited to actual performance as it relates to customer service, delivery, or product efficiency. City of Horton Employee Personnel Manual, Code of Ethics and Standard of Conduct for Horton, Kansas, Part IV, Standard 401 (March 1, 2005).

Comment [MSOffice48]: Previously Section 2.2.

Comment [MSOffice49]: Addition.

4.2.4. **Personal Purchases Prohibited.** Purchases for employee's personal use by the City are prohibited. City of Horton Employee Personnel Manual, Code of Ethics and Standard of Conduct for Horton, Kansas, Section G-5(e) (March 1, 2005).

Comment [MSOffice50]: Previous Section 2.3.

Comment [MSOffice51]: Addition.

4.2.5. **Contemporaneous Employment Prohibited.** It shall be a breach of ethical standards of conduct for any city official or employee who is participating directly or indirectly in the procurement process to become or be, while such an employee, the employee of any person contracting with the Board of the Horton City Commission by whom the employee is employed.

Comment [MSOffice52]: Substantive addition required by HUD/KDOC-CDBG guidelines. Language adapted from ABA-MPC §12-208(1).

4.2.6. **Revolving Door Employment Restricted; Confidential Information Protected.** It shall be a breach of the ethical standards of conduct for any former full-time employee of the City to engage in selling or attempting to sell supplies, services or construction to the City for a period of one (1) year following the date employment with the City ceased; *provided*, however, that this section is not intended to preclude a former employee from accepting employment with private industry solely because the former employee's employer is a contractor with the City of Horton, nor shall a former employee be precluded from serving as a consultant to the City. ABA-MPC §12-208(4).

Comment [MSOffice53]: Revolving door prohibition required by HUD/KDOC-CDBG program guidelines. Language adapted from the ABA-MPC.

It shall, however, be a breach of the ethical standards of conduct for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person. ABA-MPC §12-209.

4.3. **Violations of Procurement Code of Ethics.** To the extent that violations of the ethical standards set forth within this policy constitute violations of the laws of the State of Kansas or of the United States, they shall be punishable as provided therein. Such sanctions shall be in addition to the civil remedies set forth in this policy.

Comment [MSOffice54]: Substantive addition required by HUD/KDOC-CDBG program requirements. This is the language provided by KDOC to meet the requirement.

4.3.1. **Violations of Code of Ethics by Contractors or Vendors.** Any violation of the above stated code of conduct by a contractor may be considered as reason to exclude that contractor from all current and future transactions and agreements with the City. As prescribed by law and/or contract, additional penalties may be imposed that are appropriate for committed violations of the above stated code of conduct.

Comment [MSOffice55]: Substantive addition required by HUD/KDOC-CDBG program guidelines. This language is the model language recommended by KDOC program guidelines.

4.3.2. **Violations of Code of Ethics by Employees and Other City Officials.** Any violation of the above stated code of conduct by an employee, officer or agent of the City shall be investigated and given consideration under the Employee Personnel Manual applicable at the time the violation occurred. As prescribed by law and/or contract, additional penalties may be imposed that are appropriate for committed violations of the above stated code of conduct.

Comment [MSOffice56]: Substantive addition required by HUD/KDOC-CDBG program guidelines. This language is the model language recommended by KDOC program guidelines.

4.4. **Remedies for Violations of the Standards of Conduct.**

Comment [MSOffice57]: Substantive addition from model language provided in ABA-MPC §12-302.

4.4.1. Civil and Administrative Remedies Against Non-Employees Who Breach the Ethical Standards of Conduct.

Comment [MSOffice58]: Substantive addition from ABA-MPC §12-302.

4.4.1.1. Existing Remedies Not Impaired. Civil and administrative remedies against employees which are in existence on the effective date of this Code shall not be impaired. Civil and administrative remedies against employees which are in existence on the effective date of this policy shall not be impaired. ABA-MPC §12-302(1).

Comment [MSOffice59]: Substantive addition from ABA-MPC §12-302(1).

4.4.1.2. Supplemental Remedies. In addition to existing remedies for breach of the ethical standards of conduct of this policy, the City Administrator and/or Board of the Horton City Commission may impose any of the following actions: (i) written warnings or reprimands; (ii) termination of transactions; and/or (iii) debarment or suspension from being a contractor or subcontractor under future City of Horton contracts. ABA-MPC §12-302(2).

Comment [MSOffice60]: Substantive addition adapted from ABA-MPC §12-302(2).

4.4.1.3. Right to Recover from a Non-Employee the Value Received in Breach of the Ethical Standards of Conduct. The value of anything received by a non-employee in breach of the ethical standards of this policy shall be recoverable by the City of Horton as provided under §3.6.3 (Recovery of Value Transferred or Received in Breach of Ethical Standards of Conduct) of this policy. ABA-MPC §12-302(3).

Comment [MSOffice61]: ABA-MPC §12-302(3). Substantive Addition.

4.4.1.4. Right of the City to Debar or Suspend. Debarment or suspension may be imposed by the Board of the Horton City Commission in accordance with §3.7.5 of this policy for the breach of ethical standards of conduct, provided that such action cannot be taken with vote and simple majority of the Board of the Horton City Commission. ABA-MPC §12-302(4).

Comment [MSOffice62]: Substantive addition adopted from ABA-MPC §12-302(4).

4.4.1.5. Due Process. All procedures under §3.4 of this policy shall be in accordance with the minimum due process requirements of the law, including, but not limited to, a right to notice and an opportunity for a hearing prior to imposition of any termination, debarment, contract cancellation or suspension from being a contract or subcontractor under a contract with the City of Horton. ABA-MPC §12-302(5).

Comment [MSOffice63]: Substantive addition adopted from ABA-MPC §12-302(5).

4.4.2. Civil and Administrative Remedies Against Employees Who Breach Ethical Standards of Conduct.

Comment [MSOffice64]: Substantive addition from ABA-MPC §12-301.

4.4.2.1. Existing Remedies Not Impaired. Civil and administrative remedies against employees which are in existence on the effective date of this Code shall not be impaired. Civil and administrative remedies against employees which are in existence on the effective date of this policy shall not be impaired. ABA-MPC §12-301(1).

Comment [MSOffice65]: Substantive addition of ABA-MPC §12-301(1).

4.4.2.2. **Supplemental Remedies.** In addition to existing remedies for breach of the ethical standards of conduct of this policy, the City Administrator and/or Board of the Horton City Commission may impose any of the disciplinary actions provided for under the applicable Employee Personnel Manual applicable at the time of the offense. Such disciplinary actions include, but are not limited to, (i) written warnings or reprimands; (ii) suspension with or without pay for a specified period of time; or (iii) termination from employment. ABA-MPC §12-301(2).

Comment [MSOffice66]: Substantive addition of ABA-MPC §12-301(2).

4.4.2.3. **Right to Recover from Employee the Value Received in Breach of the Ethical Standards of Conduct.** The value of anything received by an employee in breach of the ethical standards of this policy shall be recoverable by the City of Horton as provided under §3.6.3 (Recovery of Value Transferred or Received in Breach of Ethical Standards of Conduct) of this policy. ABA-MPC §12-301(3).

Comment [MSOffice67]: ABA-MPC §12-301(3). Substantive Addition.

4.4.2.4. **Due Process.** All procedures under §3.6.2. of this policy shall be conducted in accordance with the due process requirements of the law. In addition, notice and an opportunity for a hearing shall be provided prior to imposition of any civil and administrative remedies, except for in the instance of termination from employment. ABA-MPC §12-301(4).

Comment [MSOffice68]: Adapted from ABA-MPC §12-301(4). Substantive Addition.

4.4.3. **Recovery of Value Transferred or Received in Breach of Ethical Standards of Conduct.** The value of anything transferred or received in breach of the ethical standards of conduct of this policy by an employee or non-employee may be recovered from both the employee and non-employee. ABA-MPC §12-303(1).

Comment [MSOffice69]: Substantive addition provided by the ABA-MPC.

4.4.4. **Recovery of Kickbacks by the City and/or State.** Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City of Horton, Kansas, and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties. ABA-MPC §12-303(2).

Comment [MSOffice70]: Substantive addition provided by the ABA-MPC.

4.4.5. **Authority to Debar or Suspend.** After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Board of the Horton City Commission, at recommendation of the City Administrator and in consultation with the City Attorney, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three (3) years. ABA-MPC §9-102(1).

Comment [MSOffice71]: Substantive addition adopted from ABA-MPC §9-102(1).

4.4.5.1. **Causes for Debarment or Suspension.** The causes for debarment or suspension include (i) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; (ii)

Comment [MSOffice72]: Substantive addition adopted from the ABA-MPC §9-102(2)

conviction under State or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor of the City of Horton; (iii) conviction under State or federal antitrust statutes arising out of the submission of bids or proposals; and/or (iv) violation of contract provisions, as set forth below, of a character which is regarded by the Board of the Horton City Commission, City Administrator or City Attorney to be so serious as to justify debarment action where there is deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment. ABA-MPC §9-102(2).

4.4.5.2. Decision. The City Administrator and/or City Attorney shall issue a written decision to debar or suspend a contractor, but only after consideration and direction of the Board of the Horton City Commission. The decision shall state the reasons for the action taken. ABA-MPC §9-102(3).

Comment [MSOffice73]: Substantive addition adapted from the ABA-MPC §9-102(3).

4.4.5.3. Notice of Decision. A copy of the decision under §3.7.5.2 shall be mailed or otherwise furnished immediately to the debarred or suspended person or other party. ABA-MPC §9-102(4).

Comment [MSOffice74]: Substantive addition adapted from the ABA-MPC §9-102(4).

4.4.5.4. Finality of Decision. The decision of the Board of the Horton City Commission shall not be appealable and shall be the final judgment. ABA-MPC §9-102(5).

Comment [MSOffice75]: Substantive addition adapted from ABA-MPC §9-102(5).

4.5. Policy of Transparency in Purchasing. It is the policy of the City of Horton, Kansas, that all purchases and other procurements made with the use of public dollars be open and transparent to the public. In order to meet this policy, the City of Horton shall develop a procurement file for each item over \$5,000.00 purchased and maintain (i) the procurement policies and methodology used; (ii) the procurement documentation used; (iii) any and all responsive bids, proposals or statements of qualifications submitted to the City of Horton; (iv) notice of all procurement opportunities in appropriate publications, with affidavits of such publications being preserved with the procurement record; and (v) publication of the procurement documentation at <http://www.hortonkansas.net/government/procurement>.

Comment [MSOffice76]: Substantive Addition developed by City Administration.

4.5.1. Purchasing Records; Maintenance and Destruction; Items Prohibited from Destruction. Each procurement amounting to more than \$5,000.00 shall have a special procurement file developed in order to maintain a true and accurate record of the full procurement process. Such file shall include the solicitation document of the City, responsive documents submitted by interested parties, e-mail communications capable of being printed, technical specifications if available, executed contract, notice

Comment [MSOffice77]: Substantive addition developed by City Administration.

of award, notice to proceed, and any other information that is important for the maintenance of an open and transparent procurement record.

All procurement records shall, generally, be maintained for a period of three (3) years after the resolution of the audit findings after the procurement has been completed. In the instance of procurement of goods or services with the use of federal or state assistance, the City shall also require, via contract, its contractors to maintain their project records for the same period of time. The City and its contractors, engineers and other vendors shall allow access of these records to all relevant and appropriate state agencies.

Comment [MSOffice78]: HUD and KDOC CDBG Required Language.

4.5.2. **Public Access to Procurement and Purchasing Information.** Procurement information shall be a public record and shall be made available to citizens, vendors, or the media upon request *and will be published upon the City of Horton's website at <http://www.hortonkansas.net>*. Proposals, either cost or technical, however, shall not be made available as an open record until either (1) a proposal has been accepted and contract executed or (2) all proposals have been rejected. Prior to the fruition of either condition, no proposal price information will be released. Interested bidders and/or vendors or their representatives may be present at the announcement at the following location:

Comment [MSOffice79]: Previous section

Comment [MSOffice80]: Substantive Addition.

Horton City Hall
Horton City Commission Room
205 E 8th Street
Horton, Kansas 66439

4.5.3. **Required Advertisement of Qualified Procurements.** All procurements not otherwise excluded by Section 5 of this policy shall be appropriately advertised in the relevant publications giving notice of municipal procurement. The appropriate publication will depend largely on the type of procurement. Materials, equipment, other goods and services that are (a) over \$5,000.00 and (b) considered to be capable of being purchased locally, however, shall be published in The Horton Headlight. All construction projects shall be published in McGraw-Hill's The Dodge Report; and all engineering and architectural design procurements shall be published in McGraw-Hill's Engineering News-Record.

Comment [MSOffice81]: Substantive addition.

4.5.4. **Maintenance of Vendor and Contractor Database.** An online, web-based vendor and contractor database has been developed and shall be maintained in order for private parties to elect to receive procurement documentation regarding specific types of items or services required by the City. This database is maintained at <http://www.hortonkansas.net/government/procurement>.

Comment [MSOffice82]: Substantive addition by City Administration. Replaces previous section

5. **Generally Accepted Procurement Procedures.** The City of Horton recognizes, with exception to those procurements made pursuant to Section ___ of this policy, that there are three generally accepted procurement procedures, each depending on the type of product or service being sought for procurement. The three generally accepted procurement procedures are the Invitation for Bid (IFB),

Request for Proposals (RFP), and Request for Qualifications (RFQ). Procurement under any of these procedures must adhere to the policy herein.

All procurement procedures defined herein may be waived in the event that it is determined that one of the exceptions to competitive procurement is the best procurement method for the city. Instances of such procurement situations would be single course of supply or to utilize a previously existing State of Kansas procurement contract. See §5 (Special Procurement Procedures).

5.1. Invitation to Bid; Non-Construction, Sealed Bid. The competitive Invitation for Bid ("Bid") (sealed bid) procedure should be used when and where the item(s) and/or service(s) to be procured are of a definite type and quantity. All bids must arrive sealed and remain sealed until the time and location when the Invitation to Bid states the bids will be publicly opened and read aloud. Invitations to Bid for construction goods and services are excluded from coverage within this section and are, rather, identified under §5.2 of this policy.

5.1.1. Notice of Invitation to Bid. An invitation for bids shall be mailed to those vendors on the established vendor list that have indicated an interest in bidding on product or service being bid and shall be posted on the City's web page at least seven (7) days in advance, when practicable, of the due date for submission of bids. Items requiring publication in the newspaper will also be published at least seven (7) days in advance of the due date for submission of bids.

The notice shall be filed with the City Clerk and shall be open to public inspection. The notice for Invitation to Bid must clearly state the (a) date that acceptance of bids will begin; (b) the date that acceptance of bids will end; (c) date that the bids will be opened before the Board of the Horton City Commission; and (d) specific details for supplies, equipment, or construction activities to be provided or the work to be accomplished and shall follow the standard guidelines for the acceptance of bids.

5.1.2. Format of Bids. Each bid must be submitted in a sealed envelope addressed to the address listed below. Each sealed envelope containing a cost proposal bid must be plainly marked, identifying the project(s). The envelope shall bear, on the outside, the bidder's name, address, and license number, if applicable. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed to the owner at the above address. Bids received prior to the closing date shall be kept secured and sealed until closing. The City of Horton, Kansas, shall not be responsible for the premature opening of a bid or 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 cost bids and/or technical proposals will be retained unopened in the file and not receive consideration.

All envelopes containing sealed bids shall be identified as follows:

TO: Horton City Clerk
City of Horton, Kansas

Comment [MSOffice83]: Substantive Addition. This addition clarifies the three types of procurement procedures used to obtain both goods and services. Additionally, this addition brings the City of Horton's purchasing policy within compliance with the Kansas Department of Commerce's CDBG program requirements.

205 E 8th Street
Horton, Kansas 66439

BID FOR: [Project Name]

BIDDER: _____
d.b.a. _____

DO NOT OPEN UNTIL _____, _____, 200_.

5.1.3. Bid Opening and Recording. Bids shall be opened by the City Administrator, City Clerk and Deputy City Clerk or before the Board of the Horton City Commission in an open, recorded, and publicized meeting. The amount of each bid shall be announced, and other relevant information shall be recorded along with the name of each bidder.

5.1.4. Bid Award. The contract shall be awarded or rejected with reasonable promptness. Bids that are complex in nature or cost may require evaluation and analysis before an award is made. With this understood, while all bids will be opened before an open body, an award may not be readily available in order to provide for further time for evaluation and analysis. All awards will be made to the lowest responsible bidder who submits a responsive bid which is most advantageous to the City. A contract recommendation shall be submitted to the Board of the Horton City Commission, which reserves the right to accept and/or reject any and all bids or parts of the bids where the best of the interest of the City may be served.

Comment [MSOffice84]: Substantive Addition.

Comment [MSOffice85]: Existing language from §6.7 from 2002 Purchasing Policy. Language added stating that the Commission reserves the right to accept and/or reject any and all bids. Previous language stated that the Commission reserved the right to accept any and all bids.

5.1.5. Contracting. After notice of award has been delivered by the City Administrator and contract negotiations have commenced neither of the parties can reach a contractual agreement, the City Administrator may request that the Board of the Horton City Commission award to the next lowest, responsible bidder.

5.2. Invitation to Bid (Construction).

5.2.1. Bid Security. Bid security shall be required for all competitive sealed bidding for construction contracts in a design-bid-build procurement when the price is estimated by the City Administrator to exceed \$25,000.00. Bid security shall be bond provided by a surety company authorized to do business within the State of Kansas. Nothing herein shall be interpreted to prevent the requirement of such

bonds on such contracts under \$25,000.00 when the circumstances may warrant security. ABA-MPC §5-301(1).

5.2.1.1. Amount of Bid Security. Bid security shall be in an amount equal to at least five percent (5%) of the amount of the bid. ABA-MPC §5-301(2).

5.2.1.2. Rejection of Bids for Noncompliance with Bid Security Requirements. When the Invitation for Bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply in a non-substantial manner with the security requirements. ABA-MPC §5-301(3).

5.2.1.3. Withdrawal of Bids. After bids are opened, they shall be irrevocable for the period specified in the Invitation for Bids documentation. If a bidder is permitted to withdraw its bid (or proposal) before award, or is excluded from the competition before award, no action shall be had against the bidder or the bid security. However, if the bidder removes him or herself from consideration after the opening of the sealed bids and before the expiration of the period of irrevocability, the bidder shall forfeit the bid security and the surety shall be required to pay such security to the City of Horton. ABA-MPC §5-301(4).

5.2.2. Required Bonds. Whenever a bidder is selected and contracts are awarded, all contracts with bidders on all construction projects amounting to more than \$25,000.00, regardless of construction project procurement method, shall require a contract surety, statutory and payment bond. Nothing within this section, however, shall be construed to limit the authority of the City of Horton to require a performance bond or other security in addition to such bonds.

5.2.2.1. Contract Surety Bond. [LANGUAGE PENDING LEGAL ADVICE.]

5.2.2.2. Statutory Performance Bond; K.S.A. 60-1111. All public works contracts valued at over \$60,000.00 requires a statutory performance bond, pursuant to Kansas Statute (K.S.A.) 60-1111. Performance bonds shall be executed by a surety company authorized to do business in the State of Kansas or otherwise secured in a manner satisfactory to the City of Horton, in an amount equal to 100 percent of the portion of the contract price that does not include the cost of operation, maintenance and finance.

5.2.2.3. Payment Bond. A payment bond satisfactory to the City of Horton, executed by a surety company authorized to do business in the State of Kansas or otherwise secured in a manner satisfactory to the City of Horton, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the construction work provided for in the contract. The bond shall be in an amount equal to 100 percent of the portion of the contract price that does not include the cost of operation, maintenance and finance.

5.2.3. Price Increases. Adjustments in price shall be computed in one or more of the following ways: (i) by agreement on a fixed-price adjustment before commencement of the pertinent performance or as soon thereafter as possible; (ii) by unit prices specified in the contract or subsequently agreed upon; (iii) by the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon; or (iv) in such other manner as the contracting parties may mutually agree. ABA-MPC §5-401(2).

5.2.4. Change Orders. [LANGUAGE PENDING LEGAL ADVICE.]

5.3. Request for Proposals. Requests for Proposals are all documents, whether attached or incorporated by reference, utilized for soliciting proposals from interested private parties. The Request for Proposal (RFP) procedure for procurement should be used when and where (a) the item(s) and/or service(s) are for an amount other than a fixed price type; (b) it is necessary to conduct oral or written discussions with vendors concerning technical and price aspects of proposals; (c) it is necessary to compare the different price, quantity, and contractual factors of proposals; or (d) where the City of Horton is unable to draft specifications in sufficient detail due to the professional nature of the specifications.

Comment [MSOffice86]: Technical revision of previous section 6.1.

5.3.1. Notice of Request for Proposals. All Requests for Proposals (RFPs) shall be mailed to those vendors on the established vendor list that have indicated an interest in bidding on product or service being bid and shall be posted on the City's web page at least seven (7) days in advance, when practicable, of the due date for submission of bids. Items may also be published in the Horton Headlight and/or other local print media outlets at least seven (7) days in advance of the due date for submission of bids. The notice for RFPs shall be filed with the City Clerk and shall be open to public inspection.

Comment [MSOffice87]: Substantive addition by City Administration.

5.3.2. Format for Requests for Proposals. The format for Request for Proposals (RFP) is intended to be flexible in order to meet the wide variety of uses for the RFP method of procurement. The required elements for each RFP issued by the City of Horton are the (a) date that acceptance of proposals will begin; (b) date that acceptance of proposals will end; (c) date that the proposals will be opened and evaluated; and (d) specific details for supplies, equipment, scope of services, and/or construction activities to be provided or the work to be accomplished and shall follow the guidelines included herein and within the Request for Proposals.

Comment [MSOffice88]: Substantive addition by City Administration.

5.3.3. Objective Evaluation Criteria for Requests for Proposals. The criteria used for the evaluation of proposals submitted in response to a City Request for Proposals shall be established prior to the release of the Request for Proposals and those factors should be included in the RFP so that interested parties may understand the criteria upon which they will be evaluated. Specific criteria have not been established by this policy, because it is, again, important to maintain flexibility in developing objective criteria that accurately capture the qualities of the respondents. However, some criteria, which have

Comment [MSOffice89]: Substantive addition by City Administration.

been provided for demonstrative purposes, that may be used in evaluating responsive proposals to an RFP are (i) qualifications and experience of project principals and other key employees of the respondent to the RFP; (ii) the ability of the respondent to understand and interpret the proposed scope of services; (iii) references; and (iv) proposed fee for performance of proposed scope of services.

5.3.4. Proposal Award. After award has been made by the Board of the Horton City Commission, the City Administrator shall notify the awarded respondent that contract negotiations may commence.

Comment [MSOffice90]: Substantive Addition by City Administrator.

5.3.5. Contracting. After notice of award has been delivered by the City Administrator and contract negotiations have commenced neither of the parties can reach a contractual agreement, the City Administrator may request that the Board of the Horton City Commission award to the next highest rated respondent to the RFP.

Comment [MSOffice91]: Substantive Addition by City Administrator.

5.4. Qualifications-Based Selection for Procurement of Professional Architectural and Engineering Design Services.

Comment [MSOffice92]: Substantive repeal of former section 9 (Professional Services Procurement) and replacement with language based largely on cited ACEC publications regarding professional design procurement.

5.4.1. QBS Procurement Process and Method. The process for procurement of professional A/E design services using the QBS procedure includes several tasks, including, but not limited to, (i) owner identification of the general scope of services or work; (ii) selection time frame is established; (iii) a request for qualifications is developed and published; (iv) the request for qualifications is advertised and held open sufficiently long enough for interested A/E professionals to submit statements of qualifications; (v) statements of qualifications are received and objectively evaluated; (vi) responsive firms are informed of their ratings and rankings; (vii) a short-list of firms is developed to be interviewed, if necessary; and (viii) the public owner either interviews the short-listed firms or begins negotiations with the top ranked A/E design professional. Specific details of each step of the process are outlined hereinbelow. Additionally, the ACEC 1994 Guide to QBS Procurement has been provided as an additional resource under Appendix ____ for City employees and private parties; however, the 1994 ACEC Guide is intended to serve as only a guide and this policy shall prevail where there is conflicting information provided by the 1994 ACEC Guide.

Comment [MSOffice93]: Fill in Appendix Number for Final Draft.

5.4.1.1. Scope of Work or Services Identification and Development. Information generally included within a statement of work or scope of services are the (i) City's contact information, such as physical and mailing address and project contact person and contact information; (ii) project name (identification) and location; (iii) project outline, including the objective and goals of the project, intended project size, function, capacity and other generally anticipated requirements, such as renovation, modernization, demolition and energy; and (iv) listing and description of previously completed engineering studies, surveys and preliminary feasibility reports relevant to the project.

5.4.1.2. Procurement Calendar Development. Project calendar development will generally take a total of six-to-ten weeks in order to allow proper planning, consideration of the scope of services, and administration. An example procurement calendar has been provided for demonstrative purposes only.

Date	Benchmark Description
Tues., Jan. 22, 2008	Public Release of Request for Qualifications for Design Engineering.
Tues., Feb. 12, 2008	Pre-Submittal Conference at Horton City Hall, Commission Chambers.
Tues., Feb. 22, 2008	Submission of Statements of Qualifications by 5:00 P.M. CST.
Mon., March 4, 2008	Review & Ranking of Statements of Qualifications by Commission and Administration.
Mon., March 10, 2008	Interviews with Shortlisted Firms, If Necessary; Discretionary by Commission.
Mon., March 17, 2008	Final Ranking by Commission & Authorization of Administrator to Enter Into Negotiations with Top Ranked Submission.
Mon., March 31, 2008	Draft Contract Prepared & Presented to City Attorney for Review.
Mon., April 7, 2008	Submission of Final Contract for Commission Authorization & Execution.

5.4.1.3. Request for Qualifications Document Development and Publication. The Request for Qualifications ("RFQ") document should include (i) the advertisement that will be used to give notice to the Request for Qualifications; (ii) engagement information, such as background information regarding the project, qualifiers on language, limitations and intent of the RFQ, and other terms required to be a part of any final contract with the design professional; (iii) an explanation of the QBS procurement procedure and other formatting requirements of responsive Statements of Qualifications ("SOQs"); (iv) the evaluating criteria that will be used to rank respondents to the RFQ; (v) the tentative calendar for the procurement of the design professional; (vi) the scope of services; (vii) special requirements and acknowledgements of submitting parties, such as acknowledgment of amendment procedure, insurance requirements, invoicing and the code of ethics; (viii) other reservations made by the City, such as the right to reject all SOQs, waive minor irregularities in submitted SOQs, and the right to amend or terminate the procurement process; and (ix) restrictions and limitations, such as anti-communication policies and indemnification agreements. A sample Request for Qualifications has been provided for demonstrative purposes only under Appendix ____.

The project administrator of the project should strive to develop as large as database of interested parties as possible prior to the publication of the Request for Qualifications in order to quicken the publication and release of the Request for Qualifications documentation. Use of the web-based vendor database is required as defined under §3.5.4. of this policy.

5.4.1.4. Advertisement of Request for Qualifications. The advertisement for the notice of Request of Qualifications should concisely and succinctly (i) describe the services being procured; (ii) a brief description of the project; (iii) the approximate budget for the successful completion of the project; (iv)

project owner and project principal contact information; and (v) the cut-off date when statements of qualifications will no longer be accepted. Other information may be required, depending on the specific requirements of the project.

5.4.1.5. Receipt and Evaluation of Statements of Qualifications. Generally, evaluation of statements of qualifications will be conducted by the Board of the Horton City Commission in conjunction with the City Administrator, City Clerk and City Attorney. However, the Board of the Horton City Commission, in the interest of expediting review of statements of qualifications may appoint either an employee, public or mixed selection committee for the review of responsive statements of qualifications.

The factors upon which each responsive Statement of Qualifications is evaluated will be defined by each individual Request for Qualifications. However, factors that may be included in the evaluation of each Statement of Qualifications are (i) identification and review of proposed project principals and key employees; (ii) the overall experience of the professional design entity; (iii) the availability of adequate firm resources; (iv) the understanding, interpretation and approach to the general scope of services provided by the City within the Request for Qualifications; (v) technologies, facilities and other specialized equipment available to the design professional; (vi) the quality of previous work performed either for the City of Horton or for similarly situated and sized client to the City of Horton.

An objective ranking tally sheet is required to be prepared prior to the release of the Statements of Qualifications; however, it is the discretion of the City of Horton to provide that ranking form prior to the evaluation of Statements of Qualifications.

5.4.1.6. Short-Listing; Notice of Ranking Optional. After professional design entities have been ranked, it is the responsibility of the Board of the Horton City Commission or other designated selection committee to establish a short-list of two-to-three firms for short-list consideration. All other firms will be disregarded as suitable for the project. Because professional design groups make a significant commitment of time and expense in the procurement process, the City should endeavor to send notice of the rankings and short-listed design professionals to all entities that submitted a Statement of Qualifications.

5.4.1.7. Respondent Interviews, If Necessary. Interviews with short-listed respondent design professionals are a discretionary decision by the Board of the Horton City Commission, which may choose to enter directly into negotiations with the top-ranked firm or may choose to interview short-listed design professionals.

5.4.1.8. Commence Negotiations. Negotiations shall be commenced by delivering notice to the top ranked design professional and requesting a specific scope of work, including technical proposals, if necessary, and detailed, itemized cost proposals for completing each phase of the scope of work. The

City should participate in the development of the technical and cost proposals, and should counter-propose or offer suggestions in order to develop a scope of work that accomplishes the goals of the project and still offers that work at a fair and reasonable price to both the design professional and the City of Horton.

5.4.2. **Failed Contract Negotiations.** If negotiations with the top ranked professional design firm fail or otherwise stall, the City may, by express communication to the top-ranked professional design firm, end negotiations and begin negotiations with the next ranked professional design firm.

6. **Special Purchasing Authority and Procedures.**

6.1. **Petty Cash.** Petty cash funds are used to avoid the time and expense of issuing purchase orders for small purchases. The City has an established procedure for petty cash expenditures that are managed by the City Clerk.

Comment [MSOffice94]: Previous section 6.1 of 2000 Purchasing Manual.

6.2. **Sole Source Procurement.** If it is determined prior to procurement that only one source is available to supply a required material or service, the procurement may be authorized. Sole source procurement will not be used unless sufficient evidence can be documented that no other type of material or service will satisfy our requirements. Sole source procurement shall be avoided except when no reasonable alternative sources exist.

Comment [MSOffice95]: Previous section 6.2 of 2000 Purchasing Manual.

Departments submitting any purchase request for consideration as a sole source provider must include written documentation stating the basis or existence of a sole source condition.

6.3. **Blanket Purchase Orders.** Blanket purchase orders may be used for vendors from whom many routine purchases are made. They are established annually in lieu of issuing individual orders for each purchase. The City Administrator shall determine for which vendors blanket orders will be issued.

Comment [MSOffice96]: Previous section 6.3.

6.4. **Requests for Quotes.** Departments may choose to use Request for Quotations to obtain price quotes for materials or services. This procedure is often used for detailed or multi-item purchases that are anticipated to fall below \$5,000 and are not required to be a contract purchase. Requests for quotations in no way bind the City to the purchase any of the items included, however, they are utilized as a purchasing tool to efficiently and accurately relay City needs to vendors and obtain the costs associated.

Comment [MSOffice97]: Previous section 6.4.

6.5. **Intergovernmental Cooperative Purchasing; State of Kansas Contracts.** In accordance with the Model Procurement Code for State and Local Governments, American Bar Association (2000 Edition), the City may either participate in, sponsor, conduct, or administrate a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public entities, including the State of Kansas or other municipal agencies, in accordance with an agreement entered into between the sponsoring participant and vendor of goods or services. Such cooperative

Comment [MSOffice98]: Revision. Language clarifying state and inter-agency procurement contracts has been inserted, as recommended, from the Model Procurement Code for State and Local Governments produced by the American Bar Association (2000 Edition).

~~purchasing agreements may include, but is not limited to, joint or multi-party contracts between public agencies and open-ended public procurement contracts that are made available to other public agencies other than the sponsoring public agency participant. §10-201, Model Procurement Code for State and Local Governments, American Bar Association (2000 Edition). "piggyback" on contracts established by other government jurisdictions when it is assured that competitive sealed bidding has been employed. Vendors willing to extend to the City existing price agreements with other governmental entities should notify the Horton City Administrator.~~

Comment [MSOffice99]: §10-201 of the ABA Model Procurement Code.

Comment [MSOffice100]: Removed from 2000 purchasing policy.

It shall be the policy of the City of Horton to keep updated on current State of Kansas contracts involving equipment and/or supplies that the municipality purchases. Whenever possible and in the best interest of the City, it will be recommended that purchases of equipment or services be made from the above contracts, if current and handled through the competitive bid process. If the purchase cost is \$5,000.00 or higher, the City will present all pertinent information to City Commission requesting to waive the bidding process.

6.6. Emergency Purchasing. Notwithstanding other procedures set forth in this manual, the City Administrator may authorize emergency purchases of supplies or services when necessary if delay could cause threat to public health, welfare, safety, or injure the City financially or otherwise. Such emergency procurements will be made with competition if practical for the circumstances. A written determination of the basis for the emergency and selection of a certain vendor shall be included in the contract file and, when necessary, provided to City Commission at the earliest possible time.

7. Accepted Project Delivery Methods.

8. Procurement Contracting Policies, Procedures, Requirements, Limitations.

- 8.1. Contracting; When Required; Statute of Frauds.
- 8.2. Required Terms of All Contracts.

9. Delivery and Receipt of Goods; Performance of Services; Inspection Required.

- 9.1. Inspection of Goods or Services.
- 9.2. Acceptance of Goods or Services.
- 9.3. Rejection of Goods or Services.

10. Payment for Purchases.

- 10.1. Purchase Requisitions; Limitations.
- 10.2. Purchase Orders.
- 10.3. Check Requests.
- 10.4. Municipal Debit or Credit Card Purchasing.
- 10.5. Prohibited Budgetary Actions.

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11. **Disposal or Sale of Surplus Municipal Goods, Equipment and/or Other Materials.**
- 11.1. Authority to Dispose by Sale; Limitations.
- 11.2. Methods of Disposal; Sale of Surplus Goods.
- 11.3. Annual Inventory and Reporting.

Attachment No. 4

December 2007 NPDES Testing Results



**environmental
laboratories. inc.**

City of Horton
Wastewater Analysis Laboratory Report

Sample Taken By: Kevin Moriarty, Environmental Laboratories, Inc.
 Date Sample Taken 12/19/07
 Time Sample Taken 1830
 Collection Points WWTP Influent Box & Effluent at UV Basin, Grab samples
 Samples Received at Lab 12/19/07 1945
 Temp when received 4° C
 pH Analyzed On site at time of sampling
 BOD Analyzed 12/20/07 0900
 Nitrite Analyzed 12/21/07 1000
 TSS Analyzed 12/26/07
 NH3-N Analyzed 12/26/07
 TKN Analyzed 12/23/07
 NO3+NO2-N Analyzed 12/22/07
 Phosphorus Analyzed 12/23/07
 FC Analyzed 12/19/07 2015

Collection Point	Parameter	Concentration	Units	Analyst
Influent 071219-11	BOD 5 (SM 5210B)	92.4	mg/L	KM
	TSS (SM 2540D)	66.0	mg/L	DM
	pH (SM 4500H+B)	7.23	SU	KM
Effluent 071219-12	BOD 5 (SM 5210B)	7.7	mg/L	KM
	TSS (SM 2540D)	4.6	mg/L	DM
	pH (SM 4500H+B)	7.43	SU	KM
	Ammonia-N (SM4500-NH3 F)	1.27	mg/L	KM
	Fecal Coliform (SM 9222D)	16000	cfu/100mL	KM
	TKN (SM 4500-NorgC+NH3 F)	2.06	mg/L	KM
	Nitrate-N (SM 4500 NO3 E)	9.30	mg/L	KM
	Nitrite-N (SM 4500 NO2 B)	0.012	mg/L	KM
	Total Phosphorus (4500-P E)	1.63	mg/L	KM
Total N (calc)	11.4	mg/L	KM	

Data Qualifiers: None

Report approved by Kevin Moriarty, Laboratory Director
 I certify that the results contained in this report meet all the requirements of NELAC

KDHE Cert # E-10113



**environmental
laboratories. inc.**

City of Horton
Wastewater Analysis Laboratory Report

Sample Taken By: Kevin Moriarty, Environmental Laboratories, Inc.
 Date Sample Taken 12/31/07
 Time Sample Taken 1740
 Collection Points WWTP Influent Box & Effluent at UV Basin, Grab samples
 Samples Received at Lab 12/31/07 2100
 Temp when received 4° C
 pH Analyzed On site at time of sampling
 BOD Analyzed 1/1/08 1130
 Nitrite Analyzed 1/1/08 0900
 TSS Analyzed 1/4/08
 NH3-N Analyzed 1/4/08
 TKN Analyzed 1/5/08
 NO3+NO2-N Analyzed 1/4/08
 Phosphorus Analyzed 1/5/08
 FC Analyzed 12/31/07 2130

Collection Point	Parameter	Concentration	Units	Analyst
Influent 071231-23	BOD 5 (SM 5210B)	100	mg/L	KM
	TSS (SM 2540D)	62.6	mg/L	DM
	pH (SM 4500H+B)	7.23	SU	KM
Effluent 071231-24	BOD 5 (SM 5210B)	8.2	mg/L	KM
	TSS (SM 2540D)	9.3	mg/L	DM
	pH (SM 4500H+B)	7.32	SU	KM
	Ammonia-N (SM4500-NH3 F)	0.61	mg/L	KM
	Fecal Coliform (SM 9222D)	480	cfu/100mL	KM
	TKN (SM 4500-NorgC+NH3 F)	1.88	mg/L	KM
	Nitrate-N (SM 4500 NO3 E)	12.0	mg/L	KM
	Nitrite-N (SM 4500 NO2 B)	0.010	mg/L	KM
	Total Phosphorus (4500-P E)	2.42	mg/L	KM
Total N (calc)	13.9	mg/L	KM	

Data Qualifiers: None

Report approved by Kevin Moriarty, Laboratory Director
 I certify that the results contained in this report meet all the requirements of NELAC

KDHE Cert # E-10113