

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 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 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 eleven (11) 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 up to three (3) responsive SOQs for interviews with the respective responsive entity. The Commission, however, reserves the right to offer a contract based solely

Request for Qualifications (RFQ)
Mission Lake Restoration Project
Professional Design Engineering
Owner: City of Horton, Kansas
Project Administrator: Levi J. Henry, City of Horton

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 a 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”). 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 will be a relevant weighting factor. 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. The anticipated length of interviews are 45-minutes presentation time, and the Board of the Horton City Commission, in its discretion, may grant more time as required.

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, as determined by the City of Horton, 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) gabian structures and lake forebays; (iii) watershed management plan implementation primarily focused on decreasing nutrient enrichment and sedimentation 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. The RESPONDENT acknowledges that CITY OFFICERS and CITY EMPLOYEES are prohibited from ever 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, 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 documents prepared in response by respondents to this Request for Qualifications shall be the subject of any copyright or proprietary claim by 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 applicant 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, appointed and otherwise employed staff of the City of Horton, Kansas State Conservation Commission, Kansas Biological Survey, and Kansas Water Office regarding this Request for Qualifications and the Mission Lake Renovation Project for a period of time beginning with the public notice (Tuesday, January 22, 2008) 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.

Request for Qualifications (RFQ)
Mission Lake Restoration Project
Professional Design Engineering
Owner: City of Horton, Kansas
Project Administrator: Levi J. Henry, City of Horton

END OF DOCUMENT