

Agenda of the Horton City Administrator

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

Regularly Scheduled Meeting: **6:15, Monday, January 7, 2008.**

AGENDA OF THE CITY ADMINISTRATOR

ADVISORY REPORTS

1. Advisory Report on Total Emergency Costs & Natural Disaster Advisory.....1-2
2. Advisory on Mission Lake Comparison Project, Lake of Three Fires, Iowa.....2-6
3. Advisory on Mission Lake Design Engineering Procurement.....6-8
4. Advisory on Community Development Block Grant Compliance.....8
5. Advisory on KDHE Denial of Holcomb NAAQS Permit.....9

ACTION ITEMS

None.



The City of Horton, Kansas
Established 1886

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ADVISORY REPORTS

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ACTION ITEMS

None.

CITY ADMINISTRATOR’S NOTICE: The format of Commission communications has changed from the normal individual memos, which may still be used to explain special circumstances, to a consolidated agenda report. Under this report, there will be three classifications of reporting: those reports that are for Commission information only (Advisory Reports); and those reports that require Commission action (Action Items). The hope of this reporting method is to both expedite reporting from the Administrative Office to the Commission in a method that is short and to the point. If there is any objection to this form of reporting, please alert the City Administrator so that adjustments can be made. We are hoping to make a few more changes that will professionalize the the operations of the City between the

1. Total Emergency Costs & Natural Disaster Advisory. On Tuesday, January 8, 2008, City Administrator, City Clerk and Assistant Chief of Police will attend a joint FEMA-County Disaster meeting at the Fisher Center at 10:00 a.m. Important information regarding debris removal and disaster expense reimbursement will be discussed. City staff have maintained good financial and human resources records throughout the disaster and post-disaster clean-up; therefore, the actual *loss* to the City will only be around 25 percent of what the actual cost of the disaster represented.

We have learned where we are strong and where we are weak as a municipal government through this process. It is still taking time to process a lot of this information to examine those strengths and weaknesses. City Administration in conjunction with Assistant Chief will prepare a brief report on what we found to be the most material strengths and weaknesses during and after the disaster.

the placement of the removed dredged slurries. While the initial diagnostics and feasibility report produced in August 2002, estimated that

After LTF dredging operations ceased, the Iowa Department of Natural Resources (“DNR”) completely drained the entire LTF lake basin, thereby killing all existing aquatic life in LTF. The purpose of the total draining was to (a) remove all aquatic life from the basin; (b) construct fishery spawning grounds approximately four-feet under water; and (c) repair the LTF Dam.

C. Water Quality Goals. The Iowa DNR set quantitative goals for water quality standards (“WQSs”) for post-dredge waters contained in LTF. These goals were stipulated by the Iowa Legislature in 2006. See

HF2782 (Iowa). Among the WQS targets for LTF were (a) 4.5’ secchi disk transparency 50 percent of the time between April and September; (b) elimination of water quality impairments, such as atrazine and nutrient TMDLs; (c) sustainability of a diverse lake ecology and aquatic habitat; and (d) an operational water quality project life of 50+ years. The other related WQS target to Mission Lake is a phosphorus influent level not to exceed 70 µg/l.

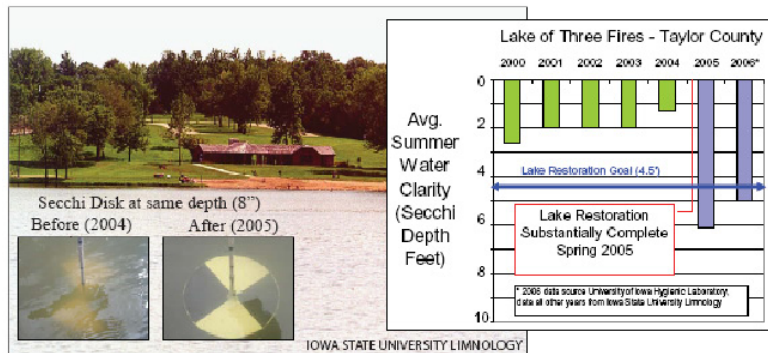


Figure B—Lake of Three Fires Water Clarity Targets & Actual Data.
 Source: <http://www.iowadnr.com/water/lakerestoration>

In both instances of phosphorus and water clarity targets, as evidenced by the secchi disk in *Figure B*, the Iowa DNR has exceeded pre-dredge targets.

D. Fisheries Management. Today, LTF boasts some of the best fishing in Iowa, with maintenance on watershed restoration continuing. Since 2005 (post-construction), DNR has built an additional one-dozen pre-impoundment structures within the LTF watershed, including another one-dozen that were built before dredging commenced. Most of these impoundment structures are simply three-to-four foot gravel structures with emergency log controls for water passage. These areas typically grow into wildlife preserves and, even, create additional fishing opportunities for those in the watershed to LTF.

E. Confined Disposal Facility. The LTF Lake Restoration Project, as has been similarly recommended to the City of Horton under the Black & Veatch Preliminary Restoration Plan, used a confined disposal facility (“CDF”) for off-site confinement of the sediment slurries removed from LTF. That facility was located approximately 300-yards, over a large hill, to the west of LTF and was located on 80-acres of land having a total storage capacity of 60-acres. The CDF was overbuilt by Iowa DNR in order to accommodate future dredging, if necessary. The property used by DNR during this restoration process was largely already property of the State of Iowa and, therefore, there were very few costs related to



Figure C—Lake of Three Fires Confined Disposal Facility; Looking West Across the Earthen Dam.

acquisition of land for CDF siting and for the construction of upper-watershed pre-impoundment structures. Neither Iowa DNR nor the local partners within the project have performed any cake management for the CDF and have left the area to be developed into a wildlife preserve and also as a wetlands area for water filtration. The CDF is still not able to be walked across and is fenced and gated around the entire area, because it does pose a safety risk to those who dare to walk across the slurried sediment.

F. Land Use. The Lake of Three Fires has a total watershed of approximately the same size as the Mission Lake Watershed (8.2 m² or 5,248 acres), having 5.81 m² or 3,719 total acres. The LTF Restoration Project is significantly different from the Mission Lake Restoration Project (the "MLRP") in regards to the watershed and watershed uses.

First, a large majority of the lower LTF watershed was already publicly held before the project commenced. Second, the LTF watershed has significantly more land in conservation reserve programs ("CRP") and, therefore, has less cropland spraying to contend with in the upper-watershed. Mission Lake, having nearly 95 percent of its upper watershed in row-crop production, is more susceptible to influents carrying herbicidal sprays and also disturbing top soil causing increased sediment travel. Finally, the majority of the land in the LTF watershed was being used as pasture land for cattle operations, including one swine CAFO (confined animal feeding operation) at the very upper watershed.

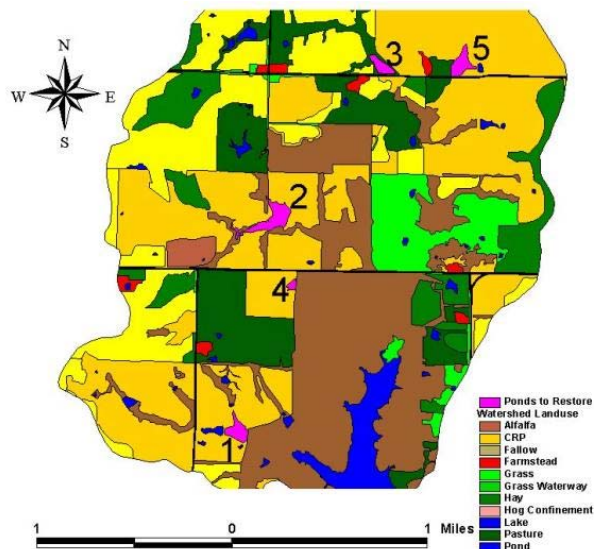


Figure D—Lake of Three Fires Land Use & Pre-Impoundment Structure Location Map. Source: See Lake of Three Fire Diagnostic/Feasibility Study, August 2002, (available at <http://limnology.eeob.iastate.edu/Studies/LakeOf3Fires/3FiresAuthorsPage.html>).

Table 1. Landuse in the Lake of Three Fires watershed (2002)

Landuse	Area in Acres	Percent of Total Area
Cropland	758	21
Grass and CRP	1,878	52
Timber	563	16
Pasture and Hay	310	8
Ponds	65	2
Other (Roads, Farmsteads, etc.)	59	1
Total	3,633	100

at the very upper watershed.

In summary, while the Lake of Three Fires and Mission Lake are very similar in that there are heavy levels of phosphorus nutrient loadings to both lakes, Mission Lake faces the additional challenge of additional sediment flows and herbicide (atrazine) loading.

G. Watershed Management. Under Iowa statute, phosphorus and sediment loading coming from the watershed must be controlled before the lake restoration is allowed to begin. In the case of LTF, there were approximately one-dozen pre-impoundment structures that were either rehabilitated or constructed before dredging began to slow the velocity of influent watershed waters and give time for sediment to settle behind the pre-impoundment structures. Since construction completion, there have been over another one-dozen anti-sedimentation, pre-impoundment structures built to continue to mitigate sedimentation of the Lake of Three Fires.

The structures used for sedimentation mitigation in the watershed have ranged from gavian structures (Figure E), rip-rapped troughs, log-basket systems, and dammed lake forebays. Iowa DNR owes nearly 1,300 acres of the over 3,700 acres within the LTF watershed, which has provided Iowa DNR with extra opportunity to build wetlands, pre-impoundment structures and grow conservation grasses within the watershed. Iowa DNR, also, has taken aggressive measures in cooperating with neighboring landowners within the watershed, in some instances offering 100 percent payments to build necessary structures for the protection of the Lake. In most instances, Iowa DNR has cost-shared non-regulatory ponds and best-management practices (“BMPs”) and has, also, added premium to Farm Service Agency payments for CPR grasses in order to encourage producers to preclude already existing conservation lands from being converted to production.



Figure E—Gavian Structure Located In Upper Watershed. Four-Foot Earthen Dam Provides Pre-Impoundment and Sedimentation Mitigation to Lake of Three Fires.

Iowa DNR, before beginning the dredging of LTF, conducted a visual inspection of the entire watershed, photographing and using global positioning satellite (“GPS”) technology to record areas of high streambank erosion and other contributing causes of sedimentation into the LTF watershed. The data yielded from these inspections provided the Iowa DNR with direction as to where watershed management techniques were needing to be introduced. Iowa law, however, also differs from Kansas law in respect to streams. In the State of Iowa, the Watershed District owns the waterways that travel influent to lakes and other waterbodies, thereby allowing the Watershed District access to lands that are otherwise prohibited under Kansas law. In order for the City of Horton to conduct such an inventory, permission would be required to be obtained from each landowner. While this could prove to be extremely difficult, the benefits of such an endeavor could prove to provide a long-lasting solution to reducing future Mission Lake sedimentation. Moreover, there are Section 319 (Clean Water Act) funded, private organizations that participate exclusively in Section 319 activities (*Nonpoint Source Management Programs*) that are designed to take a watershed inventory. Creating such partnerships will take investment of time and some nominal financial resources, but will produce great yields for the gathering of data for mitigating sedimentation and nutrient loading to Mission Lake.

The watershed management and sedimentation mitigation measures have been proven by modeling produced by Iowa State University (“ISU”), U.S. Army Corps of Engineers (“ACE”), and the Natural Resources Conservation Service (“NRCS”) to have been effective for the Lake of Three Fires. Pre-project modeling had a total estimated delivery of 488 tons per year (“t/y”), or 0.13 tons per acre per year (“t/a/y”), whereas post-project modeling, potential sediment modeling conducted an estimated total delivery of 222 t/y, or 0.06 t/a/y. The expense made in rehabilitating existing structures and constructing new structures more than cut in-half the amount of sedimentation that was being delivered to LTF.

H. Comparative Evaluation. From a financial perspective, the State of Iowa, particularly the Iowa State Legislature, has been particularly progressive and aggressive in the restoration of lakes in the State of Iowa. The Legislature has a strong public policy argument for investing state tax dollars in lake restoration. For example, numerous studies produced by Iowa State University have shown that for every one dollar (\$1.00) invested by the State in lakes for public water supply and recreation, the residential owners surrounding those lakes have realized a profit of ten dollars (\$10.00). The annual revenues generated by Lake of Three Fires was \$30M and there were over 35,000 angling permits sold for LTF in 2006. Additionally, the State of Iowa has been able to identify for each one dollar expended for lake restoration, 30 dollars are generated for the state economy.

This strong financial incentive has encouraged the Iowa Legislature to create a permanent program in Iowa statute and administration with permanent funding for the restoration of lakes throughout the State of Iowa. There is approximately \$17M each year invested, in two equal parts approximately, in (a) lake restoration and (b) implementing watershed management and sedimentation mitigation measures. The LTF Restoration Project cost \$17M to perform, with 500,000 cubic yards being moved from LTF. In regards to price, however, it was the opinion of several members of the entourage that visited LTF that much more than necessary was expended to restore the lake and the lake's watershed.

From an overall comparison of the projects, while the LTFP and MLRP may have several similarities, such as same size watershed and similar lake size, sediment removal amounts, and service as a public a public water supply, the LTFP does have several differences to the MLRP. First, the LTF watershed is comprised of 68 percent grasslands and timberlands, one-third of which is public lands. In contrast, the Mission Lake watershed is close to 90 percent croplands, which contributes more sediment to the watershed. Second, the LTF has received much more intensive funding and support from the State Legislature, whereas the Kansas Legislature as at best been semi-supportive of the Multipurpose Small Lakes Program. Finally, the abundance of public lands at LTF has helped Iowa DNR prepare the appropriate anti-sedimentation measures without requiring any special real estate procurements or easements and has allowed DNR to control the destiny of the Lake of Three Fires.

3. Advisory on Mission Lake Design Engineering Procurement. The procurement process for Professional Engineering Design Services via Qualifications-Based Selection ("QBS") is scheduled to begin on Tuesday, January 22, 2008, subject to final approval of the Request for Qualifications procurement document by the City Attorney and City Commission. The City Administrator will transmit the document to the City Attorney by Monday, January 7, 2008 for review by the Monday, January 21, 2008 regularly scheduled Commission Meeting.

A. Procurement Schedule. Procurement of the Professional Design Engineer ("PDE") will follow the herein procurement schedule.

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

On the surface, our strengths appear to be (a) the strong and selfless support and volunteerism of members of the community in times of crisis; (b) the experience, knowledge and strength of the City of Horton workforce; (c) the backing of a strong, supportive Governing Body to defend the actions of the City when making decisions during crises; and (d) the strong investments in independent generators for City facilities in order to maintain operations, even without electricity from the grid.

Likewise, our weaknesses appear to be, primarily, technological weaknesses, such as (a) poor radio communications ability, which could be corrected by the purchase and placement of radio repeater at City Hall or on the water tower; (b) complete lack of electric utility maps, which would have improved response time to electric reconnects, especially if additional outside crews would have been called in for assist; and (c) the communications breakdown between the City of Horton, Brown County and the American Red Cross.

After the data is completely collected, which we are still collecting, and a report is made to FEMA, an additional cost and impact report will be submitted to the City Commission for review.

2. Advisory on a Mission Lake Comparison Project: Lake of the Three Fires, Taylor County, Iowa. The Lake of Three Fires (the “Lake” or “LTF”) is located in Taylor County, Iowa, near the City of Bedford, which boasts a population of nearly 2,000 citizens. Taylor County is located in extreme southwest Iowa, three counties east of the very southwestern county and shares its southern border with the States of Iowa and Missouri.



Figure A—Regional Map of the Lake of Three Fires.

A. Lake History. The LTF was constructed in 1935 as a joint State of Iowa and City of Bedford, Iowa, project to serve as both a public water supply (“PWS”) and as a recreational site. While the City of Bedford, not unsimilarly from the City of Horton, was required to cease using the LTF as a PWS in the late-1990s and early-2000s after the total maximum daily load (“TMDLs”) of the lake exceed clean drinking water safety standards.

B. Project History. The LTF Restoration Project began in the late-1990s with non-special, annual funding provided by the Iowa Legislature amounting to approximately \$8.5M annually for the purpose of restoring multipurpose lakes in the State of Iowa. Project planning began in 1999, the feasibility study—similar to the study that was just produced by the Black & Veatch Corporation for the City of Horton—was conducted and accomplished by August 2002. See Lake of Three Fire Diagnostic/Feasibility Study, August 2002, (available at <http://limnology.eeob.iastate.edu/Studies/LakeOf3Fires/3FiresAuthorsPage.html>).

Dredging commenced on April 14, 2004 and was completed by July 4, 2006 (less than 60 total days for dredging operations). In the first 10-days of dredging, water levels within LTF dropped more than four feet, using a 20-inch dredge for the process. The LTF Restoration did use a confined disposal facility for

	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.

B. Proposed General Scope of Services. As part of the Request for Qualifications (“RFQ”), it is required that the City provide as much insight to the scope and depth of the project by generally describing the work that will be required of a PDE, if selected by the City Commission. For purposes of maintaining the documents as not yet available as an open record until it is time for bid, only general information has been used to help explain the process to the Commission. City Administrator will seek approval from Commission at January 21, 2008 meeting before releasing public advertising for procurement.

The objective defined within the RFQ for the MLRP is “to restore Mission Lake as a viable, long-term public water supply; and to maintain such investment and initiative through a strong watershed management and sedimentation mitigation plan and the implementation thereof.”

The general scope of service described within this RFQ for PDE services is for the PDE to perform (i) project permitting; (ii) confined disposal facility engineering; (iii) hydraulic dredge engineering; (iv) watershed management and sedimentation mitigation plan implementation; (v) project procurement; (vi) construction management and inspection; and (vii) permit analytical testing administration.

C. Factors for Evaluation of Respondents to Statement of Qualifications. Under the QBS system, each applicant PDE firm is evaluated on a number of criteria. The criteria that will be used to rate firms who have submitted responsive Statements of Qualifications are, generally, the (i) identification and review of project principals and key employees that will be involved with the project; (ii) experience of the PDE firm; (iii) availability of adequate firm resources and stability of financial resources of the firm; (iv) interpretation and approach to interpreting and considering the general scope of services provided by the City in the Request for Qualifications; (v) technologies, facilities and equipment available to the firm; and (vi) the quality of work previously performed by the firm for the City, other similarly situated municipalities or public agencies and/or clients with similar projects to the Mission Lake Renovation Project.

D. Procurement Preparations. The Mission Lake Resources Website has been re-organized and more engineering studies have been published on the Mission Lake Renovation Project website (<http://www.hortonkansas.net/ecodevo/missionlake/>) in order to provide assistance to possible respondents to the Request for Qualifications. Preparing these documents and making them available now is necessary before we begin procurement, because (a) all of the resources are available to interested parties that are available to the City and City staff, therefore, performs less time in

administering the procurement process; and (b) City Administration has again inserted an *Anti-Communication Policy* into the RFQ. This policy is designed to ensure that each potential respondent to the RFQ received the same information as the next and it removes most instances of allegation of unfair communications, e.g., providing information to one vendor and withholding that information from another. The Black & Veatch study is still be digitized and organized and will be loaded

4. Advisory for Swimming Pool Request for Proposals. The Request for Proposal (“RFP”) procurement document for consulting services related to the planning of a new municipal swimming pool is completed; however, due to the ice storm in December, the Parks & Recreation Board (“PRB”) could not meet. Therefore, City Administrator will meet with the PRB on Wednesday, January 9, 2008, to seek comments from the PRB regarding the RFP. The RFP has been attached for City Commission review and comment from the City Commission before formal presentation to the PRB. *See Attachment No. 1.*

The chances of having an election on the April 2008 City-School ballot has been removed due to the time delay caused by the ice storm and, therefore, the City Commission will be presented with the question of either holding a special election for the approval of a sales tax question-submitted ballot or hold the question-submitted election at the same time as the proposed Brown County jail sales tax. This could raise complications for both projects.

5. Advisory on Community Development Block Grant Compliance. The Quarter 3 report KANSTEP is required to be prepared during the week of January 7th through 11th in order to have the report filed timely. Additionally, before the Kansas Department of Commerce (“KDOC”) begins to perform the project audits, it is necessary for the City Administrator to submit an updated Horton Procurement Policy to the City Commission for review and final action. Housing and Urban Development (“HUD”) requires that recipients of community development block grant (“CDBG”) dollars have certain language included in the procurement policy. The City Administrator will be working diligently to complete the amendments and to offer an clearly amended version of the procurement policy the Commission for updates at the January 21, 2008 meeting.

For Your Information: A KANSTEP principals meeting is being organized in order to develop a project calendar to complete the Blue Building before the Brown County Fair. A calendar was developed the week before the ice storm and a meeting was scheduled; however, we were forced to cancel that meeting do to the ice storm.

6. Advisory on the Possible Effects of KDHE Denial of the Holcomb Coal Fire Permit. There has been recent rumor and speculation, which could very likely prove to be true, that the denial of the proposed Sunflower Energy Co-op Holcomb Coal plant permits could cause previously performed studies by the Southwest Power Pool ("SPP"), the Regional Transmission Operator ("RTO") for all lines in the Kansas, Oklahoma, Missouri, Arkansas, Texas, and Louisiana transmission area, to be re-studied due to per rata distribution of costs being impacted by the lessening of nearly 2,100 mW of energy being transmitted onto lines.

Under SPP guidelines, each utility requesting a piece of electric commodity from a distant sources, such as from the Western Area Power Administration ("WAPA") hydroelectric plants, must request an "Aggregate Transmission Facilities Study". Approximately every 30-days, the SPP will take all aggregate study requests and study the cumulative impact of the total electric commodity being delivered upon the RTO to avoid energy imbalances, which is the primary purpose of the creation of the SPP in 2001, before it was a legitimate RTO. Each entity or utility requesting an energy commodity will be given a response to the aggregate study, wherein the SPP will dedicate to spread or socialize the costs of improving the transmission infrastructure among all users of the transmission infrastructure. In the case of Holcomb, the plant had requested a very large distribution and, therefore, was forced to secure for the upgrades. However, when the air quality permit ("NAAQS permit") was denied by Secretary Bremby of KDHE, Holcomb was able to remove its per rata share from the aggregate facilities and from the required security. Therefore, there is a possibility that another Aggregate Transmission Facilities Study could be required for the second mW of power that we believed was secured in mid-2006. There has been no confirmation of this requirement yet; however, it is important that the Commission be advised that this may occur. If the improvements are less than \$180,000.00, which is baseplan funding by SPP, then the City will not require a Letter of Credit as security to guarantee that the City intends to accept and purchase the GRDA power for a period no less than 16-years. However, if the LOC security is higher, this could compromise the wholesale value of the energy due to extraneous costs associated with interest on the LOC, which is generally between 1.5 and 2.5 percent.

End of Document

Attachment No. 1

Request for Proposals
Municipal Swimming Pool Design Consulting

REQUEST FOR PROPOSALS

Proposal Due Date: [TBA]

Anticipated Contract Award: [TBA]

Performance of Contract: [TBA]

Community Abstract: The City of Horton, Kansas (the “City”), is a rural, agricultural community located in south-central Brown County, Kansas, just north of the Atchison-Brown County lines. The City has a population of just over 2,000 persons and is the proud home to Unified School District No. 430 (South Brown County). The City government operates under a chartered-commission form of government having a Mayor, Commissioner of Finance and Revenue, Commissioner of Police, Commissioner of Streets and Public Utilities, and Commissioner of Parks and Recreation, all of which are elected at-large.



Since 1960, the City has operated a chlorinated swimming pool. The 1960 pool is nearing the end of its operating life and the City, through the Parks and Recreation Board (the “PRB”), wishes to begin the planning of a new municipal swimming pool. The PRB has been authorized by the Board of the Horton City Commission (the “Commission”) to procure an engineering and/or architectural professional for the purposes of conducting a preliminary engineering report for the construction of a new pool. The selected firm or entity shall work with the PRB to produce a PER that generally includes (a) conceptual drawings for a new municipal pool, (b) consideration of location of a new municipal pool, and (c) costs for a new municipal pool.

The City is interested in an expedited financing, design and construction schedule for the new municipal swimming pool and will likely finance the project via a sales tax, which has yet to be submitted to the voters of the municipality. Therefore, before the City may present this matter to the voters for a question-submitted balloting, the City must have guaranteed maximum price (GMP). Expedited production of the PER and GMP is important for the financing of the municipal swimming pool: the City would prefer that this matter appear before the voters during the April 2008 City-School election, which will require that the question-submitted be submitted to the Brown County Clerk by or before Wednesday, February 21, 2008.

Proposed Scope of Services: The selected consultant for the performance of the preliminary engineering report will be responsible for performing, at a minimum, the following tasks:

1. Data Collection. The selected consultant will be responsible for collecting necessary data for the development and recommendation of a new municipal swimming pool for the City of Horton, Kansas. Data included in this phase should include current community demand and demographics, as well as anticipated or likely community demands and demographic projections on a 50+ year basis.

Additionally, the selected consultant shall collect available swimming pool usage data and analyze community demands for a new municipal swimming pool or aquatic facility.

Finally, other data collection necessary for the development of a new municipal swimming pool plan would include on-site technical analysis of three different sites for the placement of a new municipal swimming pool or aquatic facility. The selected consultant will be responsible for preparing a rating system that reflects community needs, construction considerations and vehicular traffic patterns, among other considerations that the selected consultant and City may deem integral to a rating system. Such rating system shall be used to rate the three sites selected for the possible location or re-location of a municipal swimming pool or aquatic facility.

2. Marketing Study. The selected consultant will be required to perform a marketing study, including on-site evaluation of surrounding community's municipal swimming pools and/or aquatic facilities, in order to determine regional market pull for any possible construction of a new facility by the City.

3. Review Municipal Needs. The selected consultant shall be required to review the City's existing facilities and programming and determine the optimum programming needs and define which type of facilities can best meet the City's and community's needs.

4. Prepare Conceptual Plan. The selected consultant shall be responsible for submitting a conceptual, draft plan of the conceptual facility based on the data collected in tasks 1, 2 and 3 hereinbefore described. The selected consultant shall be required to submit, at a minimum, three versions of the conceptual plans, including the consideration of such items as bathhouses, natatoriums, pools, site amenities, parking, zoning, neighborhood impact and other assets as appropriate.

5. Conduct Community Review Sessions. The selected consultant will be responsible for making a preliminary presentation to the PRB. Input from the PRB shall be included into the preliminary conceptual plan. After PRB consideration is made, the selected consultant shall be responsible for making a preliminary presentation to the Board of the Horton City Commission for review and, again, input from the Commission shall be included into the preliminary conceptual plan. Finally, the selected respondent shall be required to make a community-wide, town hall style presentation of the conceptual plan. The considerations of the community shall, finally, be included into the conceptual plan. After the PRB, Commission and community at-large have had an opportunity to submit input for consideration, the final draft of the conceptual plan draft shall be submitted to the Commission for review and final approval. The final draft submitted to the

Commission shall analyzed and evaluated for consideration of issues such as short- and long-term maintenance; probable operating costs; impact on the quality of the aquatic environment; and serviceability.

6. Prepare Estimated Construction Costs. The selected consultant shall provide opinions of probable construction costs based on recommendations for the pool shells, surge tanks, piping systems, pool heaters, wading pools, deck equipment, sanitary facilities, site amenities, bathhouses, mechanical buildings, and other project elements.

7. Prepare Overall Final Recommendations of Facility. Overall final recommendations shall be developed by the selected consultant and shall include the specific type and size of facility, probable professional design, engineering and construction costs, and estimated financing and/or underwriting costs.

8. Develop Artist Rendering. The selected consultant shall develop and provide an artist rendering of the final pool concept and provide no less than five (5) large print drawings for community placement in establishing support for any possible question-submitted sales tax initiative.

9. Present Final Preliminary Report to Joint Meeting of PRB and Horton City Commission. The selected respondent shall prepare and present a final preliminary report to a joint meeting of the PRB and Horton City Commission. Final action will be required of the Horton City Commission approving such report before such report shall be considered final and contractual performance met.

The selected consultant may recommend other items and such items will be considered as possible additions to the scope of services under the final contract.

Proposed Project Calendar: [To Be Announced]

Proposal Format & Evaluation: Interested firms, individuals or other entities are suggested to adhere to the general proposal format described within this RFP. Appropriate formatting according to the RFP ensures that each proposal is evaluated in the same process and framework and, therefore, ensures that the interested parties are given fair evaluation and consideration. Proposals not meeting the general format outlined within this RFP are subject to disqualification, at the discretion of the City Administrator, PRB and/or Horton City Commission.

All proposals shall be within a maximum fifteen (15) page limitation and proposals having more than fifteen (15) pages shall only be reviewed to the fifteenth (15th) page.

All proposals shall be delivered, no later than 5:00 p.m., ___ day January XXth, 2008 [TBA].

While this Request for Proposals (RFP) will make consideration of price of services to be rendered under this RFP, qualifications and experience have been given significantly more weight within the evaluation process to ensure that the most qualified firm or other entity submitting a proposal in response to the this RFP is selected.

Each proposal shall be evaluated according to:

1. Qualifications and Experience (Twenty Points). The proposing party shall provide a statement of qualifications and experience and a brief review of the proposing party's qualifications and experience. The qualifications review should (a) identify the team of key personnel that will be involved with this project, if awarded, including brief resumes for said key personnel; (b) qualifications and experience with other similarly sized and similarly situated Kansas communities; and (c) Other items that the proposing parties feel may be important for demonstrating the qualifications and experience of the firm, so long as the total proposal does not exceed the fifteen (15) page maximum limitation. In the event of joint proposals between two or more firms, indicate the role that each firm, sub-consultant or co-proposer would perform. The City reserves the right to enter into negotiations with only one of a several co-proposers and/or sub-consultants.

2. Understanding of Request for Proposals and Proposed Scope of Services (Twenty Points). The proposing party shall provide a clear, concise response to the proposed scope of services described within this RFP. If any proposing party would recommend an alternative scope of services that would offer increased efficiency without negatively impacting the quality of any preliminary or final report, the City encourages the proposing party to offer the alternative scope of services, so long as it is clear from the suggested alternative that the proposing party has a clear understanding of the goals to be obtained from the preliminary report. Creativity and efficiency in scope of services development is encouraged and will be rewarded within the final evaluation.

3. References of the Proposing Parties (Five Points). Proposing parties shall include the name, title, address, telephone number, e-mail address and other specific information of three (3) previous clients for whom services similar to those within this RFP's proposed scope of services have been performed.

4. Proposed Fee to Perform Scope of Services (Five Points). The proposing parties shall prepare a total fee statement for the performance of the proposed scope of services within this RFP or an alternatively suggested scope of services made by any proposing party.

SPECIAL NOTICE REGARDING PROPOSAL SUBMISSION AND CONTRACTING: The City of Horton reserves the rights to award one, more than one or no contract(s) in response to this RFP; to award a contract based on a proposal submitted or reject any and all proposals received in response to this RFP; and to waive any and/or all informalities and irregularities in the proposals received. This RFP shall not be interpreted as an offer to contract, but only as a solicitation to negotiate for a contract; therefore, this RFP does not obligate the City to

enter into a contract, award any services related to this RFP, nor to pay any costs incurred in the preparation, transmission and/or submission of any proposal submitted in response to this RFP. Additionally, the City reserves the right to terminate this RFP, reissue a subsequent RFP, and/or remedy technical errors in this RFP process through an amendment(s).

SPECIAL NOTICE REGARDING THE KANSAS OPEN RECORDS ACT: In accordance with Kansas law, respondents to this RFP acknowledges and agrees that (a) all proposals submitted in response to this RFP will be presumed to become local government records available for public inspection and copy under the Kansas Open Records Act, K.S.A. 45-215 *et seq.*; and (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*.

General Provisions, Restrictions & Limitations: The following information has been provided to all interested parties submitting responsive proposals to this RFP for information purposes only. If the City should choose to award a contract in response to this RFP, each of the terms, in substantially similar form and substance as presented within this RFP, shall be included in the contract.

1. Hold Harmless. Any party or parties awarded a contract as a result of this RFP 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 selected consultant. The selected consultant 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 selected consultant, the selected consultant 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.

2. Formal Invoicing. The selected consultant must be able to formally invoice the City for services rendered, indicating on invoice the payment or partial for services or partial services rendered.

3. Code of Ethics. All parties submitting proposals in response to this RFP acknowledges and understands that City Officials and 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.

4. Confidentiality and the Kansas Open Records Act. Selected respondent shall acknowledge and agree that, while some information obtained by respondent from City in course of performing the scope of services

will be available to the public domain pursuant to the Kansas Open Records Act, *K.S.A. 45-215 et seq.*, all information about the CITY obtained by the selected respondent in performing the scope of services shall be treated as a confidential, including, but not limited to, (a) all data and information (including, without limitation, documents, materials, models, exhibits, samples and demonstrations); (b) all work product, data and information (including, without limitation, documents, materials, models, exhibits, samples and demonstrations) developed by the selected respondent from or with reference to, in whole or in part, information imparted to the selected respondent by the CITY; and (c) all data, information and documentation relating, directly or indirectly, to commercial and industrial economic development initiatives (including, without limitation, documents, materials, models, exhibits, samples and demonstrations) of the City. The selected respondent will further be required to acknowledge and agree that the CITY is the “public agency” within the definition of the Kansas Open Records Act, *K.S.A. 45-217(e)(1)*, responsible for the maintenance of all records held by the City or produced for the City by the selected respondent and that the selected respondent shall hold all such data and information (including, without limitation, documents, materials, models, exhibits, samples and demonstrations) as confidential. In the event that the selected respondent is requested or required (by oral question or request for information or documents pursuant to the Kansas Open Records Act or in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar process) to disclose any such information, the selected respondent will be required to notify the City promptly of the request so that CITY may make appropriate judgment regarding request or demand for information and, if necessary, seek a protective order or waive compliance with the contract. If, in the absence of a protective order or receipt of a waiver hereunder, the selected respondent is, on the advice of counsel, compelled to disclose any confidential information to any individual, entity or tribunal or else stand liable for contempt, the selected respondent may disclose the confidential information to the individual, entity or tribunal; *provided*, that the selected respondent shall use all commercially reasonable efforts to obtain, at the request and cost of the City, an order or other assurance that confidential treatment shall be accorded to such portion of the confidential information required to be disclosed as the City shall designate.

Project Contact Information: For further information, inquiries, or suggestions, all parties interested in submitting a responsive proposal to this RFP shall contact:

Levi J. Henry
City Administrator
City of Horton, Kansas
Horton, Kansas 66439-0030

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