

DIXON

**ENGINEERING & INSPECTION SERVICES
FOR THE COATING INDUSTRY**

4811 South 76th Street
Suite 109
Greenfield, WI 53220
Telephone: (414) 529-1859
Fax: (414) 282-7830

November 9, 2022

Mark McFarland, Water Distribution Lead
City of Bloomfield
111 West Franklin St
Bloomfield, IA 52537

Subject: Inspection Services Proposal for 300,000 Gallon Double Ellipse and 300,000 Gallon Toro Ellipse Elevated Tank

Dear Mark:

Enclosed is a maintenance proposal for ROV inspections of the 300,000 gallon double ellipse and 300,000 gallon toro ellipse. The Basis of Payment for an ROV inspection is Lump Sum for travel, inspection, and report.

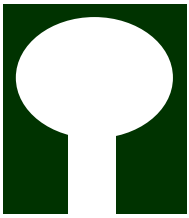
Our Proposal/Contract form consists of the Contract Provisions and Schedules A, B, and C. Schedule A includes a detailed Scope of Services for both the Owner and DIXON. Schedule B includes fees and terms of payment. Schedule C provides billing rates for additional services that may be provided during the inspection. The Proposal/Contract form becomes a Contract when the proposal is accepted and signed by the Owner, and then signed by DIXON.

We appreciate the opportunity to submit this proposal. If you have any questions, please feel free to contact me at (641) 903-4193 or tim.wilson@dixonengineering.net.

FOR DIXON ENGINEERING, INC.,

Tim Wilson, MPA
Project Manager

Enclosure



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**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND DIXON
FOR PROFESSIONAL SERVICES
300,000 Gallon Double Ellipse, (Town), #15-23-01-01
300,000 Gallon Toro Ellipse, (West), #15-23-01-02**

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”) between City of Bloomfield, Iowa (“Owner”) and Engineer (“Dixon Engineering, Inc.”).

1.01 SIGNATURES:

Tim Wilson, MPA, Project Manager

November 9, 2022

PROPOSED by DIXON (not a contract until approved by Project Manager or Officer)

Proposal Date

CONTRACT Approved by Owner

Position

Date

CO SIGNATURE (If Required)

Date

CONTRACT APPROVED by DIXON PROJECT MANAGER

Date

Address for OWNER’S receipt of Notices

Address for DIXON’S receipt of Notices

4811 South 76th Street
Suite 109
Greenfield, WI 53220

1.02 CONTRACT/PROPOSAL:

- A. Signatures acknowledge that this Contract consists of 9 pages.
- B. Owner’s Project, of which DIXON’s services under this Agreement are a part, is generally identified as follows: 300,000 Gallon Double Ellipse and 300,000 Gallon Toro Ellipse Elevated Tank (“Project”).
- C. DIXON’s services under this Agreement are generally identified as follows, and further definition of Services by both Owner and DIXON are included as Maintenance Inspection Services (ROV) per Schedule A

Owner and DIXON further agree as follows:

2.01 BASIC AGREEMENT:

- A. DIXON shall provide or furnish the Services set forth in this Agreement. Services are delineated for both the Owner and DIXON in Schedule A – Scope of Services. If authorized by Owner, or if required because of changes in the Project, DIXON shall furnish services in addition to those set forth above (“Additional Services”).
- B. DIXON shall complete its Services within a reasonable period of time.
- C. If, through no fault of DIXON, such periods of time or dates are changed, or the orderly and continuous progress of DIXON’s Services is impaired, or DIXON’s Services are delayed or suspended, then the time for completion of DIXON’s Services, and the rates and amounts of DIXON’s compensation, shall be adjusted equitably.

3.01 PAYMENT PROCEDURES:

- A. Invoices: DIXON will prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. Additional financial terms are found in Schedule B.
- B. Payment: As compensation for DIXON providing or furnishing Services and Additional Services, Owner shall pay DIXON as set forth in Paragraphs 3.01 (Payment Procedures), 3.02 (Basis of Payment), and 3.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise DIXON in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

3.02 BASIS OF PAYMENT:

- A. Owner shall pay DIXON for services as follows:
 - 1. Lump Sum amount of **Eight Thousand, Four Hundred, and Fifty dollars (\$8,450.00)**. See Schedule B for cost breakdown of services.

3.03 ADDITIONAL SERVICES: For Additional Services, Owner shall pay DIXON an amount equal to the cumulative hours charged in providing the Additional Services by each of DIXON’s employees, times standard hourly rates for each applicable billing classification; plus reimbursement of expenses incurred in connection with providing the Additional Services and DIXON’s consultants’ charges, if any. DIXON's standard hourly rates and terms are attached as Schedule C.

4.01 ATTACHMENTS:

- 1. Schedule A – Scope of Work of both the Owner and DIXON.
- 2. Schedule B – Cost breakdown per phase of Work and Additional Terms of Payments.
- 3. Schedule C – DIXON Employee Billable Rates and Terms.

SCHEDULE A
Maintenance Inspection (ROV)
300,000 Gallon Double Ellipse, (Town), #15-23-01-01
300,000 Gallon Toro Ellipse, (West), #15-23-01-02
Bloomfield, Iowa

A. Scope of Services Performed by Owner (ROV):

1. Provide scheduling for mutually agreeable inspection date.
2. Provide access to DIXON personnel to all areas scheduled for inspection.
3. Perform chlorine residuals and bacteriological testing after completion of the inspection
4. Fill the tank to the normal high water operating level and if possible, isolate it from the system while the ROV is in the tank. If it is not possible to isolate the tank, keep inlet or outlet flow rates to a minimum. This is necessary to minimize turbulence and increase the chance of clear video being recorded.

B. Scope of Services Performed by DIXON (ROV):

1. Inspect the tank's interior coating for remaining intactness and anticipated life. Submerged surfaces to be inspected by remotely operated vehicle (ROV). Review all interior girders and appurtenances for possible structural damage from icing or corrosion.
2. Review all interior surfaces for corrosion and/or damage and qualify damage for repairs. All repairs are to be quantified by extrapolation of a measured area. All quantities are estimates (usually high) because corrosion will continue between inspection and repair.
3. Inspect the exterior coating for remaining intactness and anticipated life.
4. Review all exterior appurtenances for damage due to corrosion.
5. Review the exterior of the exposed foundations.
6. Review all safety requirements for ladders, cages, etc.
7. Review all health requirements of the tank, including screening of the vent, overflow pipe, and other possible contamination sources. Notification of failed areas will be provided to the Owner on site.
8. Prepare a report documenting all items found and recommendations for repair, including budgetary items. The engineering report is to include conclusions and recommendations, a base report, digital photographs with descriptions, and an edited inspection video on flash drive.

SCHEDULE B

Maintenance Inspection (ROV)

300,000 Gallon Double Ellipse, (Town), #15-23-01-01

300,000 Gallon Toro Ellipse, (West), #15-23-01-02

Bloomfield, Iowa

1. Payment for Items 1 through 8, travel time, and preparation of report as outlined in Schedule A – Scope of Services Performed by DIXON is a lump sum amount of **\$8,450.00**.
2. All DIXON service invoices which are outstanding more than sixty (60) days from invoice date shall be assessed (DIXON's favor) one percent (1%) per month interest from date thirty days after invoice date.

SCHEDULE C
Illinois, Iowa, Minnesota, and Wisconsin
Employee Billable Rates and Terms

<u>Labor Class</u>	<u>Per Hour</u>	<u>Overtime Rate</u>
Principal.....	\$400.00	
Officer/Associate.....	\$200.00	
Project Manager.....	\$170.00	\$255.00
Engineer.....	\$175.00	\$263.00
CWI Welding RPR.....	\$187.00 – \$205.70	\$277.50 – \$308.00
DIXON Level 3 or NACE certified Level 3 RPR	\$130.00 – \$171.00	\$195.00 – \$256.00
DIXON Level 2 or NACE Level 2 RPR	\$118.00 – \$149.00	\$176.00 – \$223.00
DIXON Level 1 or NACE Level 1 RPR	\$106.00 – \$129.00	\$159.00 – \$193.00
Contract Support Staff.....	\$135.00 – \$165.00	\$204.00 – \$248.00
<u>Expenses</u>	<u>Metropolitan</u>	<u>Out-State</u>
Mileage.....	\$0.80/mile + tolls	\$0.70/mile
Lodging.....	\$168.00 per diem	\$158.00 per diem
Meals.....	\$62.00 per diem	\$57.00 per diem

FEES EFFECTIVE THROUGH: December 31, 2023

(Revised: 9/08/2022)

Owner and DIXON further agree as follows:

5.01 TERMINATION:

- A. The obligation to continue performance under this Agreement may be terminated:
 - 1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay DIXON for its services is a substantial failure to perform and a basis for termination.
 - b. By DIXON:
 - 1) upon seven days written notice if Owner demands that DIXON furnish or perform services contrary to DIXON's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the DIXON's Services are delayed for more than 90 days for reasons beyond DIXON's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 7.01.I.
 - c. DIXON shall have no liability to Owner on account of a termination for cause by DIXON.
 - d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 5.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
 - 2. For convenience, by Owner effective upon DIXON's receipt of written notice from Owner.
- B. In the event of any termination under Paragraph 5.01, DIXON will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services
- C. Effective Date of Termination: The terminating party under Paragraph 5.01.A.1 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow DIXON to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Costs associated with any further work that is needed to prevent adverse impact on the project are to be negotiated and considered Additional Services.

6.01 SUCCESSORS, ASSIGNS, AND BENEFICIARIES:

- A. Owner and DIXON are hereby bound and the successors, executors, administrators, and legal representatives of Owner and DIXON (and to the extent permitted by Paragraph 6.01.B the assigns of Owner and DIXON) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor DIXON may assign, sublet, or transfer any rights under or interest in this Agreement without the written consent of the other party, except to the extent that any

assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or DIXON to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and DIXON and not for the benefit of any other party.

7.01 GENERAL CONSIDERATIONS:

- A. The standard of care for all professional related services performed or furnished by DIXON under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. DIXON makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by DIXON. Subject to the foregoing standard of care, DIXON and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. DIXON shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall DIXON have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. DIXON shall not be responsible for the acts or omissions of any Constructor.
- C. DIXON neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work without regard to DIXON's relation to that Work.
- D. DIXON's opinions (if any) of probable construction cost are to be made on the basis of DIXON's experience, qualifications, and general familiarity with the construction industry. However, because DIXON has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, DIXON cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by DIXON. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- E. DIXON shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by DIXON or its consultants.
- F. All documents prepared or furnished by DIXON are instruments of service, and DIXON retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by DIXON of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:

1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by DIXON, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by DIXON;
 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by DIXON, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to DIXON or to its officers, directors, members, partners, agents, employees, and consultants;
 3. Owner shall indemnify and hold harmless DIXON and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by DIXON; and such limited license to Owner shall not create any rights in third parties.
- G. Owner and DIXON may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. To the fullest extent permitted by law, Owner and DIXON (1) waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, and (2) agree that DIXON's total liability to Owner under this Agreement shall be limited to \$100,000 or the total amount of compensation received by DIXON, whichever is greater.
1. Limitation of Liability: DIXON and Owner agree that they shall each be responsible for their own negligence and that neither party shall, under any circumstances, be responsible for the negligent acts or omissions of the other party.
 2. Percentage Share of Negligence: To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, and all other negligent entities and individuals.
- I. The parties acknowledge that DIXON's Services do not include any services related to unknown or undisclosed Constituents of Concern. If DIXON or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then DIXON may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
1. Constituents of Concern normally associated with coating projects can be hidden or occur as a result of the Work. These include metals and organic solvents. These material still are considered as Constituents of Concern only they are known or anticipated. But these constituents of concern, including lead, chrome, cadmium, mercury, and coating solvents shall not be a trigger for project termination by either DIXON or Owner.
- J. Owner and DIXON agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If Owner/DIXON negotiations are unsuccessful in resolving the dispute,

then the dispute shall be negotiated by a third party agreeable to both parties and the neutral negotiator's determination shall be legally binding on both parties.

- K. This Agreement is to be governed by the law of the state in which the Project is located.
- L. DIXON's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.

8.01 TOTAL AGREEMENT:

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and DIXON and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

9.01 DEFINITIONS:

- A. Constructor – Any person or entity (not including the DIXON, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- B. Constituent of Concern – Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.