



CITY COUNCIL REGULAR MEETING AGENDA Monday, April 14, 2025 at 7:00 PM

15 East Franklin Street Bellbrook, Ohio 45305
T (937) 848-4666 | www.cityofbellbrook.org

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF THE MINUTES**
5. **MAYOR'S ANNOUNCEMENTS AND SPECIAL GUEST**
 - A. Bellcreek Intermediate 4th grade class presentation on local government
 - B. Sugar Maple Festival Presentation for Citizen of the Year
 - C. Recognition of Girl Scout gold Award recipients Diana Duckro, Molly Janus, Makayla Skinner
6. **CITIZEN COMMENTS**
7. **CITIZENS REGISTERED TO SPEAK ON AGENDA ITEMS**
8. **PUBLIC HEARING OF PROPOSED ORDINANCES**
9. **INTRODUCTIONS OF ORDINANCES**
 - A. Ordinance 2025-O-06 EXPRESSING THE CITY'S INTENT TO NEGOTIATE JOINTLY WITH OTHER CITIES IN THE REGION ON A ONE PRICE SCHEDULE UNDER WHICH ELECTRIC LIGHT SERVICES SHALL BE FURNISHED TO THE RESIDENTS OF THE CITY FOR THE PURPOSE OF STREET LIGHTING (Havens)
 - B. Ordinance 2025-O-07 AMENDING ORDINANCE 2024-O-14 BY MAKING SUPPLEMENTAL APPROPRIATIONS FOR EXPENSES OF THE CITY OF BELLBROOK FOR THE PERIOD BEGINNING JANUARY 1, 2025 AND ENDING DECEMBER 31, 2025, AND DECLARING AN EMERGENCY. (Cyphers)
10. **ADOPTION OF RESOLUTIONS**
 - A. Resolution 2025-R-07 DECLARING CERTAIN CITY OWNED PROPERTY NO LONGER REQUIRED FOR MUNICIPAL PURPOSES AS SURPLUS AND AUTHORIZING DISPOSAL OF SAID PROPERTY (Greenwood)
 - B. Resolution 2025-R-08 AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH DIXON ENGINEERING, INC TO PROVIDE ENGINEERING SERVICES FOR THE REPAIR AND REPAINTING OF A STANDPIPE WATER TOWER AND WAIVING THE COMPETITIVE BIDDING REQUIREMENTS (Harding)
 - C. Resolution 2025-R-09 AUTHORIZING THE CITY MANAGER TO SOLICIT, ADVERTISE, AND RECEIVE PROPOSALS FROM QUALIFIED FIRMS TO PROVIDE MATERIALS AND PERFORM SERVICES RELATED TO THE REPAIR AND REPAINTING OF A STANDPIPE WATER TOWER (Hoke)
 - D. Resolution 2025-R-10 DETERMINING IT NECESSARY TO PROCEED WITH SUBMITTING THE QUESTION OF LEVYING AN ADDITIONAL TAX IN EXCESS OF THE TEN-MILL LIMITATION TO THE ELECTORS OF THE CITY, PURSUANT TO OHIO REVISED CODE SECTION 5705.19 AND SUBSECTION 5705.19(JJ), AS AMENDED, WHICH LEVY SHALL BE TWO AND TWO TENTHS (2.2) MILLS AND SHALL RUN FOR A CONTINUING PERIOD OF TIME PURSUANT TO OHIO REVISED CODE SECTION 5705.19, AND REQUESTING THE COUNTY AUDITOR TO CERTIFY MATTERS IN CONNECTION THEREWITH (Ashley)
11. **OLD BUSINESS**
 - A. Animal Ordinance Update Discussion
12. **NEW BUSINESS**

13. CITY MANAGER'S REPORT

- A. 2024 Annual Department Review
- [B.](#) Update on Little Sugarcreek Road Speed Limit

14. COMMITTEE REPORTS

- A. Safety Committee
- B. Service Committee
- C. Finance/Audit Committee
- D. Community Affairs Committee

15. CITY OFFICIAL COMMENTS

16. EXECUTIVE SESSION

- A. Motion to enter executive session to conference with an attorney concerning disputes subject of pending or imminent court action.

17. ADJOURNMENT

File Attachments for Item:

A. Ordinance 2025-O-06 EXPRESSING THE CITY'S INTENT TO NEGOTIATE JOINTLY WITH OTHER CITIES IN THE REGION ON A ONE PRICE SCHEDULE UNDER WHICH ELECTRIC LIGHT SERVICES SHALL BE FURNISHED TO THE RESIDENTS OF THE CITY FOR THE PURPOSE OF STREET LIGHTING (Havens)

RECORD OF ORDINANCES

Item A. Section 9, Item

Ordinance No. 2022-O-06

April 14, 2025

City of Bellbrook State of Ohio

Ordinance No. 2025-O-06

EXPRESSING THE CITY'S INTENT TO NEGOTIATE JOINTLY WITH OTHER CITIES IN THE REGION ON A ONE PRICE SCHEDULE UNDER WHICH ELECTRIC LIGHT SERVICES SHALL BE FURNISHED TO THE RESIDENTS OF THE CITY FOR THE PURPOSE OF STREET LIGHTING

WHEREAS the City is currently under contract with Miami Valley Lighting, LLC ("MVL") and DPL Energy Resources, Inc. (aka "AES Ohio") for the provision of street lighting; and

WHEREAS, the current contract expires on December 31, 2025; and

WHEREAS, Ohio Revised Code Section 74.28(B) allows two or more municipal corporations to negotiate one price schedule under which an electric light company shall furnish its services to the residents of the municipal corporations; and

WHEREAS, the City Council has determined that it would be in the best interests of the City to negotiate jointly with other cities in the region on one price schedule for the provision of electric light services to the residents of the City for the purpose of street lighting; and

WHEREAS, the City is authorized as a charter municipality to exercise all powers of local self-government.

NOW, THEREFORE, THE CITY OF BELLBROOK HEREBY ORDAINS:

Section 1. Pursuant to Ohio Revised Code Section 743.28(B), the City of Bellbrook, Ohio hereby expresses its intent to negotiate and authorize the City Manager to participate as a member of the negotiation committee jointly with other cities in the region on one price schedule under which electric light services shall be furnished to the residents of the City for the purpose of street lighting.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED BY City Council this ____ day of ____ 2025.

____ Yeas; ____ Nays.

AUTHENTICATION:

RECORD OF ORDINANCES

Item A. Section 9, Item

Ordinance No. 2022-O-06

April 14, 2025

Michael W. Schweller, Mayor

Robert Schommer, Clerk of Council

APPROVED AS TO FORM:

Stephen McHugh, Municipal Attorney

File Attachments for Item:

B. Ordinance 2025-O-07 AMENDING ORDINANCE 2024-O-14 BY MAKING SUPPLEMENTAL APPROPRIATIONS FOR EXPENSES OF THE CITY OF BELLBROOK FOR THE PERIOD BEGINNING JANUARY 1, 2025 AND ENDING DECEMBER 31, 2025, AND DECLARING AN EMERGENCY.
(Cyphers)

RECORD OF ORDINANCES

Item B. Section 9, Item

Ordinance No. 2025-O-07

April 14, 2025

City of Bellbrook

Ordinance No. 2025-O-07

AMENDING ORDINANCE 2024-O-14 BY MAKING SUPPLEMENTAL APPROPRIATIONS FOR EXPENSES OF THE CITY OF BELLBROOK FOR THE PERIOD BEGINNING JANUARY 1, 2025 AND ENDING DECEMBER 31, 2025, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Bellbrook adopted the 2025 annual budget based on the best information available at the time; and

WHEREAS, additional costs and/or adjustments are required for various 2025 Personnel Services and Other Expenses which requires the amendment of various appropriation levels.

Now, Therefore, the City of Bellbrook Hereby Ordains:

Section 1. That to provide for the required expenses and other expenditures of the City of Bellbrook during the fiscal year ending December 31, 2025, the appropriation levels are amended as set forth in Exhibit A attached hereto and incorporated herein by reference and hereby set aside to be appropriated.

Section 2. This Ordinance is declared to be an emergency measure necessary to meet a public emergency affecting health, safety, morals or the public welfare, or a special emergency in the operation of a Municipal department, and for the further reason that there is a need to provide for required personnel expenses and for the purchase of critical information technology equipment ; therefore, this Ordinance shall take full force and effect immediately upon its adoption by Council

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED BY City Council this 14th day of April, 2025.

_____ Yeas; _____ Nays.

AUTHENTICATION:

Michael Schweller Mayor

Robert Schommer, Clerk of Council

APPROVED AS TO FORM:

Stephen M. McHugh, Municipal Attorney

RECORD OF ORDINANCES

Item B. Section 9, Item

Ordinance No. 2025-O-07

April 14, 2025

EXHIBIT A

Fund	2025 Current Appropriations	Personnel Revisions	Other Expenses Revisions	Total Revisions	Amended 2025 Appropriations
100 General Fund	\$1,145,871.85				\$1,145,871.85
<i>11 Legislative</i>	\$44,051.91				\$44,051.91
<i>12 Administrative</i>	\$947,070.14				\$947,070.14
<i>13 Library</i>	\$3,164.76				\$3,164.76
<i>14 Museum</i>	\$33,750.04				\$33,750.04
<i>15 Community Environment</i>	\$82,835.00	\$7,700			\$90,535.00
<i>30 Capital Outlay</i>	\$78,000.00				\$78,000.00
202 OneOhio Opioid Settlement Fund	\$24,107.61				\$24,107.61
210 Street Fund	\$471,386.77				\$471,386.77
220 State Highway Fund	\$53,000.00				\$53,000.00
230 Police Fund	\$2,308,327.16				\$2,308,327.16
240 Fuel System Fund	\$2,550.00				\$2,550.00
250 Fire Fund	\$1,672,844.49				\$1,672,844.49
270 Police Pension Fund	\$90,590.00				\$90,590.00
280 Motor Vehicle License Fund	\$205,100.00				\$205,100.00
300 Capital Improvement Fund	\$140,573.63				\$140,573.63
610 Waste Collection Fund	\$668,847.00				\$668,847.00
620 Water Fund	\$1,847,363.47	\$3,300			\$1,850,663.47
800 Performance Bond Fund	\$10,000.00				\$10,000.00
810 Agency Fund	\$1,500.00				\$1,500.00
Total All Funds	\$8,681,613.98	\$11,000		\$11,000	\$8,695,613.98

File Attachments for Item:

A. Resolution 2025-R-07 DECLARING CERTAIN CITY OWNED PROPERTY NO LONGER REQUIRED FOR MUNICIPAL PURPOSES AS SURPLUS AND AUTHORIZING DISPOSAL OF SAID PROPERTY (Greenwood)

RECORD OF RESOLUTIONS

Item A. Section 10, Item

Resolution No. 2025-R-07

April 14, 2025

City of Bellbrook
State of Ohio

Resolution No. 2025-R-07

DECLARING CERTAIN CITY OWNED PROPERTY NO LONGER REQUIRED FOR MUNICIPAL PURPOSES AS SURPLUS AND AUTHORIZING DISPOSAL OF SAID PROPERTY

WHEREAS, the City of Bellbrook is in possession of certain property at an estimated value over \$2,500 that is no longer needed for municipal purposes; and

WHEREAS, the property is desired to be sold via trade-in or otherwise discarded or salvaged.

NOW, THEREFORE, THE CITY OF BELLBROOK HEREBY RESOLVES:

Section 1. Consistent with the provisions of the Ohio Revised Code Section 721.15 and Section 230.06 of the Bellbrook Code of Ordinances and purchasing procedures, the following equipment is declared surplus, no longer needed for municipal purposes, and authorization is hereby granted to dispose of the property consistent with the provisions of Bellbrook Ordinances by means of an internet-based auction or if having no value may be discarded or salvaged by the City Manager:

ITEM-----	SERIAL NO.-----	ASSET NO.
2009 Chevy Silverado	1GCBC14X292149867	W-0006

Section 2. That it is found and determined that all formal actions of the City Council relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including §121.22 of the Revised Code of the State of Ohio.

Section 3. That this resolution shall take effect and be in force forthwith.

PASSED BY City Council this 14th day of aPRIL, 2025.

_____ Yeas; _____ Nays.

AUTHENTICATION:

Michael Schweller, Mayor

Robert Schommer, Clerk of Council

File Attachments for Item:

B. Resolution 2025-R-08 AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH DIXON ENGINEERING, INC TO PROVIDE ENGINEERING SERVICES FOR THE REPAIR AND REPAINTING OF A STANDPIPE WATER TOWER AND WAIVING THE COMPETITIVE BIDDING REQUIREMENTS (Harding)

RECORD OF RESOLUTIONS

Item B. Section 10, Item

Resolution No. 2028-R-08

April 14, 2025

City of Bellbrook State of Ohio

Resolution No. 2023-R-11

AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH DIXON ENGINEERING, INC TO PROVIDE ENGINEERING SERVICES FOR THE REPAIR AND REPAINTING OF A STANDPIPE WATER TOWER AND WAIVING THE COMPETITIVE BIDDING REQUIREMENTS

WHEREAS, the City Council approved the repair and repainting of the standpipe water tower in the 2025-2029 Capital Improvements Plan; and

WHEREAS, special professional services are needed for the engineering, inspection and determination of the repair and repainting process; and

WHEREAS, the 2025 Budget has funds appropriated for the engineering and project work; and

WHEREAS, Dixon Engineering, Inc has special skills and proprietary knowledge for the city's water system and development of scope of services for the project; and

WHEREAS, Section 240.03(b) of the Code of Ordinances of Bellbrook allows contracts for professional services be entered into by the City Manager without use of formal or informal competitive procedures

NOW, THEREFORE, THE CITY OF BELLBROOK HEREBY RESOLVES:

Section 1. After due deliberation, City Council authorizes the City Manager to enter into professional services agreements with Dixon Engineering, Inc for surveying and engineering services for the repair and repainting of the standpipe water tower as substantially described in the proposal marked Exhibit A.

Section 2. In accordance with Chapter 240 of the Code of Ordinances of Bellbrook, the procurement of these services is through a contract for professional services entered into by the City Manager; therefore, the competitive bidding requirements are hereby waived.

Section 2. That it is found and determined that all formal actions of the City Council relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including §121.22 of the Revised Code of the State of Ohio.

Section 3. That this resolution shall take effect and be in force forthwith.

PASSED BY City Council this 14th day of April, 2025.

____ Yeas; ____ Nays.

RECORD OF RESOLUTIONS

Item B. Section 10, Item

Resolution No. 2028-R-08

April 14, 2025

AUTHENTICATION:

Michael W. Schweller, Mayor

Robert Schommer, Clerk of Council

AGREEMENT BETWEEN OWNER AND DIXON
FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of: _____ (“Effective date”) between **City of Bellbrook Water Department, Ohio** (“Owner/Client”) and Dixon Engineering, Inc. of Lake Odessa, Michigan (DIXON).

IN WITNESS WHEREOF, the (“Owner/Client”) and (“DIXON”) have executed this Agreement. The Owner’s/Client’s Project, of which DIXON’s Services under this Agreement are a part, is generally identified as follows: **Phase 2 (Design), Phase 3 (Bidding), Phase 4 (Construction), and Phase 5 (Post-Construction) services for the 200,000 Gallon Standpipe** (“Project”) and DIXON’s services as detailed in Exhibit A.

Other terms used in this Agreement are defined in EXHIBIT GP and EJCDC C-700, Standard General Conditions of the Construction Contract, incorporated by reference into this Agreement.

This service fee is the Estimate Amount of **\$36,200**. DIXON will honor this fee for a period of 6 months from the Proposal Date (below) after which time an adjustment to this fee may be necessary. If Owner signs the Agreement after 6 months and DIXON determines no price adjustment is required, and signs Proposal as an Agreement, then this Agreement is valid.

Proposals / Agreement Signatures

Mike Bottom, Project Manager April 8, 2025
PROPOSED by DIXON (Not a contract until approved by DIXON Project Manager or Officer) PROPOSAL DATE

APPROVED as CONTRACT BY OWNER	POSITION	DATE
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Co-SIGNATURE of Contract (if required)	POSITION	DATE
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AGREEMENT APPROVED by DIXON	POSITION	DATE
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With the execution of this Agreement, DIXON and Owner shall designate specific individuals to act as DIXON’s and Owner’s representatives with respect to the services to be performed or furnished by DIXON and responsibilities of Owner under this Agreement, said individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

Designated Person: Ryan Pasley
Address for Owner’s receipt of notices:
City of Bellbrook Water Department
18 E Franklin St.
Bellbrook, OH 45303
Email: R.Pasley@bellbrook.gov

Designated Person: Mike Bottom
Address for DIXON’s receipt of notices:
Dixon Engineering, Inc.
789 Lafayette Rd
Medina, OH 44256
Email: mikebottom@dixonengineering.net

Any notice required under this Agreement shall be in writing, addressed to the Designated Contract Person at its address on this signature page, or given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices be shall effective upon the date of receipt.

Owner and DIXON further agree as follows:

ARTICLE 1 SERVICES OF DIXON

1.01 DIXON shall provide or cause to be provided:

- A. Contract and Project Management (Basic) Services: EXHIBIT A
- B. Resident Project Representative (RPR): EXHIBIT A
 - 1. The term used in this Agreement to reference DIXON's Resident Representative is (DRR) instead of RPR to avoid confusion, as Engineer Client may have RPRs on other portions of the project.
- C. Antenna Services: EXHIBIT B
 - 1. If antennas interfere or add costs to the Project a review of services in Exhibit B is required. DIXON will perform these services but they can be completed by the Owner/Client if preferred. In some antenna contracts the fees for these services are back chargeable to the antenna carrier. The responsible party must be assigned in Exhibit B.
- D. Other Services: Services beyond the scope of Exhibit A are Additional Services.

ARTICLE 2 OWNER'S RESPONSIBILITIES

2.01 Owner shall provide or cause to be provided:

- A. Responsibilities set forth in Exhibit A, Part 1, Section C of each Phase.
- B. The Owner shall arrange for safe access to and make all provisions for DIXON to enter upon public and private property as required for DIXON to perform services under the agreement.
- C. Owner shall pay DIXON for Basic (Project Management and Contract Administration), Resident Project Representative (RPR or DRR), Post Construction Observation and Additional Services as detailed in Exhibit C and as summarized in Attachment 1 to Exhibit C. (Exhibit C-1).

ARTICLE 3 SCHEDULE FOR RENDERING SERVICES

3.01 Commencement:

- A. DIXON is authorized to begin rendering services as of the Effective Date or mutually agreeable date.
- B. DIXON shall complete its obligations within a reasonable time. If a specific period for rendering services, or specific dates by which services are to be completed are required, the dates are provided in Exhibit A, and are hereby agreed to be reasonable.
- C. If there is a change in the Scope of Services, or in Scope of Project, if Projects are delayed or suspended through no fault of DIXON, if the orderly and continuous progress of DIXON's services is impaired, if the agreed periods of time or dates are changed, if construction contract dates are extended, then the time for completion of DIXON's services, and the rates and amounts of DIXON's compensation, shall be adjusted equitably. Delay of Projects by Owner or Contractor until the next season (past the expiration date of Exhibit C-Attachment 2), is considered a Change in Scope of Services
- D. The Owner shall make decisions and carry out its responsibilities in a timely manner so as not to delay DIXON's performance of its services.
- E. Owner shall give prompt written notice to DIXON whenever Owner observes or otherwise becomes aware of any development that affects the scope or time of performance of DIXON's services; the presence at the Site of any Constituents of Concern; or any relevant, material defect or nonconformance in: (a) DIXON's services, (b) the Work, (c) the performance of any Contractor, or (d) Owner's performance of its responsibilities under this Agreement.

- F. If DIXON fails, through its own fault (for reasons within their control), to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 INVOICES AND PAYMENTS – PER EXHIBIT C

ARTICLE 5 OPINIONS OF COST – GENERAL PROVISIONS PER EXHIBIT GP

ARTICLE 6 GENERAL PROVISIONS - PER EXHIBIT GP

ARTICLE 7 DEFINITIONS

- A. Whenever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the same meaning indicated in the Construction Contract Documents, EJCDC C-700 18.
- B. Additional definitions pertinent to invoicing or payment can be found in Exhibit C.

ARTICLE 8 EXHIBITS AND SPECIAL PROVISIONS

- A. EXHIBITS Included:
1. EXHIBIT A, DIXON's Services and Client's Responsibilities.
 2. EXHIBIT B, Antenna Services to be performed by DIXON or Owner.
 3. EXHIBIT C, Basis of Fees, Invoicing, and Payment Matters.
 4. EXHIBIT C, Attachments C-1, and C-2.
 5. EXHIBIT E, Electronic Documents Protocol (EDP).
 6. EXHIBIT GP, General Provisions from the Agreement and Exhibits.
 7. EXHIBIT IR, Insurance Requirements and Limits of Liability.
- B. EXHIBITS to be added as needed:
1. EXHIBIT B, Antennas
 2. EXHIBIT K, Amendment to Owner-DIXON Agreement for Services added or changed after effective date of this Agreement or for clarification if requested.
- C. EXHIBITS D, F, and H from original EJCDC documents merged with other EXHIBITS or not used.
- D. EXHIBIT J, Special Provisions. Services added at/before Effective Date (included in original Agreement sometimes referred to as an Addendum). This is an item left over from pre-computer era. Now if there are changes, DIXON will incorporate those items directly into the Agreement, prior to any signing or the Effective Date, unless an addendum is requested.
- E. EXHIBIT A, DIXON has combined the six EJCDC construction project phases into five phases: Phase 1- Evaluation Phase, Phase 2- Design and Technical Specification, Phase 3-Contract Document and Bidding, Phase 4-Construction, and Phase 5-Post Construction. We then included DIXON's Basic Services, DRR Services, and Client's Responsibilities for each respective Phase. We have since added a sixth Phase back in after the Post Construction Phase which is Phase 6- Maintenance - Security and Health Annual Inspections (starting at least a year after the warranty Post Construction Phase).

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.00 Miscellaneous Provisions are items that pertain to the legal terms of this Agreement. All General Provisions from Article 6 are in Exhibit GP. General Provisions are those Provisions that refer mostly to services that result from this Agreement and subsequent Task Orders. (The General Provisions relate to the Work to be performed as opposed to these Miscellaneous Provisions which relate to Contract formation.)

9.01 Survival:

- A. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

9.02 Severability:

- A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and DIXON, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.03 Successors, Assigns, and Beneficiaries:

- A. Owners and DIXON are hereby bound, and the successors, executors, administrators, and legal representatives 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. Unless expressly provided otherwise in this Agreement:
 1. Nothing in this Agreement shall be constructed to create, impose, or give rise to any duty owed by Owner or DIXON to any Contractor, other third-party individual or entity, or to any surety for or employee of any of them and not for the benefit of any other party.
 2. 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.

9.04 Waiver:

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this agreement.

9.05 Accrual of Claims:

- A. To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

9.06 DIXON's Certifications:

- A. DIXON certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement.

9.07 Total Agreement:

- A. This Agreement, (together with the included Exhibits) 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 written instrument duly executed by both parties. Amendments should be based, whenever possible, on the format of Exhibit K.

DIXON's SERVICES

A1.02 PHASE 2 Design Phase – Technical Specifications:**A. Basic Services**

1. In preparing the Technical Specifications, use any specifically directed Project Strategy, Technology, and/or Techniques as designated by Client.
2. DIXON shall prepare Technical Specifications and Drawings to include:
 - a. Coating specific modifications to General Conditions of Construction Contract.
 - b. Specifications and Drawings for Health, Safety and Structural Repairs if any.
 - c. Specifications for Coating Repair or Replacement.
 - d. Or when Client supplies General Conditions DIXON shall supply and Client shall use Additions to General Conditions pertinent to coating project.
3. Advise Client of additional reports, data, information, or services, and assist Client in obtaining such reports, data, information, or services.
4. Furnish two review copies of the Design Phase documents, to Client, and review them with Owner.
5. After receipt, Client shall review the Design Phase documents and submit to DIXON any comments regarding the furnished items within two weeks of receipt or as mutually agreed.
6. Visit the Site as needed to finalize the Design Phase documents.
7. In response to Client's comments, as appropriate, make revisions and furnish to Client one electronic copy of the revised Design Phase documents.
8. If antennas may interfere or add costs to the Project a review of EXHIBIT B, Antennas is required. These services are available from DIXON or can be completed by the Owner or Engineer. In some antenna contracts the fees for these services are back chargeable to the antenna carrier. It is essential that the responsibility for completion of EXHIBIT B services be well defined between DIXON, Engineer, and Owner as project delays may result.
9. DIXON's services under the Design Phase will be considered complete on the date when DIXON has delivered to Client the revised Design Phase Documents. If plans require no revisions, then after Client's review.

B. Client's Responsibilities for Technical Specifications Phase

1. In addition to other responsibilities of Client as set forth in this Agreement, Client shall provide DIXON with relevant criteria and information as to Owner's and Engineer's requirements for the Project, including design objectives and constraints, all design and construction standards, standard forms, conditions, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations, that is reasonably available to Client and pertinent to those portions of the Project or specialized professional services assigned to DIXON. Including but not limited to reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.

C. DRR Services – No services in this phase**A1.03 PHASE 3 Bidding and Contract Document:****A. DIXON's Basic Services - during Bidding Phase:**

1. After receiving authorization from the Client to proceed with the Bidding Phase, DIXON will provide all following or requested services, with primary emphasis on the portion of the Project specifically assigned to DIXON, and within DIXON's area of professional

- specialization, and with respect to the portions of the work that DIXON has designed or specified:
- a. Attend a prebid meeting and issue Addenda as clarifications if requested by Client to interpret, clarify, correct, or change the issued documents.
 - b. Consult with and advise Client as to the qualifications of prospective contractors, and of subcontractors, suppliers, and other individuals and entities proposed by the prospective contractors. For those portions of the Work where such consultation and advice as to qualifications is requested by the Engineer.
2. Provide technical criteria and file applications for permits from or for approvals of governmental authorities having jurisdiction to review or approve the design; and revise the Technical Specifications in response, as appropriate.
 3. After consultation with Client, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, in electronic media or digital format either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Client, DIXON, and Contractor during the Construction Phase and Post-Construction Phase.
 4. Prepare and submit to Client for compliance with local state and municipal requirements:
 - a. Section 00 00 30 Notice to Bidders.
 - b. Section 00 00 40 Project Summary.
 - c. Section 00 21 13 Instructions to Bidders.
 - d. Section 00 22 13 General Conditions as modified by DIXON. EJCDC C-700.
 - e. Section 00 52 00 Bid/Agreement Form as modified by DIXON.
 - f. Section 00 54 00 Schedule of Values Form.
 - g. Section 00 72 00 General Conditions.
 - h. Section 00 73 00 Supplemental Conditions.
 - i. Section 00 91 17 Additions to General Conditions.
 5. Furnish for review by Client, its legal counsel, insurance and other advisors, the draft bidding-related Bid Documents and review them with Client. The Client shall submit to DIXON any comments regarding the furnished items, and any instructions for revisions.
 6. Revise the final Bid Documents and Specifications in accordance with comments and instructions from the Client, as appropriate, and submit one electronic copy of such documents to Client.
 7. Direct mail advertisements to Contractors who have been prequalified, as capable and responsive by DIXON.
 8. Issue assembled Bid Documents to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, and receive and process contractor charges for the issued documents. Construction Document Fees -charges to Bidders/Contractors- will be retained as a printing, handling, and/or shipping fee.
 9. Send specifications to selected Builders Exchanges and Dodge Reports.
 10. Address all questions, written or verbal response, concerning the Project that are submitted to DIXON by letter or clarifying Addendum as appropriate to all Bidders and Agencies (Builders Exchange and Dodge Reports) identified as having received original documents from DIXON.
 11. Attend and document bid opening, create bid tabs and notify bidders of results after authorization of Engineer.

12. Review the bids submitted to the Owner and recommend an award in writing based on lowest responsible and responsive bidder.
 13. After concurrence by Client issue Notice of Award to recommended Bidder.
 14. Review bonds and insurance submitted as to compliance with insurance amounts and that bonds are of the format required. Insurance and Bonds are forwarded to Owner for full review by their Insurance Consultant for legality and compliance with required indemnification, subrogation, and other integral clauses.
 15. Furnish Client and Contractor the Contract Documents for signatures and distribution.
 16. Furnish Owner with completed Notice to Proceed to sign and forward to the Contractor.
 17. The submittal by Contractor of a Coating List of Substitutions is not recommended and if permitted, fees of DIXON for review will be an Additional Service.
 18. The Bidding and Contract Documents Phase will be considered complete upon commencement of the Construction Phase or upon issuance of Notice to Proceed.
- B. Client's Responsibilities for Bidding and contract Document Phase – In coordination with Prime - In addition to other responsibilities of Client as set forth in this Agreement, Client shall:
1. Perform all non itemized, but essential services not delegated to DIXON above
 2. Place and pay for advertisement for Bids as required by local ordinances in appropriate publications. The method of advertising is to be determined by the Client
 3. Provide a place for the Bid Opening and open the Bids received.
 4. Review Payment, Performance, and Maintenance Bonds, and insurance certificates of selected Contractor. These should be reviewed by the Owner's insurance consultant and attorney.
 5. Sign and forward to the Contractor the Notice to Award and Notice to Proceed.
 6. Authorize DIXON to provide Additional Services as set forth in Part 2 of Exhibit A, if necessary.
 7. If Owner elects to use their own General Conditions, then they shall include DIXON's Additions to General Conditions, unaltered unless both parties agree to alteration.
- C. DRR Services – No services in this phase

A1.04 Phase 4 Construction:

- A. Basic Services for Maintenance of Existing Structure:
1. After receiving authorization from Client to proceed with the Construction Phase, DIXON will consult with Client and act as Client's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of DIXON shall be as assigned in EJCDC C-700 Standard General Conditions of the Construction Contract, edition with modifications as used in the Construction Contract, and as detailed below:
 - a. Attend a Preconstruction meeting, and address questions regarding observation services and coordination of field observations. I do not think this should be optional
 - b. Accept submittal of all matters in question concerning the requirements of the Construction Contract Documents. With reasonable promptness, recommend a written clarification, interpretation, or decision on the issue submitted, or an amendment or supplement to the Construction Contract Documents
 - c. Prepare any technical specifications needed for Change Orders, Field Orders, Work Directives.
 - d. Review Contractor's Pay Requests.
 - e. Finalize Project to observe all items in the contract specifications have been completed and review the quality of workmanship.
 - f. Prepare Substantial Completion and other Construction documents.

2. DIXON has authority to Stop Work if DIXON questions the quality of Work or rejects the Work, or if there (in the sole opinion of DIXON) is a potential for creating an environmental contamination.
3. Recommend that Work be rejected if DIXON believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations regarding whether Contractor should correct such Work, if a portion of the Work should be uncovered, if tests are required, or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
4. Inform Client of any Work that DIXON believes is not defective; but is nonetheless, not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations for addressing such work.
5. All of Client's instructions to Contractor will be issued through DIXON, who shall have authority to act on behalf of Client in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
6. The Construction Phase will terminate upon written recommendation by DIXON or Client for final payment to Contractors.

B. RPR Services for Maintenance of Existing Structures

1. Perform services expected of DIXON RPR and as detailed in the EJCDC Construction Contract General Conditions, GC-700-18.
2. Attend a Preconstruction Meeting, and address questions regarding observation services and coordination of field observations.
3. Hold Points - General
 - a. Hold Point is a stage of the Construction Project where the Contractor stops Work. Work commences again after the Work is observed and reviewed for compliance.
 - b. A Hold Point Site visit is an observation trip to perform one of the functions below. The number of Site visits required are estimates.
 - c. If two Job Tasks are performed during the same trip, there is no additional charge (i.e., exterior intermediate and pit piping primer).
 - d. The Site visit fees may vary between services (i.e., welding vs. coating) based on the higher compensated weld observer. Hold Point Quantities are estimates and are itemized in EXHIBIT C, Attachment C-1.
4. Hold Point Weld/Modifications- Observe, Record, Report, and:
 - a. Observe repair, and or the installation of work for specifications compliance. All weld repairs will be visually observed for surface defects (i.e., undercut, negative reinforcement, non-fusion, etc.).
5. Hold Points and RPR Coating Observation Services Common to Hold Point: All services will not be necessary at each Site visit observation.
 - a. Review abrasive and coating materials for approved manufactures.
 - b. Measure surface profile created by abrasive blast cleaning by compressive tape or surface comparator.
 - c. Observe abrasive blast cleanliness for specification requirements using SSPC Visual Standards, latest edition thereof.
 - d. Review coating mixing, thinning, and manufacturer's application requirements.
 - e. Monitor environmental conditions prior to and during coating application (i.e. ambient temperature, surface temperature, relative humidity, and dew point).
 - f. Observe wet interior using high/low voltage holiday detection.
 - g. Observe applied coating for dry film thickness, coverage, uniformity, and cure.
6. Hold Point Coating Exterior - Observe, Record, Report, and:
 - a. Verify test area for high pressure water blast cleaning (HPWC) meets or exceeds minimum specified standard.

- b. HPWC for thoroughness and compliance with specifications and verify test area meets or exceeds minimum specified standard for spot tool cleaning (SP-11).
 - c. Spot power tool, feathering, and compliance with specifications.
 - d. Spot prime coat prior to application of the epoxy intermediate coat.
 - e. Epoxy intermediate coat prior to application of the urethane intermediate coat.
 - f. Urethane intermediate coat prior to application of the topcoat.
 - g. Topcoat for compliance with specifications.
 - h. Check foundations coating for compliance with specifications.
7. Hold Point Project Finalization:
- a. Review all repairs not installed until after coating.
 - b. Examine entire project for damage that occurred during construction or post construction from rigging and de-rigging or other causes.
 - c. Complete observation of immediate neighbors from air for any possible roof damage.
 - d. Observe the installation of screens, light bulbs, etc.
 - e. Observe Site for restoration to pre-project conditions.
 - f. Formulate a punch list of items to complete.
 - g. Create a second punch list if needed before finalization.
 - h. Finalize the project to ensure all items in the contract specifications have been completed, and the quality of workmanship meets contract requirements.
- C. Construction Phase Client's Responsibilities:**
- 1. Inform DIXON in writing of any specific requirements of safety or security programs that are applicable to DIXON, as a visitor to the Site.
 - 2. Attend and participate in the Preconstruction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.

A1.05 Post Construction Phase:

A. Basic Services:

- 1. One Year Warranty Observation - ROV and Exterior:
 - a. Review all steel and/or concrete repairs completed during Construction Phase.
 - b. Review all wet surfaces for corrosion and/or damage, qualify and quantify damage relative to warranty requirements.
 - c. Review all dry interior surfaces for corrosion and/or damage, qualify and quantify damage relative to warranty requirements.
 - d. Review exterior surfaces for coating failures. If any coating "fails" to meet warranty requirements, quantify all findings for presentation to Contractor.
 - e. Review all exterior appurtenances for damage due to corrosion or construction.
 - f. Review all health aspects of the tank, including screening of the vent, overflow pipe, and other possible contamination sources.
 - g. Prepare a report documenting all items found that meet or fail to meet warranty requirements and recommendations for repair. The report will be letter format with photos and photo descriptions.

- C. The Post-Construction Phase services may commence during the Construction Phase. DIXON's services will be considered complete, if there is no warranty repairs required of Contractor, at the submission of Warranty report to Client. If Warranty Work is required of Contractor, then DIXON services will be considered complete after Construction Contract's correction period.

D. Post Construction Phase - Owner's Responsibilities:

1. Warranty Observation - ROV Observation:
 - a. Fill the tank to overflow or higher capacity and isolate it from the system during the ROV observation, or as a minimum, maintain positive flow (No water withdrawal from tank).
 - b. Perform chlorine residual and bacteriological testing after completion of observation.

Note: in the DIXON supplied General conditions, all expenses related to or developing out of a failed warranty inspection such as additional DRR services and Owner's direct expenses are "set-off" costs and may be retained and withdrawn from any money still retained from Contractor's final pay request. Problem at this point, is the Contractor usually has been paid in full and there are no funds available. Contractor Contract Documents, if prepared by DIXON requires a Maintenance Bond for this situation. Contractor generally pays cash as opposed to charging the bond. If Contract Documents were prepared by others, it may be possible to recover set off cost from the Performance Bond if a warranty provision is written as a performance requirement of the contract.

BASIS OF FEES, INVOICING, AND PAYMENT

Part 1 BASIS OF FEES

C1.01 Basis:

- A. Standard Hourly Rates - An amount equal to the cumulative hours charged to the Project by each classification of DIXON's personnel, times Standard Hourly Rates and Overtime rates for each applicable billing classification. (Exhibit C-2)
- B. Lump Sum (LS) Method: One agreed fee for completing an agreed defined scope of services.
- C. Unit Price (UP) Method: Can be considered individual Lump Sum amounts.

C1.02 Methods of Rate Calculation including Limitations:

- A. Standard Hourly Rate (SHR) Method:
 - 1. The SHR method may be used for all services. It is more commonly used on portions of various Phase Services where scheduling and speed are controlled by the Contractor and may result in unforeseen project expenses; in Phase Construction, Basic, and RPR/DRR services, and for Additional Services during all phases.
 - a. Overtime rates apply to over 40 hours worked between Monday and Friday.
 - b. Overtime rates apply for all hours worked on weekends and holidays.
 - c. Weekend and Holiday hours do not count toward the accounting for 40 hours.
 - 2. Standard Hourly rates of DIXON's employees are per classification in the Standard Hourly Rate and Reimbursable Expense Schedule included in this Exhibit C, as Exhibit C Attachment 2. (Ex C-2) A classification that has a range of fees, reflects varying levels of experience within that classification. DIXON reserves the right to select the level of RPR and classification. This decision is at DIXON's discretion only and will be dependent primarily on experience with Owner selected Contractor as well as other factors.
 - a. Reimbursable expenses are those expenses directly related to and resulting from this Project. These expenses are primarily living expenses and mileage.
 - 3. The SHR charged by DIXON constitutes full and complete compensation for DIXON services including labor costs, overhead, and profit but not Reimbursable Expenses.
 - a. The Standard Hourly Rates per employee classification listed in Attachment C-2 do not include reimbursable expenses. The estimated Reimbursable Expenses are NOT calculated and averaged over the classification rate.
 - 1) The estimator calculates the number of days a project is expected to require and calculates manpower required to match number of hours and services required.
 - 2) The estimator then calculates Reimbursable Expenses based on the same criteria.
 - 3) Both the total manpower estimate, and Reimbursable Expenses total estimate are added. And the total estimate is included in the fee schedule shown in Attachment C-1.
- B. The Lump Sum Method:
 - 1. The Lump Sum fee charged by DIXON constitute full and complete compensation for DIXON's services including labor costs, overhead, profit, and reimbursable expenses.
 - 2. The Lump Sum Method is more commonly used by DIXON for portions of the Phases where DIXON has control over a greater percentage of unknowns, such as the Technical

Specifications, Bidding and Contract Documents, and Post Construction Phases excluding fees for Additional Services.

3. DIXON may use a Lump Sum for the entire project.
- C. The Unit Price Method:
 1. Reimbursable expenses are calculated and included in Unit Prices.
 2. The Unit Price Method is used when DIXON completes Hold Point Observations, or known, controlled portions of the Scope of Services.
- E. Exhibit B Antennas: LS, UP, or SHR or Combination based on type of services.
- F. Exhibit K Addendum: Addenda items (if any) may be negotiated according to any agreed method.
- G. Subconsultants or Subcontractor Service Fees are not included in the SHR, LS, or UP methods. DIXON will invoice for Subconsultant's or Subcontractor's actual invoiced amount times a factor of 1.20. The 1.20 factor includes DIXON's overhead and profit associated with DIXON's responsibility for the administration of such services.

C1.03 Definitions including Limitations:

- A. Basic Services to be performed are identified in Exhibit A, or by reference, in the General Conditions (GC-700) of the Owner/Contractor Construction Documents. Basic Services are generally calculated using the Lump Sum method. These services are contracted services and thus are prior authorized.
- B. RPR (DRR) Services are contractually agreed services per Exhibit A Task Order or by reference, in the General Conditions (GC-700) of the Owner/Contractor Construction Document RPR services. These services are primarily observation during the Construction phase. RPR Services are generally calculated using the SHR method for Full Time or Daily services and by Unit Price for Hold Point Observations. Often an Agreement for RPR services involves a combination of the SHR and the Unit Price method. These are contracted services and thus are prior authorized.
- C. Contingent Services -some services are Basic to every Agreement. Other Basic Services and the Project Manager's time associated with them are unknown. Some services are not used on all projects, such as review of multiple Pay Requests, Change Orders, Field Orders, and Work Change Directives. These are services which may or may not be needed; and are Contingent. Contingent Services are generally calculated using the SHR method but may be Lump Sum or Unit Price method. These are contracted services and thus are prior authorized. Contingent services and fees may not be used in all contracts.
- D. Additional Services are services outside of the Scope of Services as defined in Exhibit A, and/or TO#__ EX A (if this is a Task Order Agreement). These are NOT contracted services and prior authorization in the form of Exhibit K- Addendum is required. The calculation of fees is Work dependent and may be calculated by the SHR method, Lump Sum or Unit Price.
- E. Antenna Services are defined in Ex B. The calculation of the services is usually a combination of Unit Price and SHR methods. These are contracted services and thus are prior authorized.

C1.04 Fees:

- A. Contracted Fees are detailed in EX C Attachment 1.
- B. Contingency Allowance Fees if identified or requested, are intended to allow the flexibility to continue the Project and Services, without the need for an Addendum for additional fees. Contingent Fees may be transferred within the Project Phase or transferred to other project Phases as needed. Transfer does not require prior authorization. It is intended that any fees in this

Contingency be used when other accounts are exhausted or minor Additional Services are required. Contingency fees unused will not be invoiced.

- C. Set-Off Fees contractual Set-off: (Applies to Construction and Post Construction Phases only) as defined in the Technical Specifications and General Conditions of the Owner/Contractor Agreement (EJCDC G-700), is a contractually agreed remedy for small violations or nonadherence of the Agreement terms between Owner and Contractor, which result in extra or unnecessary expenses to the Owner, for Owner or DIXON services. The cost for additional DIXON services and unnecessary expenses are not foreseen and cannot be calculated. Those fees and expenses will be invoiced using the same SHR or Unit Price method, that had the service been necessary would have been invoiced to Client. These services generally do not require prior approval of Client, because they are required in the administration of the Agreement. Set-off fees are invoiced to the Client, who pays DIXON. The Owner can then Set-off these charges from amounts owed to the Contractor.
1. A few examples of Set-off Fees are when the Client has incurred extra charges or engineering costs related to:
 - a. Excessive submittal review,
 - b. Excessive evaluations of proposed substitutes,
 - c. Tests and inspections, or return Hold Point Observations to complete Field Work that was determined to be a failed inspection and,
 - d. Work is defective, require correction or replacement including additional observation costs.

C1.05 Estimated Fee:

- A. The SHR Method of Rate Calculation is an estimate. The SHR Method is prepared based on extensive experience and is intended to be conservative.
 1. Calculating SHR includes, DIXON's estimate of the amounts that will become payable for specified services and are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to DIXON under the Agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to DIXON that the total compensation amount thus estimated will be exceeded, DIXON shall give Client notice thereof, allowing Client to consider its options, including suspension or termination of DIXON's services for Client's Convenience. Upon notice, Client and DIXON shall promptly review the matter of services remaining to be performed and compensation for such services. Client shall either exercise its right to suspend or terminate DIXON's services for Client's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by DIXON, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Client decides not to suspend DIXON's services during the negotiations and DIXON exceeds the estimated amount before Client and DIXON have agreed to an increase in the compensation due DIXON or a reduction in the remaining services, then DIXON shall be paid for all services rendered hereunder.
 3. The requirements of minimum work hours and weeks shall remain in effect through negotiations and the minimum hourly requirements of these paragraphs are not negotiable. An RPR is a professional, and if they remain on Site, they are guaranteed the minimum number of hours. Negotiations may change Full Time or Daily RPR to Hold Point Observation Services or reduce

the number of Daily Inspections. Then minimum hour requirements apply only to demobilization if RPR was Full Time.

C1.06 DIXON's Reimbursable Expenses Schedule and Standard Hourly and Overtime Rates:

- A. Attached to this EXHIBIT C is Attachment C-2, Standard Hourly Rate and Reimbursable Expense Schedule
- B. Annual Cost Adjustment – January 1 each year.
 - 1. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually as of the first January 1 date past expiration date printed on Attachment C-2 to reflect equitable changes in the compensation payable to DIXON. Proposals sent after August 1st will have Attachment C-2 with effective rates through December 31 of the subsequent year.
 - 2. Unit Price for Hold Point observations and Lump Sum items shall be increased at the same time as hourly rate and by the same percentage increase as Standard Hourly Rates.
 - 3. Notification of these cost adjustments, or the issuance of an Addendum or Change Order are not required, but DIXON shall endeavor to so advise. Failure to supply notification does not waive the right for implementing rate increases.

PART 2 INVOICING AND PAYMENT for Services in EXHIBIT A per EXHIBIT C-1:

- A. Preparation and Submittal of Invoices: DIXON will prepare invoices in accordance with its standard invoicing practices and the terms of this EXHIBIT C and Attachments C-1 and C-2. DIXON will submit its invoices to Client on a monthly basis.
- B. Invoices are due and payable within 30 days of receipt. Small monthly invoices may be held by DIXON only, for a month or more and combined.
- C. The amount invoiced for DIXON's services rendered on a Lump Sum basis will be based upon DIXON's estimate of the proportion of the total services actually completed during the billing period, plus reimbursable expenses (if any) incurred during the billing period.
- D. The amount invoiced for services rendered on a Standard Hourly Rate basis will be an amount equal to the cumulative hours devoted to the Project during the billing period by each billing class of DIXON's employee's times the hourly rate for each applicable billing class incurred during the billing period.
- E. Distribution of Compensation: DIXON may alter the distribution of compensation between individual phases of the work noted in Attachment C-1 to be consistent with services actually rendered but shall not exceed the total estimated compensation amount unless approved in writing by Client.
- F. Application to Interest and Principal: Payment will be credited first to any interest owed to DIXON and then to principal.
- G. Failure to Pay: If Client fails to make any payment due DIXON for services and expenses within 30 days after receipt of DIXON's invoice, then:
 - 1. Amounts due DIXON will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said 30th day.
 - 2. DIXON may, after giving seven days written notice to Client, suspend services under this Agreement until Client has paid in full all amounts due for services, expenses, and all other related charges. Client waives any and all claims against DIXON for any such suspension.

- H. Disputed Invoices: If Client disputes an invoice, either as to amount or entitlement, then Client 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.
- I. Sales or Use Taxes: If after the Effective Date any governmental entity takes an action that imposes additional sales or use taxes on DIXON's services or compensation, then DIXON may invoice such additional sales or use taxes for reimbursement by Client.

PART 3 SELECTION OF RPR SERVICES

C3.00 Selection of Full Time vs. Daily RPR

- A. Daily RPR Services: Working from the Base Office and traveling Daily to the Project site.
- B. Full Time RPR Services: The RPR stays in lodging near the Project Site because the distance from Base Office, makes daily travel exceed daily expenses.

C3.01 Financial Considerations when Selecting RPR Services:

- A. Minimum Hourly and Weekly requirements.
 - 1. Daily RPR Services -8 hours per day plus travel time and mileage.
 - 2. Full Time RPR Services:
 - a. Minimum workday - 8 hours.
 - b. Minimum 40-hour work week except first and last week. If the Contractor is working more than 40 hours then the RPR is also working more than 40 hours, if work being completed rises to the level of observing.
 - c. Rain days or no work days as determined by the Contractor or Client – minimum billable work day is four hours, no site time required.
 - d. Delayed start day as determined by the Contractor, (ex. Rain delay start)- minimum billable time is actual delay time up to four hours plus onsite time. Total cannot be less than four hours.
 - e. Actual Mobilization and Demobilization Time and Reimbursable Expenses.
Reimbursable expenses include expenses incurred on dates of no work, mobilization, and demobilization days.

C3.02 Hold Point Observations:

- A. The RPR travels to site to complete the observation and travels back to Base Office. On site time at a minimum is time to complete observations and to complete report.

EXHIBIT C ATTACHMENT C-1: Agreement Between
Client and DIXON

SUMMARY OF DIXON'S COMPENSATION FEES SCHEDULE of VALUES

1. The total compensation for services under this Agreement is the estimated total compensation amount of **Thirty-Six Thousand, Two Hundred Dollars, \$36,200** and summarized as follows:

Schedule of Values				
Description of Services	# of Units	Unit Price	Amount	Basis of Compensation
A1.02-Technical Specifications			\$7,000	Lump Sum
A1.03-Pre-Bid Meeting	1	\$1,300	\$1,300	Unit Price
A1.03-Bid Opening Meeting	1	\$1,300	\$1,300	Unit Price
A1.04-Preconstruction Meeting	1	\$1,300	\$1,300	Unit Price
A1.04- PA, Basic, Other Defined Services			\$2,500	Lump Sum
A1.04- RPR Weld Observation	1	\$1,500	\$1,500	Unit Price
A1.04- RPR Coating Observation	12	\$1,400	\$16,800	Unit Price
A1.05-Warranty Observation			\$4,500	Lump Sum
Total			\$36,200	

2. In the event of a conflict with the number in the Total and the written amount in 1 above or with the number on the Signature Page, the first governance shall be a review of math in this schedule of values.
3. DIXON may alter the distribution of compensation consistent with services actually rendered between individual phases of Basic and RPR Service with unused fees calculated by any method. Reallocation of fees shall not result in a total fee in excess of the total compensation amount unless approved by the Owner.

EXHIBIT C ATTACHMENT C-2: Agreement Between
Client and DIXON

Attachment C-2

Employee Billable Rates and Terms

<u>Labor Class</u>	<u>Per Hour</u>	<u>Overtime Rate</u>
Principal	\$500.00	
Officer/Associate	\$210.00	
Project Manager	\$195.00-\$220.00	\$292.00-\$330.00
Engineer	\$220.00-\$260.00	\$330.00-\$390.00
CWI Welding RPR	\$215.00-\$240.00	\$322.00-\$360.00
DIXON Level 3 or AMPP Senior Certified Level 3 RPR	\$148.00-\$198.00	\$222.00-\$297.00
DIXON Level 2 or AMPP Certified Level 2 RPR	\$134.00-\$174.00	\$201.00-\$261.00
DIXON Level 1 or AMPP General Level 1 RPR	\$124.00-\$154.00	\$186.00-\$231.00
Contract Support Staff	\$154.00-\$194.00	\$231.00-\$291.00

<u>Expenses</u>	<u>Metropolitan</u>	<u>Out-State</u>
Mileage	\$0.80/mile + tolls	\$0.70/mile
Lodging & Meals	\$185.00 per diem	\$185.00 per diem
Meals Only	\$65.00 per diem	\$65.00 per diem

FEES EFFECTIVE THROUGH: December 31, 2025 (Revised: 10/21/2024)

ELECTRONIC DOCUMENTS PROTOCOL (EDP)

With so many personnel and parties involved in Construction, it is essential, especially through the Construction Phase, that all means of EDP, and communication be kept as simple and uniform as possible. Following is a consolidated Protocol prepared by EJCDC which DIXON will complete if contracted to follow. Otherwise, DIXON will open a line of communication as directed by email and when that contact has responded then by simple email, using the agreed addresses will be followed. This excludes Notice and Contract requirements of a contact Person (page One).

ARTICLE 1—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

The Main Agreement is supplemented by the following consolidated Exhibit E and Exhibit E-Attachment 1: Software Requirements for Electronic Document Exchange:

E1.01 Electronic Documents Protocol

- A. Electronic Transmittals: The parties shall conform to the following provisions together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals.

1. Basic Requirements

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents by Electronic Means using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Agreement.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Agreement.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between the Owner and DIXON and any third party for the Project. Nothing herein will modify the requirements of the Agreement and applicable Construction Contract Documents (EJCDC G-700) regarding communications.
- e. When transmitting Electronic Documents, the transmitting Party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving Party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.

2. System Infrastructure for Electronic Document Exchange

- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. Except for minimum standards set forth in this EDP and any explicit system requirements specified by attachment to this EDP, it will be the obligation of each party to determine, for itself, its own System Infrastructure.
- b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project.
- c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party

maintains and operates such security software and systems, it will not be liable to the other party for any breach of system security.

- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties will cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent.
 - e. Each party is responsible for its own back-up and archive of documents sent and received during the term of any Project contract/agreement under this EDP. Further, each party remains solely responsible for its own post-Project back-up and archive of project documents, as each party deems necessary for its own purposes, after the term of contract.
 - f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
 - g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP.
 - h. If the Owner operates a Project information management system (also referred to in this EDP as "Project Website") for use of Owner, DIXON, Contractors, during the Project for exchange and storage of Project-related communications and information, then that provision and requirements shall be identified in an Exhibit J - Amendment.
- B. Software Requirements for Electronic Document Exchange; Limitations
1. Each party will acquire the software necessary to create and transmit and read Electronic Documents received from the other party (and if relevant from third parties).
 2. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in the following Attachment 1 to this EDP, including software version, if listed.

SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices, and responses to general information requests for which there is no specific prescribed form.	Email	EML	
a.2	Meeting agendas; meeting minutes; RFI's and Responses to RFI's; and Construction Contract administrative forms.	Email w/ Attach	PDF	(2)
a.3	Contractor's Submittals (Shop Drawings, "Or Equal" requests, Substitute requests, documentation accompanying Sample submittals and other Submittals) to Owner and DIXON; and Owner's and DIXON's Responses to Contractor's Submittals, Shop Drawings, Correspondence, and Applications for Payment	Email w/ Attach	PDF	
a.4	Correspondence; Interim and Final Versions of reports, layouts, Specifications, Drawings, maps, calculations and spreadsheets, Construction Contract, Bidding/Proposal Documents, and Front-End Construction Contract Documents.	Email w/ Attach or LFE	PDF	(3)
a.5	Layouts, plans, maps, and Drawings to be submitted to Owner by DIXON for future use and modification	Email w/ Attach or LFE	DWG	
a.6	Correspondence, reports, and specifications to be submitted by DIXON to Owner for future word processing use and modification	Email w/ Attach or LFE	DOC DOCX	
a.7	Spreadsheets and data to be submitted to Owner by DIXON for future data processing use and modification DIXON can PDF any Spreadsheet.	Email w/ Attach or LFE	XLS XLSX	
a.8	Images	Email w/ Attach	JPG JPEG GIF PNG TIFF BMP	
a.9	Compressed Files	Email w/ Attach	ZIP	

Notes	
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of the Agreement and Construction Contract.
(2)	Transmittal of written notices is governed by requirements of the Agreement and Construction Contract.
(3)	Transmittal of Bidding/Proposal Documents and Front-End Construction Contract Documents will be in manner selected by Owner in Exhibit A, Paragraph 1.05.A.1.a. Unless otherwise expressly stated, these documents and the Construction Contract will be transmitted in PDF format, including transmittals to bidders and Contractor.
Key	
EML	Standard Email formats (.eml). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies.
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, Flash Drive, File Sharing Services.)
PDF	Portable Document Format readable by Adobe® Acrobat Reader.
DWG	Autodesk® AutoCAD. dwg format.
DOC/DOCX	Microsoft® Word document
XLS/XLSX	Microsoft® Excel document
DB	Microsoft® Access .mdb DIXON does not transmit Database material If required for your future use you will have the program.
Minimum Version Required	
Adobe® Acrobat Reader	2017-24.002 (2020)
Autodesk® AutoCAD	2016-2025 (2020)
Microsoft® Word	Office 97-Office 2021 (Office 2007)
Microsoft® Excel	Office 97-Office 2021 (Office 2007)

GENERAL PROVISIONS and RELATED CONDITIONS

Note: Some Articles in this Exhibit GP may not all apply to the Scope of Work in Exhibit A. They become effective and are included because additional Scopes of Work may be added at any time with a Task Order or Exhibit K.

GP1.01 Standards of Performance:

- A. Standard of Care: The Standard of Care for all services performed or furnished by DIXON under this Agreement will be the care and skill ordinarily used by members of this subject profession practicing under similar circumstances at the same time and in the same locality.
- B. Technical Accuracy: Client shall not be responsible for discovering deficiencies in the technical accuracy of DIXON's services. If deficiencies are discovered by DIXON, Engineer, Owner, or Bidder; DIXON shall correct deficiencies in technical accuracy without additional compensation unless such corrective action is directly attributable to deficiencies in Client furnished information.
- C. Reliance on Others: Subject to the Standard of Care set forth above- 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 their publishers, or technical standards.
- D. Conflict of Interest: Nothing in this Agreement will be construed to create or impose any duty on the part of DIXON that would conflict with DIXON's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing DIXON, its Subconsultants or, and all licensed professionals employed by DIXON or its Subconsultants. If during the term of this Agreement a potential or actual Conflict of Interest arises or is identified, DIXON and Client together will make reasonable, good faith efforts to avoid or eliminate the Conflict of Interest.
- E. DIXON may retain such consultants as it deems necessary to assist in the performance or furnishing of services, subject to reasonable, timely, and substantive objections by Client.

GP1.02 DIXON does NOT provide the following services which would violate the Standard of Care:

- A. DIXON's Services and Additional Services do not include:
 - 1. serving as a "municipal advisor" for purposes of the registration requirements of the Section 975 of the Dodd-Frank Wall Street Reform and the 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

GP1.03 Opinions of Probable Construction Cost:

- A. DIXON's opinions (if any) of probable Construction Cost are to be given on the basis of DIXON's experience, qualifications, and general familiarity with the coating 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 in Evaluation Reports or made verbally by DIXON.

GP1.04 Use of Documents:

- A. All Documents are instruments of service, and DIXON shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of DIXON) whether the Project is completed or not.
 - 1. Client may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project, and for related uses of Owner
 - 2. DIXON grants Client a limited license to use the Documents on the Specific Project.
 - 3. Client shall not use, reuse, or modify the Documents without written verification, review, or adaptation by DIXON. If Client reuses or modifies documents without authorization, Client shall indemnify and defend DIXON from any liabilities that result from the reuse.
 - 4. The limited license to Client shall not create any rights in third parties.

GP1.05 Controlling Law and Compliance with Laws and Regulations:

- A. Client and DIXON shall comply with applicable Laws and Regulations of the State where the project is located.
- B. DIXON shall comply with any and all policies, procedures, and instructions of Owner and Engineer (Client) that are applicable to DIXON's performance of services under this Agreement and that Client provides to DIXON in writing, subject to the Standard of Care set forth in Paragraph GP1.01.A above, and to the extent compliance is consistent with professional practice requirements.
- C. While at the Site, DIXON, its consultants and their employees and representatives, shall comply with the applicable requirements of Contractor's, Engineer's, Owner's and other safety programs of which DIXON has been informed.
- D. This Agreement is based on Laws and Regulations and Client-provided written policies and procedures of Client as of the Effective Date of this Agreement.

GP1.06 Limitations of Authority of DIXON with Client and with Owner's Contractor:

- A. This Agreement and the General Conditions of the Owner/Contractor Agreement establish DIXON's authority.
- B. The General Conditions for any construction contract documents prepared hereunder are to be EJCDC C-700 "Standard General Conditions of the Construction Contract" prepared by the Engineer's Joint Contract Documents Committee, latest Edition and as modified by DIXON for the coating industry, unless expressly indicated otherwise. If Client supplied General Conditions are used, then DIXON supplied Additions to General Conditions for the Coating Industry shall also be used to the extent they do not conflict with Owner's General Conditions.

GP1.07 Visits to Site and Observation of Construction

- A. In connection with observation of Work while it is in progress, in particular with respect to Work that is designed or specified by DIXON, and Work specifically designated by Client for observation by DIXON:
 - 1. Make visits to the Site as detailed in EX A at intervals appropriate to the various stages of construction as DIXON deems necessary to observe as an experienced and qualified design professional the progress of Contractor's executed Work.

2. Such visits and observations by DIXON including DRR, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specially assigned to DIXON in this Agreement, but
 3. are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on DIXON's exercise of professional judgement.
 4. Based on information obtained during such visits and observations, DIXON will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and
 5. DIXON shall keep Client informed of the progress of the Work.
- B. The purpose of DIXON's visits to the Site including efforts of DRR,
1. will be to enable DIXON to better carry out the duties and responsibilities assigned to and undertaken by DIXON during the Construction Phase; and, in addition,
 2. by the exercise of DIXON's efforts, as an experienced and qualified design professional, to provide for Client a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents.
- C. DIXON shall not during such visits or as a result of such observations of the Work,
1. supervise, direct, or have control over the Work,
 2. nor shall DIXON have authority over or responsibility,
 - a. for the means, methods, techniques, sequences, or procedures of construction selected or used by any Contractor,
 - b. for security or safety at the Site, for safety precautions and programs incident to any Contractor's work in progress,
 - c. for the coordination of the Contractors' work or schedules, nor
 - d. for any failure of a Contractor's furnishing and performing of its work, or any portion of the Work
 - e. for the acts or omissions of any Contractor
 - f. for any failure of any Contractor to comply with Laws and Regulations applicable to furnishing and performing of its work.
- D. Accordingly, DIXON does not guarantee the performance of any Contractor in accordance with the Owner/Contractor Construction Contract Documents.
- E. DIXON shall not be responsible for any decisions made regarding the Construction Agreement requirements, or any application, interpretation, clarification, or modification of the Construction Agreement documents other than those made by DIXON or its consultants.

GP1.08 Environmental Condition of Site: Constituents of Concern (CC)

- A. Client represents to DIXON that as of the Effective Date and to the best of Client's knowledge, there are no Constituents of Concern, other than those disclosed in writing to DIXON, exist at or adjacent to the Site. Client has forwarded to DIXON copies of all documents in Client's possession, including disclosures from Owner to Engineer, regarding the presence of known and suspected Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Definitions:
1. 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 laws and regulations

- regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
2. Undisclosed Constituents of Concern. For purposes of this Article GP1.08 the presence at or adjacent to the Site of Constituents of Concern that was not disclosed to DIXON pursuant to this Article GP1.08, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as “Undisclosed” Constituents of Concern.
 3. “Known” Constituents of Concern - Constituents of concern in the coating industry- The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not Undisclosed Constituents of Concern. DIXON and Client acknowledge that the coating industry may generate hazardous waste or constituents of concern (CC) when removing old coatings, CC may be existing in soils from coating removal in the past, and some gasket materials contained asbestos. Old coatings may contain heavy metals such as lead, chrome, and cadmium. Hazardous solvents may be present in new coatings, thinners, or used in the cleaning of equipment. These materials may be CC but are considered “Known” CC.
- C. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not Undisclosed Constituents of Concern if DIXON has been informed of the general scope of such contract.
 - D. If DIXON encounters or learns of an Undisclosed Constituents of Concern at the Site, then DIXON shall notify Client. State and Federal notifications, if required, are the responsibility of the Owner.
 - E. If DIXON or any other party encounters, uncovers, or reveals an Undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to Disclosed or Undisclosed Constituent of Concern, then either Client or DIXON may, at its option and without liability for any damages, suspend performance of services on the portion of the Project adversely affected thereby until such portion of the Project is no longer affected.
 - F. Client acknowledges that DIXON is performing professional services for Client, and that DIXON is not and shall not be required to become an “owner,” “arranger,” “operator,” “generator,” or “transporter” of hazardous substances, as determined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with DIXON’s activities under this Agreement.

GP1.09 Dispute Resolution: DIXON and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights at law.

GP1.10 Suspension and Termination:

- A. Suspension:
 1. By Client: Owner or Client may suspend the Project for up to 90 days upon seven days written notice to DIXON.
 2. By DIXON: DIXON may, after giving seven days written notice to Client, suspend services under this Agreement

- a. if Client has failed to pay DIXON for invoiced services and expenses, or in response to the presence of Constituents of Concern at the Site.
 - b. If persistent circumstances beyond the control of DIXON have prevented it from performing its obligations under the Agreement or Task Order.
- B. Termination for Cause – DIXON/Client Agreements or Separate Task Orders: The obligation to provide further services under this Agreement or Task Order may be terminated:
 - 1. For cause, by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - 2. By DIXON: Upon seven days written notice:
 - a. if Client demands that DIXON furnish or perform services contrary to DIXON's responsibilities as a licensed professional; or
 - b. if services for the Project are delayed or suspended for more than 90 days for reasons beyond DIXON's control, or
 - c. as the result of the presence at the Site of undisclosed Constituents of Concern.
 - 3. Notwithstanding the foregoing, an Agreement or Task Order will not terminate for Cause, under this Article, if the party receiving such notice begins, within 7 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 thereof. If and to the extent such substantial failure cannot be reasonably cured within the 30 day period of diligent effort, and party continues to cure the same, then the cure period will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
- C. Termination for Convenience - by Client and is effective upon DIXON's receipt of notice from Client.
- D. The time, between Contract Award and the contracted start date of Construction, or if Construction is postponed for the off season (winter), shall not be considered a "suspension" or reason for Termination.
- E. DIXON shall have no liability to the Owner or Client, on account of such termination.
- F. In the event of Multiple active Task Orders; The Termination of a Task Order for Cause or Convenience does not affect the status of the remaining active Task Orders.
- G. Effective Date of Termination: If Client terminates the Agreement or a specific Task Order for cause or convenience, Client 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. DIXON shall be entitled to compensation for such tasks.
- H. Payments Upon Termination: In the event of termination by Client or DIXON for cause, DIXON shall be entitled to invoice Client and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C Attachment 2.

GP1.11 Records Retention:

- A. DIXON shall maintain on file in digital format, for a period of five years following completion or termination of its services under a Client Agreement or a specific Task Order, or such other period

as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to DIXON's services or pertinent to DIXON's performance under the Agreement or Task Order. Upon Client's request, DIXON shall provide a copy of any such item to Client at cost.

- B. DIXON will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity regarding the subject matter of this Agreement. Nothing herein will limit DIXON's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

INSURANCE REQUIREMENTS AND INDEMNIFICATION

The Agreement is supplemented to include the following insurance requirements and indemnification clauses of the parties:

IR1.01 Insurance Requirements

- A. The limits of liability for the insurance required by the Agreement are as follows:
1. DIXON/Client will obtain/carry the following insurance policies and with the listed amounts as a minimum :

a. Worker’ Compensation

Statutory

b. Employer’s Liability –

1) Bodily injury, each Accident:

\$1,000,000

2) Bodily injury by disease, each employee:

\$1,000,000

3) Bodily injury/disease, aggregate:

\$1,000,000

c. General Liability –

1) Each Occurrence (Bodily injury and Property damage)

\$1,000,000

2) General Aggregate:

\$2,000,000

d. Excess or Umbrella Liability –

1) Per Occurrence:

\$2,000,000

2) General Aggregate

\$2,000,000

e. Automobile Liability – Combined Single Limit

\$1,000,000

f. Professional Liability - (required only of Engineer Client)

1) Each Claim Made

\$2,000,000

2) Annual Aggregate

\$2,000,000

IR1.02 Insurance Requirements

- A. DIXON shall cause Client and other parties requested by Owner Electronic Data Transmittal Protocol within reason, to be listed as additional insureds on any applicable general liability insurance policy carried by DIXON.
- B. DIXON shall deliver to the Client certificates of insurance evidencing the coverages indicated in Exhibit IR. Such certificates shall be furnished prior to commencement of DIXON’s Services and at renewals thereafter during the life of the Agreement.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Client's and DIXON's interests in the Project. Owner shall also require Contractor to cause DIXON to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- D. If any policy of property insurance relating to the Project, including but not limited to any builder’s risk policy, allows for waiver of subrogation rights and contains provisions to the effect that in the event of payment of any loss or damage, the insurers will have no rights of recovery against any insured thereunder or against Client. Then Client and DIXON hereby waive all rights against each other, Owner, and Contractor, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such builder’s risk policy or other property insurance policy relating to the project. The Client shall take appropriate measures in other Project-related contracts to secure waivers of rights.

- E. At any time, Client may request that DIXON, at Client's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit IR. If so, requested by Client, and if commercially available, DIXON shall obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Client, and Exhibit IR will be supplemented to incorporate these requirements.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement, and immediately either take action to avoid cancellation or a reduction in limits or obtain replacement coverage meeting the requirements of this Agreement.

PART 2 LIMITATIONS OF LIABILITY

IR2.01 Definitions:

- A. Client and Party 1 is Client and Client's officers, directors, membership, partners, agents, employees, consultants, and if Client is Owner then also others retained by or under contract to the Owner, with respect to this Agreement or to the Project.
- B. DIXON and Party 2 is DIXON and/or DIXON's officers, directors, members, partners, agents, employees, consultants, subcontractors, or others under contract to DIXON relative to this Project or Agreement.

IR2.02 Indemnification

- A. Indemnification: to the fullest extent permitted by Laws and Regulations, DIXON shall indemnify and hold harmless, Client and Party 1; and Client shall indemnify and hold harmless DIXON and Party 2; from losses, damages, and judgments (including reasonable attorneys' fees and expenses) arising from third-party claims or actions relating to the Project:
 - 1. By Client and Party 1 and by DIXON and Party 2 -provided that such claim, action loss, damages, or judgement is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by negligent act or omission of DIXON or Client, and associated Parties 1 and 2.
- B. DIXON's Liability Limited to Amount of Insurance Proceeds: DIXON shall procure and maintain insurance as required by and set forth in this Exhibit IR to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of DIXON and Party 2 to Client and anyone claiming by, though, or under Client for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability breach of contract, indemnity obligations, or warranty express or implied; shall not exceed the total insurance proceeds paid on behalf of or to DIXON by DIXON's insurers in settlement or satisfaction of Client's Claims under the terms and conditions of DIXON's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal), up to the amount of insurance required under this Agreement. If no such insurance coverage is provided by Client with respect to Client's Claims, then the total liability, in the

aggregate, of DIXON and Party 2 to Client and anyone claiming by, through, or under Client for any and all such uninsured Client's claims shall not exceed \$25,000.

IR2.03 Mutual Waiver

- A. Mutual Waiver - Exclusion of Special, Incidental, Indirect, and Consequential Damages - To the fullest extent permitted by law, and notwithstanding any other provisions in the Agreement, consistent with the terms of this Agreement, DIXON and Party 2, shall not be liable to Client or anyone claiming by, through, or under Client and Party 1, for any and all claims for or entitlement to special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes including but not limited to: damage to water supply or reduction in fire protection.

IR2.04 Percentage Share of Negligence

- A. To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, though, or under the other party for any cost, loss, or damages caused in part by the negligence of the party 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 DIXON, Client, and all other negligent entities and individuals.

IR2.05 No Defense Obligation

- A. The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressed.

File Attachments for Item:

C. Resolution 2025-R-09 AUTHORIZING THE CITY MANAGER TO SOLICIT, ADVERTISE, AND RECEIVE PROPOSALS FROM QUALIFIED FIRMS TO PROVIDE MATERIALS AND PERFORM SERVICES RELATED TO THE REPAIR AND REPAINTING OF A STANDPIPE WATER TOWER (Hoke)

RECORD OF RESOLUTIONS

Item C. Section 10, Item

Resolution No. 2025-R-09

April 14, 2025

City of Bellbrook State of Ohio

Resolution No. 2025-R-09

AUTHORIZING THE CITY MANAGER TO SOLICIT, ADVERTISE, AND RECEIVE PROPOSALS FROM QUALIFIED FIRMS TO PROVIDE MATERIALS AND PERFORM SERVICES RELATED TO THE REPAIR AND REPAINTING OF A STANDPIPE WATER TOWER

WHEREAS, City Council has approved the repair and repainting of the standpipe water tower in the 2025-2029 Capital Improvement plan; and

WHEREAS, the City is in need to contract services for the repair and repainting of the standpipe water tower; and

WHEREAS, City Council has agreed to an RFP process to be facilitated by City Staff.

NOW, THEREFORE, THE CITY OF BELLBROOK HEREBY RESOLVES:

Section 1. The City Manager is hereby authorized to solicit, advertise and receive responses from qualified firms in accordance with Section 240.03 of the Bellbrook Code of Ordinances to provide materials and perform services related to the repair and repainting of the standpipe water tower and all necessary and related appurtenances within the City.

Section 2. City Council hereby authorizes the RFP process for this project as detailed in the Bellbrook Request for Proposals and Instructions Book.

Section 3. That it is found and determined that all formal actions of the City Council relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including §121.22 of the Revised Code of the State of Ohio.

Section 4. That this resolution shall take effect and be in force forthwith.

PASSED BY City Council this 14th day of April, 2025.

_____ Yeas; _____ Nays.

AUTHENTICATION:

Michael W. Schweller, Mayor

Robert Schommer, Clerk of Council

File Attachments for Item:

D. Resolution 2025-R-10 DETERMINING IT NECESSARY TO PROCEED WITH SUBMITTING THE QUESTION OF LEVYING AN ADDITIONAL TAX IN EXCESS OF THE TEN-MILL LIMITATION TO THE ELECTORS OF THE CITY, PURSUANT TO OHIO REVISED CODE SECTION 5705.19 AND SUBSECTION 5705.19(JJ), AS AMENDED, WHICH LEVY SHALL BE TWO AND TWO TENTHS (2.2) MILLS AND SHALL RUN FOR A CONTINUING PERIOD OF TIME PURSUANT TO OHIO REVISED CODE SECTION 5705.19, AND REQUESTING THE COUNTY AUDITOR TO CERTIFY MATTERS IN CONNECTION THEREWITH (Ashley)

RECORD OF RESOLUTIONS

Item D. Section 10, Item

Resolution No. 2025-R-10

April 14, 2025

City of Bellbrook State of Ohio

Resolution No. 2025-R-10

DETERMINING IT NECESSARY TO PROCEED WITH SUBMITTING THE QUESTION OF LEVYING AN ADDITIONAL TAX IN EXCESS OF THE TEN-MILL LIMITATION TO THE ELECTORS OF THE CITY, PURSUANT TO OHIO REVISED CODE SECTION 5705.19 AND SUBSECTION 5705.19(JJ), AS AMENDED, WHICH LEVY SHALL BE TWO AND TWO TENTHS (2.2) MILLS AND SHALL RUN FOR A CONTINUING PERIOD OF TIME PURSUANT TO OHIO REVISED CODE SECTION 5705.19, AND REQUESTING THE COUNTY AUDITOR TO CERTIFY MATTERS IN CONNECTION THEREWITH

WHEREAS, the Bellbrook City Council finds that an additional tax levy in excess of the ten-mill limitation is required for the benefit of the City, pursuant to Ohio Revised Code Section 5705.19(JJ), for the purpose of providing and maintaining fire apparatus, mechanical resuscitators, underwater rescue and recovery equipment, or other fire equipment and appliances, buildings and sites therefor, or sources of water supply and materials therefor, for the establishment and maintenance of lines of fire-alarm communications, for the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, for the purchase of ambulance equipment, for the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company, or for the payment of related costs, or for providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of the police department, for the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel pursuant to section 145.48 or 742.33 of the Revised Code, for the provision of ambulance or emergency medical services operated by a police department, or for the payment of other related costs, at a rate not to exceed two and two tenths (2.2) mills for each \$1 of taxable valuation, which amounts to twenty-two cents (\$0.22) for each \$100 of the taxable property within the City of Bellbrook, County of Greene, State of Ohio, for a continuing period of time, pursuant to Section 5705.19 of the Ohio Revised Code; and

WHEREAS, pursuant to Section 5705.03 of the Ohio Revised Code, this Council is required to certify to the Greene County Auditor a Resolution requesting the County Auditor to certify certain matters in connection with such a tax levy.

NOW, THEREFORE, THE CITY OF BELLBROOK HEREBY RESOLVES:

Section 1. Pursuant to Section 5705.19 of the Ohio Revised Code, the Bellbrook City Council determines it necessary that an additional tax be levied in excess of the ten-mill limitation for the benefit of this City, for the purpose of providing and maintaining fire apparatus, mechanical resuscitators, underwater rescue and recovery equipment, or other fire equipment and appliances, buildings and sites therefor, or sources of water supply and materials therefor, for the establishment and maintenance of lines of fire-alarm communications, for the payment of firefighting companies or permanent, part-time,

RECORD OF RESOLUTIONS

Item D. Section 10, Item

Resolution No. 2025-R-10

April 14, 2025

or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, for the purchase of ambulance equipment, for the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company, or for the payment of related costs, or for providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of the police department, for the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel pursuant to section 145.48 or 742.33 of the Revised Code, for the provision of ambulance or emergency medical services operated by a police department, or for the payment of other related costs, at a rate not to exceed two and two tenths (2.2) mills for each \$1 of taxable valuation, which amounts to twenty-two cents (\$0.22) for each \$100 of the taxable property within the City of Bellbrook, County of Greene, State of Ohio, for a continuing period of time.

Section 2. The territory of the City of Bellbrook is located entirely within Greene County, Ohio. The tax is to be levied on the ballot measure submitted to the entire territory of the City of Bellbrook.

Section 3. Council seeks to have the question of the passage of the tax levy submitted to the electors of the City of Bellbrook at an election to be held on November 4, 2025. If approved by the electors, the tax levy shall first be placed upon the 2026 tax list and duplicate, for first collection in calendar year 2026.

Section 4. Pursuant to Section 5705.03 of the Ohio Revised Code, the Greene County Auditor is hereby requested to certify to this Council, within ten (10) days after receiving this Resolution, the total current tax valuation of the City and the dollar amount of the revenue that would be generated by the number of mills specified in Section I above, and the Clerk of Council is hereby directed to certify forthwith a copy of this Resolution to the County Auditor at the earliest possible time so that the County Auditor may certify such matters in accordance with said Section 5705.03 of the Ohio Revised Code.

Section 5. That it is found and determined that all formal actions of the City Council relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including §121.22 of the Revised Code of the State of Ohio.

Section 6. That this resolution shall take effect and be in force forthwith.

PASSED BY City Council this 14th day of April, 2025.

____ Yeas; ____ Nays.

AUTHENTICATION:

Michael Schweller, Mayor

Robert Schommer, Clerk of Council

File Attachments for Item:

A. Animal Ordinance Update Discussion

This Section outlines the requirements for keeping small livestock, as defined by the Bellbrook Municipal Code Chapter 618 Section 618.01.

The keeping of small livestock is permitted, provided the following criteria are met:

- (A) A zoning permit is required by the City of Bellbrook. No person shall keep any small livestock without first having obtained a permit from the Community Development Administrator.
- (B) The principal use of the lot is a single-family residential dwelling.
- (C) No person shall keep roosters, geese, peafowl, turkeys, ostriches, or emu.
- (D) Allowed densities for keeping any combination of small livestock animals shall be as follows:
 - (1) Lots smaller than 0.5 acres: no more than **six (6)** small livestock animals
 - (2) Lots 0.5 acre to less than 1.0 acre: no more than **twelve (12)** small livestock animals
 - (3) Lots 1.0 acres to less than 2.5 acres: no more than **eighteen (18)** small livestock animals
 - (4) Lots 2.5 acres to less than 5.0 acres: no more than **twenty-four (24)** small livestock animals
- (E) It shall be unlawful to keep more animals than the lot size allows.
- (F) All small livestock shall be provided with an outdoor, covered, predator-proof sheltering structure, which shall be kept in sound and usable condition. The sheltering structure shall be thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals.
- (G) The sheltering structure must be of a size to allow for 4 square feet per individual small livestock animal.
- (H) Any outdoor sheltering structure shall be placed in the rear yard of the property, and in no case shall the outdoor sheltering structure be closer than 50 feet to a residential property other than the single-family residential dwelling where the small livestock animal(s) are kept. In no case shall the outdoor sheltering structure be closer than 25 feet to an abutting property line.
- (I) Structures or appurtenances for keeping small livestock animals may not be in a front or side yard.
- (J) There shall be no more than one (1) sheltering structure on the property. Sheltering structures shall be considered accessory structures.
- (K) All feed must be stored in a rodent-proof container, and animals must not be fed in a manner likely to attract rodents, such as dispersing the feed on the ground.
- (L) Unless attended by a keeper, all small livestock animals shall be kept in an outdoor sheltering structure at all times, and the sheltering structure must be within a fully enclosed fenced yard. No small livestock shall be allowed to roam "at large" in the city. See Sec. 618.14. - Impounding and redemption.
- (M) Keeping small livestock pursuant to this Section shall be strictly for personal or household use rather than for any commercial use. The sale of animal products in residentially zoned districts, including but not limited to meat, eggs, and fur, shall be prohibited.
- (N) Small livestock animals may be slaughtered and butchered on-site of the property, where they are kept only inside the primary structure and otherwise out of public view. All waste must be bagged and disposed of with household trash to prevent nuisance and health hazards.
- (O) Manure from small livestock must be disposed of in one of the following manners:
 - (1) Household trash collection: Manure must be bagged, placed in a waterproof container, and disposed of with household trash.
 - (2) Composted and applied on-site: Manure must be kept in a rodent-proof container designed to limit odors. The containers must be located in the property's defined rear yard at least 8 feet from any property line. Finished compost may be applied on-site.
 - (3) Directly applied on-site: Manure applied directly on-site must be done in a way that prevents nuisance and polluted stormwater runoff.
- (P) Notwithstanding compliance with the requirements of this Section, small livestock shall not be kept in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others or interfere with the normal use and enjoyment of any public property or property of others. Small livestock shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties and not to cause health hazards. See

Sec. 618.13. - Nuisance conditions prohibited.

- (Q) The person keeping small livestock is responsible for being aware of and abiding by all applicable local, state, or federal requirements, including but not limited to the Ohio Department of Agriculture's Ohio Livestock Care Standards and private deed or covenant restrictions.

CHAPTER 618. ANIMALS¹

Sec. 618.01. Definitions.

For the purpose of this chapter, the following definitions shall apply:

Agricultural animal. The definition of agricultural animal is the same as set forth in Ohio Revised Code Section 903.01 (A), including but not limited to the following text: “any animal generally used for food or in the production of food, including cattle, sheep, goats, rabbits, poultry, and swine; horses; alpacas; llamas; and any other animal included by the director of agriculture by rule. “Agricultural animal” does not include fish or other aquatic animals regardless of whether they are raised at fish hatcheries, fish farms, or other facilities that raise aquatic animals.”

Animal. The definition of animal is the same as set forth in Ohio Revised Code Section 941.01 (D), including but not limited to the following text: “any animal that is a bird, reptile, amphibian, fish, or mammal, other than humans.”

Companion animal. The definition of companion animal is the same as set forth in Ohio Revised Code Section 959.131 (A)(1), including but not limited to the following text: “any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in section 956.01 of the Revised Code. “Companion animal” does not include livestock or any wild animal.”

Domestic animal. The definition of domestic animal is the same as set forth in Ohio Revised Code Section 941.01 (E), including but not limited to the following text: “livestock; other animals that through long association with humans have been bred to a degree resulting in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes them different from nondomestic animals of their kind; and other animals as defined by rule by the director.”

Livestock. The definition of livestock is the same as set forth in Ohio Revised Code Section 5739.01 (MM), including but not limited to the following text: “farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. “Livestock” does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.”

Nondomestic animal. The definition of nondomestic animal is the same as set forth in Ohio Revised Code Section 941.01 (G), including but not limited to the following text: “any animal that is not domestic, including at least nonindigenous animals and animals usually not in captivity.”

Pet. The definition of pet is the same as set forth in Ohio Revised Code Section 961.01 (D), including but not limited to the following text: “an animal that has been adapted or tamed to live in intimate association with or for the pleasure or advantage of people and includes but is not limited to dogs, cats, birds, rabbits, and hamsters.” Pets are not considered to be animals used for livestock or agricultural purposes.

¹Cross reference(s)—Driving animals upon roadway, see Secs. 404.05; Animals in parks, see Secs. 1062.08, 1062.09.

Poultry. The definition of poultry is the same as set forth in Ohio Revised Code Section 941.01 (H), including but not limited to the following text: “any domesticated fowl kept in confinement, except for doves and pigeons, that are bred for the primary purpose of producing eggs or meat for human consumption. “Poultry” includes chickens, turkeys, waterfowl, and game birds.”

Service animal. The definition of service animal is the same as set forth in Ohio Revised Code Chapter 3344-79 Rule 3344-79-02 (A) (2), including but not limited to the following text: “any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability and meets the definition of “service animal” under the Americans with Disabilities Act (“ADA”) regulations at 28 CFR 35.104. The work or tasks performed must be directly related to the individual’s disability.”

Small livestock. Small livestock is defined as rabbits and poultry species, excluding roosters, geese, peafowl, turkeys, ostriches, and emu.

Secs. ~~618.01~~, 618.02. Reserved.

Editor’s note(s)—Ord. No. 2016-6 , § 3, adopted July 11, 2016, repealed §§ 618.01, 618.02 which pertained to: dogs and other animals running at large; nuisance, dangerous and vicious dogs; hearings; abandoning animals; respectively; and derived from the 1985 Codified Ordinances.

Sec. 618.03—618.06. Reserved.

Sec. 618.07. ~~Barking or howling dogs~~ Nuisance animal noises.

- (a) No person shall keep or harbor any ~~dog~~ **animal** within the Municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who allows any ~~dog~~ **animal** habitually to remain or be lodged or fed within any dwelling, building, yard or enclosure, which he or she occupies or owns, shall be considered to be harboring such ~~dog~~ **animal**.
- (b) No person shall be convicted under division (a) of this section unless the noises created by such ~~dog~~ **animal** ~~are~~ **is** heard or detected by at least one or more residents in the vicinity or a City police officer.
- (c) Whoever violates this section is guilty of a minor misdemeanor.

Secs. 618.08—618.11. Reserved.

Editor’s note(s)—Ord. No. 2016-6 , § 3, adopted July 11, 2016, repealed §§ 618.08, 618.09, 618.095, 618.10, 618.11 which pertained to: registration of dogs required; hindering capture of unregistered dog; dogs required to wear tags; unlawful tags; rabies quarantine; respectively; and derived from the 1985 Codified Ordinances and Ord. Ord. 80-15, passed 10-13-80.

Sec. 618.12. Hunting prohibited.

- (a) The hunting of animals or fowl within the Municipality is prohibited. No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms or any other means, **except as provided in the Bellbrook Zoning Code**. However, nothing in this section shall be deemed to prohibit the killing of rats and other undesirable rodents authorized to be killed by the Chief of Police using means for such killing which are also authorized by the Chief.

- (b) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 618.13. Nuisance conditions prohibited.

- (a) No person shall harbor, keep or maintain an animal in such a manner as to be injurious to the health, comfort or property of individuals or the public.
- (b) No owner, keeper or harbinger of any dog or animal approved and/or licensed by the Ohio Department of Natural Resources shall fail at any time to do either of the following:
- (1) Keep the animal physically confined or restrained upon the premises of the owner, keeper or harbinger by a leash, tether, adequate fence, supervision or secure enclosure to prevent escape.
 - (2) Keep the animal under the reasonable control of some person.
- (c) Subject to division (a) of this section, and without in any way limiting the applicability thereof, any of the following acts committed in connection with the harboring, keeping or maintaining of an animal shall constitute maintenance of a public nuisance and is hereby prohibited:
- (1) Permitting offensive or obnoxious odors to be released and carried to the property of another; or
 - (2) Permitting ~~loud, offensive and regularly~~ repeated barking, ~~or~~ howling **or unreasonably loud and disturbing noises** by an ~~dog~~ **animal**.
- (d) Any violation of ORC Chapter 955 within six months of a previous violation thereof shall be a prima-facie violation of this section.
- (e) The Municipal Attorney may proceed by civil action in any court of record to obtain an abatement order under this section.
- (f) Whoever violates any of the provisions of this section is guilty of maintaining a public nuisance, a misdemeanor of the fourth degree. The penalty shall be as provided in ORC Chapter 2929. In addition to imposing the appropriate punishment the court shall order such nuisance to be abated.
- (Ord. 78-16, passed 4-24-78; Ord. 99-10, passed 8-9-99; Ord. No. 2014-6 , § 1, 9-8-2014; Ord. No. 2017-3 , § 1, 3-27-2017)

Sec. 618.14. Impounding and redemption.

A police officer or Animal Warden contracted with or hired by the Municipality, or any other person appointed by the Manager, may pick up and impound any dog, licensed or unlicensed, or any other animal found running at large on any street or on any public or private property within the Municipality. Such officer, Animal Warden or other person shall have the right to go onto private property to capture the dog or other animal. ~~The dog or other animal shall be released to the owner or to the person entitled to the possession of the same upon payment by the owner or such other person to the Municipality of a pick-up fee of ten dollars (\$10.00) for the first offense and twenty-five dollars (\$25.00) for each offense thereafter.~~ If the dog has been placed in the County Dog Pound, the owner shall ~~also~~ be required to pay charges assessed by the County.

(Ord. 78-17, passed 4-24-78)

Sec. 618.15. Certain animals prohibited.

- (a) No person shall keep within the Municipality any ~~horse, cow, pig, goat, or chicken~~ **agricultural animal or livestock, nor any animal used for agricultural or livestock purposes**, on any parcel

of property, except in agricultural zoning districts on parcels **with a minimum** of five acres **or as provided in the Bellbrook Zoning Code.**

(b) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 2007-4, passed 8-27-07; Ord. 2010-7, passed 9-13-10)

Sec. 618.16. Dead animals.

(a) When any animal dies in the possession of any person in the Municipality, no such person shall fail to remove such animal or cause the same to be removed outside the limits of the Municipality or to be buried, so that the same does not corrupt the air or cause any injury to the health of any other person in the Municipality.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 118, passed 2-19-36; Ord. 74-38, passed 11-11-74)

Secs. 618.17, 618.18. Reserved.

Editor's note(s)—Ord. No. 2016-6 , § 3, adopted July 11, 2016, repealed §§ 618.17, 618.18 which pertained to: dogs with blind, deaf or hearing impaired, or mobility impaired person, or trainer with assistance dog; animal fights; respectively; and derived from the 1985 Codified Ordinances.

Sec. 618.19. Dangerous, wild and undomesticated animals or pets prohibited.

(a) For the purposes of this section, a household pet is a dog, cat or other species of animal, fish, fowl, amphibian or reptile which is normally deemed to be tame and domesticated or which is commonly kept as a pet inside a residence.

(b) A wild, dangerous or undomesticated animal is an animal that is not defined as a household pet and that would be ordinarily confined to a zoo, farm or the wilderness, or that otherwise causes fear to the general public.

(c) No person shall harbor, maintain or control a wild, dangerous or undomesticated animal within the City.

(d) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(Ord. 2007-4, passed 8-27-07)

Sec. 618.20. Reserved.

Editor's note(s)—Ord. No. 2016-6 , § 3, adopted July 11, 2016, repealed § 618.20, which pertained to dangerous and vicious dogs, and derived from the 1985 Codified Ordinances.

Sec. 618.21. Beekeeping.

The keeping of bees in residential areas is permitted under the following conditions:

(a) Definitions.

(1) *Bee* means any stage of any species of the genus *Apis*.

- (2) *Hive* means any modern frame hive, box hive, box, barrel, log gum, skep or any other natural or artificial receptacle, or any part thereof, that may be used as a domicile for bees.
 - (3) *Colony* means any hive and its equipment, including bees, combs and brood.
 - (4) *Equipment* means any used hives or parts thereof, used frames, used honey houses, used tools, used machines, or used devices employed in the handling or manipulation of bees, honey, or beeswax, or any used container for honey or beeswax.
 - (5) *Swarm* means a population of bees that is not permanently established.
 - (6) *Beekeeper* means the person who takes care of and/or registers the apiary where the honey bee colonies are kept.
- (b) In order to have beekeeping privileges within the City, all beekeepers are required to maintain and register their hives as set forth in ORC Chapter 909 Apiaries.
 - (c) All beekeepers are required to register with the City, setting forth the location of their hives and number of colonies of bees.
 - (d) Any lot used for beekeeping must have a minimum size of 14,000 square feet. There shall be no more than two hives established on any lot used for beekeeping, except two additional temporary hives are allowed for hive separation or new swarm establishment purposes. Such temporary hives shall be removed from the property within two weeks.
 - (e) Hives shall be placed in the rear yard of the property and in no case shall the hives be closer than 30 feet from a public or private street, sidewalk or roadway. In no case shall the hives be closer than 25 feet to an abutting property line.
 - (f) A fresh water source shall be maintained within 15 feet of the hives.
 - (g) The owner of the hive(s) must be a resident in a dwelling located on the same lot on which the hive(s) are registered. Hives are only permitted on lots with single family residential units located on them.
 - (h) The maintenance of each colony shall meet the following conditions:
 - (1) Colonies shall be maintained in readily movable frame hives.
 - (2) Each hive must conspicuously display the Apiary Identification Number assigned pursuant to ORC Chapter 909 on no less than the base and the box. The identification number shall be on a side that is visible without moving or lifting of said hive.
 - (3) Adequate space shall be maintained in the hive to prevent overcrowding and swarming.
 - (4) Colonies shall be re-queened following any swarming or aggressive behavior or seized and destroyed without remuneration.
 - (i) A certificate or permit providing the privilege to keep bees within the City may be provided by the City to a beekeeper once it is established that the necessary requirements outlined in this section are satisfied.
 - (j) (1) Beekeeping privileges may be revoked from any property by written notification to the property owner by the City. Revocation must be done with cause, however, the cause needs not to be the fault of the beekeeper, nor be a factor that is under the control of the beekeeper. The City may revoke beekeeping privileges for any condition or combination of circumstances that jeopardizes, endangers or otherwise constitutes an actual, potential or perceived menace to public health or safety. Once beekeeping privileges have been revoked on a particular property, such privilege may be reestablished only upon written request. Additionally, a permit or certificate may be revoked by the City due to a failure to satisfy any of the requirements of this section.

- (2) A perceived menace to public health may also include, but is not limited to:
- A. Written documentation over a medical doctor's signature certifying that the medical condition caused by bee stings to a resident of an abutting property would constitute a higher than normal health hazard will constitute sufficient cause to withdraw beekeeping privileges from any specific property.
 - B. Abnormally aggressive behavior by bees defending their hive beyond the property lines may constitute sufficient cause to withdraw beekeeping privileges from any specific property.
- (k) The City may revoke a beekeeper's privilege to maintain hives within the City by revoking the beekeeper's permit or certificate. If such revocation occurs, the permit holder will be given an opportunity for a hearing before the City Council to determine whether cause exists for revoking the beekeeping privileges.

(Ord. 2010-7, passed 9-13-10)

File Attachments for Item:

B. Update on Little Sugarcreek Road Speed Limit



AGENDA ITEM INFORMATION REPORT

Meeting Type: City Council Meeting

Meeting Date: 4/14/2025

Department: Administration

Submitted By: Rob Schommer

AGENDA ITEM DESCRIPTION:

City Manager Report

Update on Little Sugarcreek Road Speed Limit

FISCAL IMPACT:

Cost: TBD **Source of Funds:** Choose an item.

Funds Currently Budgeted: No

Notes/Implications: Click or tap here to enter text.

PURPOSE AND BACKGROUND:

Additional speed data has been conducted reflecting directional traffic closer to the Sable Ridge/Highview Terrace cross streets. The information shows very similar data from both locations. Staff has received a quote for speed limit journalling which is \$8,000. Additional review for need of rating and journalling the speed limit for road conditions will be conducted to determine the necessity for roadway reclassification through MVRPC and how future funding for road improvements would be affected.

The MVRPC meeting to reclassify the roadway will be conducted Thursday April 17 and it is currently recommended and anticipated that it will be approved.

Staff will consult with the engineers for proper design and placement of crossings at the sidewalk terminations on Vineyard Way and Sabel Ridge Drive.

Traffic Analysis Report

Result Description		
File:	02260009.csv	
Study Title:	Little Sugarcreek Road	
Study Run Dates:	2025/03/11 14:11:52 to 2025/03/19 10:05:00	
Total Study Time:	7 Days 19 Hours 53 Minutes	
Study Download Time:	2025/03/20 10:08:59	
Study Location:	Little Sugarcreek Road at McGee Park	
Study GPS Location:	Unknown	
Study Timing Interval:	5 minute blocks	
Study Total # of Vehicles:	56361	
Study Posted Speed Limit:	25 mph	
Study Total # of Speeders:	40383	
Approaching Traffic	# of Vehicles:	31203
	# of Speeders:	21356
	Maximum Speed:	67 mph
	Average Speed:	26 mph
	Median Speed:	28 mph
	85th Pecenile Speed:	33 mph
	10 MPH Pace:	26 to 35 mph
Receding Traffic	# of Vehicles:	25158
	# of Speeders:	19027
	Maximum Speed:	81 mph
	Average Speed:	28 mph
	Median Speed:	28 mph
	85th Pecenile Speed:	33 mph
	10 MPH Pace:	26 to 35 mph

Traffic Analysis Report

Result Description		
File:	02260016.csv	
Study Title:	Little Sugarcreek Rd	
Study Run Dates:	2025/04/01 12:36:32 to 2025/04/04 10:00:00	
Total Study Time:	2 Days 21 Hours 23 Minutes	
Study Download Time:	2025/04/04 10:14:23	
Study Location:	Little Sugarcreek Rd. at MaGee Park	
Study GPS Location:	Unknown	
Study Timing Interval:	15 minute blocks	
Study Total # of Vehicles:	9521	
Study Posted Speed Limit:	25 mph	
Study Total # of Speeders:	8511	
Approaching Traffic	# of Vehicles:	4548
	# of Speeders:	4135
	Maximum Speed:	84 mph
	Average Speed:	31 mph
	Median Speed:	31 mph
	85th Pecenile Speed:	36 mph
	10 MPH Pace:	26 to 35 mph
Receding Traffic	# of Vehicles:	4973
	# of Speeders:	4376
	Maximum Speed:	85 mph
	Average Speed:	30 mph
	Median Speed:	30 mph
	85th Pecenile Speed:	35 mph
	10 MPH Pace:	26 to 35 mph