



City Council Memorandum

To: Mayor Fasbender & City Council Members
From: Ryan Stempski – Public Works Director/City Engineer
Date: February 5, 2024
Item: Accept Proposal and Authorize Work – Industrial Park Water Tower Reconditioning

Council Action Requested:

The Council is requested to authorize the City to enter into a contract with KLM Engineering, Inc. for the purposes of utilizing their professional services to assist the City with design and bidding, construction management and inspection, antenna inspection, and warranty inspection for reconditioning of the Industrial Park Water Tower.

Background Information:

This construction work is planned in 2025, but water tower reconditioning contractors are in high demand due to supply chain delays and labor shortages. Additionally, it is best practice for these design and bidding services to be completed in 2024 to put us in a position to obtain competitive pricing with a contractor that could start work as early as possible in 2025 (estimated in April if weather allows). This is critical as we plan for the water tower to be back online in advance of peak usage during the hot and dry summer months. For these reasons staff is requesting authorization of the required engineering services to complete plans and specifications in order to get this project out to bid in 2024, and secure a qualified contractor to complete the work in 2025. The construction costs for structural repairs and replacing the interior and exterior coatings on the Industrial Park Water Tower are estimated to be \$1,600,000.

Financial Impact:

The estimated cost for engineering services is \$16,000 would require a 2024 budget amendment to be completed this year.

KLM's proposal would also include a not-to-exceed amount of \$102,486 for construction management and observation in 2025. The warranty inspection work for \$3,500 would occur in 2027 prior to the expiration of the 2-year warranty bond. Antenna Inspections for carriers to remove equipment from the water tower would also be covered by KLM at the expense of each carrier (escrow of \$9,000 per carrier to be collected and one City/Emergency antenna for \$3,000 to be paid by the City of Hastings).

Attachments:

- KLM Proposal for Reconditioning Services



HASTINGS, MINNESOTA

Proposal for Reconditioning Services

February 1, 2024



February 1, 2024

Sent via Email Only

Mr. Ryan Stempski, P.E.
Public Works Director
City of Hastings
1225 Progress Drive
Hastings, MN 55033

**RE: 1,000,000-Gallon Hydropillar "Industrial Park Tower"
Hastings, Minnesota**

Dear Mr. Stempski:

Thank you for the opportunity to submit this proposal to provide consulting and inspection services during the rehabilitation of the above-referenced water tank.

KLM is a consulting and inspection firm specializing in water storage tanks. Our staff has credentials associated with AWS Welding and AMPP coating inspections. We bring together key components from all aspects of services to fulfill each of our clients' goals and expectations.

The professionals at KLM have been working on water towers since the 1970's. We have combined experience of over 150 years and have rehabilitated over 500 water towers of various sizes. With KLM professional inspections, a tower's coating system can last 25 – 30 years.

KLM sets the standards that other companies strive to duplicate. No firm receives the respect from tank contractors and subcontractors like KLM. Our inspectors climb the towers daily to inspect and document the work; holding contractors accountable for quality workmanship and ensure that the specifications are met. Our dedication to quality inspections can be seen nationally, as our projects are represented each year in Tnemec's Tank of the Year calendar contest.

We look forward to the opportunity to assist the City of Hastings on this project. With our team's expertise, we are confident this project will be completed to your satisfaction.

Sincerely Yours,



KLM ENGINEERING, INC.
Dewey Prinzing
Vice President of Business Development
1976 Wooddale Drive, Suite 4
Woodbury, MN 55125
Cell: 651-434-4321
Email: dprinzing@klmengineering.com

REV 2023.11.14

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DISCLAIMER:

The information in this proposal is confidential, may be legally privileged, and is intended for the sole use of City of Hastings. Access to this proposal by another company is not permitted. If you are not the intended recipient, any disclosure, copying, distribution of any action taken or committed in reliance on it is prohibited.

PROJECT PROFILES

KLM has an unparalleled record of consistently delivering successful projects like yours. KLM has planned, designed and refurbished water towers for the past twenty-nine (29) years. The longevity of the coatings system of our projects is what we are most proud of. What owners most appreciate is the return-on-investment KLM brings to each new construction or rehabilitation project. This section highlights projects KLM has completed.



City of Apple Valley, MN

Longridge GSR | 4MG Ground Storage Reservoir

Reconditioning | 2021

Specifications | 2019



City of Burnsville, MN

Heather Hills Standpipe | 7 MG Standpipe

Reconditioning | 2021

Specifications | 2019



City of Farmington, MN

Tower No. 1 | 1.5MG Hydropillar

Reconditioning | 2019

Design | 2018



City of Maple Grove, MN
Ranchview Tank-Tower No. 2 | 2 MG Hydropillar

Reconditioning | 2021
Specifications | 2020
Evaluation | 2019



City of Prior Lake, MN
South Tower | 0.75 MG Oblatoid

Reconditioning | 2021
Specifications | 2020
Evaluation | 2015

REFERENCES

The following is a summary list of the projects from the past five (5) years. A more complete list of references can be provided upon request.

Reconditioning Projects

Moorhead, MN
500,000 Gallon Single Pedestal
Owner/Client: Moorhead Public Service, MN
Contact: Marc Pritchard 218-477-8082
***2018 Tnemec Tank of the Year Runner-Up**

Eden Prairie, MN
2,000,000 Gallon Composite
Owner/Client: City of Eden Prairie, MN
Contact: Rick Wahlen 952-949-8530
***2017 Tnemec Tank of the Year 2nd Runner-Up**

Great Falls, MT
750,000 Gallon Elevated Water Tower
Owner: City of Great Falls, MT
Client: AE2S
Contact: Nathan Weisenburger 406-217-3711

Fargo, ND
500,000 Gallon Single Pedestal
1 Million Gallon Composite
Owner: City of Fargo, ND
Client: AE2S
Contact: Kevin Johnson 218-299-5610

Farmington, MN
1,500,000 Gallon Hydropillar
Owner/Client: City of Farmington, MN
Contact: Katy Gehler 651-280-6846

Mineral Point, WI
400,000 Gallon Hydropillar
Owner: Mineral Point, WI
Client: Delta 3 Engineering, Inc.
Contact: Bart Nies, PE 608-348-5355

Eagan, MN
4,000,000 Gallon Ground Storage Reservoir
Owner/Client: City of Eagan, MN
Contact: Jon Eaton 651-675-5215

Randolph, MN
100,000 Gallon Oblatoid
Owner/Client: City of Randolph, MN
Contact: Benny Svien 507-645-7492

Sioux Falls, SD
1,500,000 Gallon Composite
Owner/Client: City of Sioux Falls, SD
Contact: Darin Freese 605-373-6971

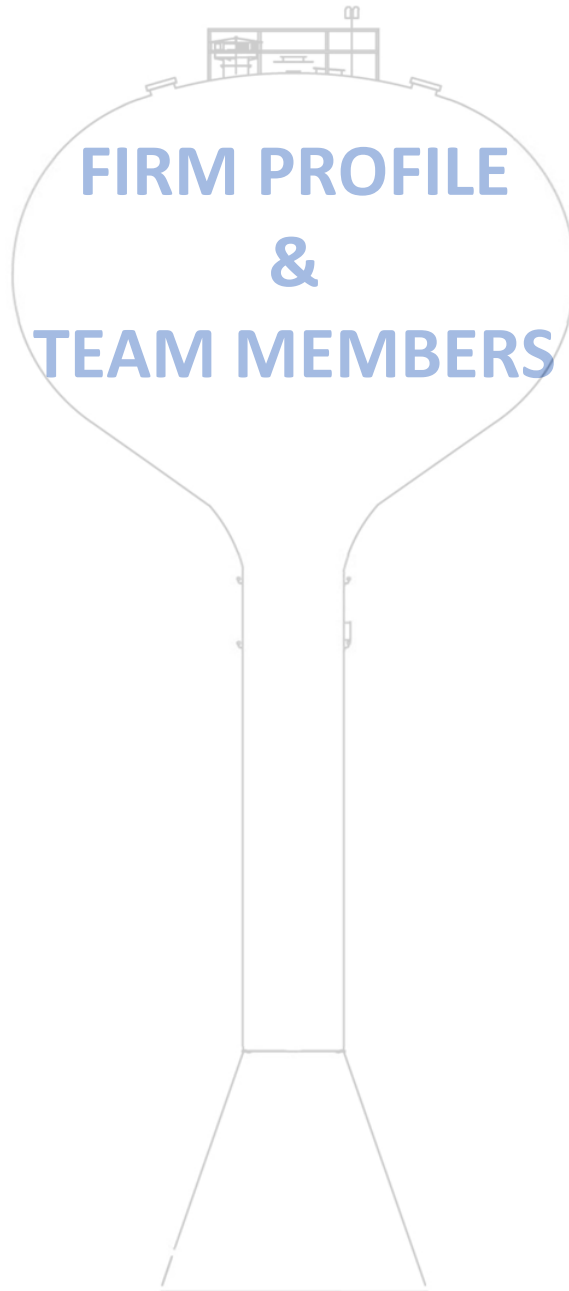
Asbury, IA
400,000 Gallon Single Pedestal
Owner/Client: City of Asbury, IA
Contact: Tony Carr 563-582-4151

Plymouth, MN
2,000,000 Gallon Toro Spheroid Tower
Owner: City of Plymouth, MN
Client: City of Plymouth
Contact: Michael Thompson 763-509-5501

Menomonie, WI
750,000 Gallon Single Pedestal
Owner: City of Menomonie, WI
Client: Cedar Corp.
Contact: Jeremy Hoyt (Menomonie) 715-232-2395

Vermillion, MN
50,000 Gallon Hydrocone
Owner/Client: City of Vermillion, MN
Contact: Mark Peine 651-248-3108

St. Croix Falls, WI
150,000 Gallon Single Pedestal
Owner/Client: City of St. Croix Falls, WI
Contact: Matt Larson 715-483-3929



ABOUT US

Founded in 1995, **KLM Engineering, Inc.** is a consulting and inspection firm. On average, KLM completes over 150 water storage projects each year for clients across the United States. KLM specializes in:

- ◆ Inspection services on new and reconditioned elevated water towers, ground storage reservoirs, water treatment plants, wastewater treatment plants and concrete tanks during construction.
- ◆ Inspection and evaluations of existing concrete and steel storage tanks, pressure vessels, and other related structures.
- ◆ Design Build services.
- ◆ Preparation of project specifications for tank rehabilitation/lead paint abatement and disposal.
- ◆ Welding inspection during rehabilitation.
- ◆ Tank cleanings.
- ◆ Non-destructive testing.
- ◆ Antenna lease reviews, removal and installation inspections, and drawing reviews.
- ◆ Wastewater treatment plant inspections.

Our Engineers Are:

- ◆ Experienced in design and structure modifications based upon years of employment with tank fabricators, erectors and consulting engineers.
- ◆ Experienced at examining existing tanks regarding corrosion, structure integrity and fitness for continued service.
- ◆ Registered Professional Engineers with practical knowledge of current designs and code requirements.

Our Inspectors Are:

- ◆ Association for Materials Protection & Performance (AMPP), formerly NACE, trained/certified protective coating inspectors.
- ◆ American Welding Society (AWS) associate/certified welding inspectors.
- ◆ Experienced journeyman painters, climbers and riggers with the proven abilities to perform proper hands-on inspections and testing.
- ◆ Experienced in project management and enforcement of specifications for quality control and lead abatement.

REGIONAL OFFICES

- ◆ Headquarters | Woodbury, Minnesota
- ◆ Great Lakes Region | New Lenox, Illinois
- ◆ West Central Region | Blue Springs, Missouri

INSURANCE COVERAGE

Our firm maintains general liability, automotive, professional liability insurance and workers compensation. A certificate of insurance, listing the client as additional insured, will be provided upon execution of a contract.

PROFESSIONAL AFFILIATIONS



PROJECT TEAM CHART

Designed Specifically For:



PROJECT-SPECIFIC TEAM MEMBER RESUMES



Rodney Ellis,
Vice President/COO

612.810.0956
rellis@klmengineering.com



Education, Experience, & Certifications

- Mount Senario College
- Federal Department of Natural Resources
- OSHA 10
- NACE/AMPP Certified
- AWS Weld Inspection Certified
- Certified Competent Climber

KLM Projects

City of Valley Center, KS

Reconditioning of 0.75MG composite



Village of Dresser, WI

Reconditioning of 0.2MG double ellipsoidal

City of Farmington, MN

Reconditioning of 1.5MG hydropillar

City of Baxter, MN

Reconditioning of 0.75MG hydropillar

City of St. Cloud, MN

Reconditioning of 1.0MG hydropillar

City of Chatfield, MN

Reconditioning of 0.2MG ground storage tank

Village of Curtiss, WI

Reconditioning of 0.15MG single pedestal

City of Hastings, MN

Reconditioning of 0.75MG hydropillar

City of Goodview, MN

Reconditioning of 0.1MG single pedestal

Jackson County PWS #1, MO

Reconditioning of 1.5MG elevated tower

Justice-Willow Springs Water Commission, IL

Reconditioning of 1.0MG hydropillar



Ben Feldman, P.E.
(MN & CO)
Civil Engineer

651.773.5111
bfeldman@klmengineering.com



Education, Experience, & Certifications

- University of Minnesota
 - Twin Cities
 - Civil Engineering
 - Business Management
- OSHA 10
- MN License No. 49598

KLM Projects

City of Hastings, MN

Reconditioning of 0.75MG hydropillar

City of Brighton, CO

New construction of 2.0MG composite

City of Hinckley, MN

Reconditioning of 0.15MG double ellipsoidal

City of Jamaica, IA

New construction of 0.05MG single pedestal

City of Delavan, WI

Reconditioning of 0.5MG single pedestal

City of Lawrence, KS

Reconditioning of 1.5MG ground storage tank

City of Napoleon, ND

New construction of 0.3MG single pedestal

City of Goodview, MN

Reconditioning of 0.1MG single pedestal

City of Verndale, MN

New construction of 0.075MG hydrocone

City of West Chicago, IL

Reconditioning of 0.5MG booster reservoirs

City of Rogers, AR

Reconditioning of 2 MG toro ellipsoidal



Scott Kriese,
Project Supervisor

651.773.5111
skriese@klmengineering.com



Education, Experience, & Certifications

- NACE/AMPP Certified
 - Level III
 - No. 11236
- Certified Competent Climber
- OSHA 10

KLM Projects

City of Valley Center, KS

Reconditioning of 0.75MG composite



Village of Dresser, WI

Reconditioning of 0.2MG double ellipsoidal

City of Farmington, MN

Reconditioning of 1.5MG hydropillar

City of Baxter, MN

Reconditioning of 0.75MG hydropillar

City of St. Cloud, MN

Reconditioning of 1.0MG hydropillar

City of Sioux Falls, SD

Reconditioning of 1.5MG composite

City of Neodesha, KS

Reconditioning of 0.2MG single pedestal

Jackson County PWS #1, MO

Reconditioning of 1.5MG elevated water tower

Rogers Water Utilities, AR

Reconditioning of 2.0MG toro ellipsoidal

City of Hastings, MN

Reconditioning of 0.75MG hydropillar

City of Sartell, MN

Reconditioning of 0.4MG elevated tank



Perry Seidel,
On-Site Resident Inspector

651.773.5111
pseidel@klmengineering.com



Education, Experience, & Certifications

- CIP Level I 106688
- Scaffolding Safety Qualification Training
- SAIS Suspended Scaffold Competent
- Telehandler Operation Certificate
- First Aid/CPR/AED
- OSHA 30

KLM Projects

City of Lino Lakes, MN

New construction of 1.5MG composite

City of St. Louis Park, MN

Reconditioning of 1.5MG ground storage reservoir

City of Minnetonka Beach, MN

New construction of 0.075MG legged tower

City of St. Croix Falls, WI

Reconditioning of 0.15MG single pedestal

City of Hinckley, MN

Reconditioning of 0.3MG single pedestal

City of Andover, MN

Reconditioning of 1.0MG hydropillar

City of Hastings, MN

Reconditioning of 0.75MG hydropillar

City of Otsego, MN

New construction of 1.5MG composite

City of Shafer, MN

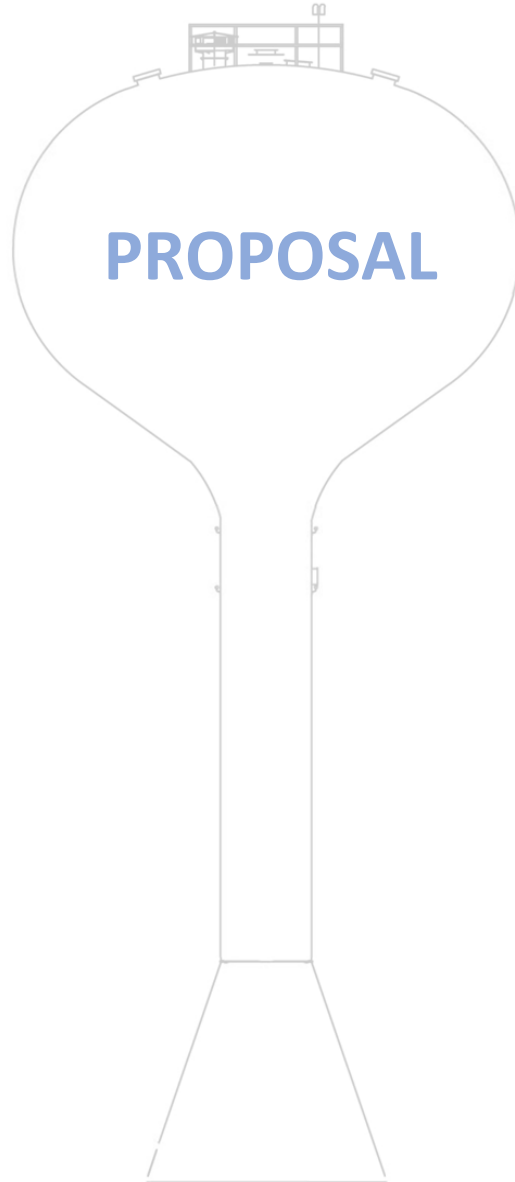
Reconditioning of 0.075MG hydrocone

City of Hugo, MN

New construction of 1.5MG composite

City of Coon Rapids, MN

Reconditioning of 5.5MG ground storage tank



PROJECT UNDERSTANDING

KLM understands the City of Hastings is planning on reconditioning the Industrial Park Tower. KLM met with City staff to gain a full understanding of the schedule and what is important to determine the best path forward for protecting the asset for continued service.

The tower was constructed in 1997. The coatings have protected the tower adequately over the past 24 years; however, time has come to replace the coatings to protect the substrate for continued service.

Key project team members were brought together to review the 2022 evaluation report to identify the services required to bring the tower up to current AWWA standards, Minnesota Department of Health and OSHA codes.

KLM proposes to provide design, bidding, and inspection services during the reconditioning of the tower to ensure the maximum lifecycle of the coating application.

BENEFITS TO THE CITY OF HASTINGS

Today's protective coating systems are designed to last 25-30 years with only minor maintenance. Tight project specifications and full-time inspections give the coating systems the opportunity to realize their intended service life.

1. The reservoir-specific submittals will be reviewed to verify conformance to the specifications, AWWA, OSHA, and State regulations. KLM will respond in writing regarding the acceptance of the submittals.
2. KLM proposes to prepare a technical specification package specifically designed for water tower reconditioning. Our experience has shown that the more comprehensive the specification is, the more likely it is that the project is completed on time, on budget, with quality workmanship. The technical specifications mitigate requests for change orders during reconditioning.
3. Welding & full-time AMPP Coating Inspections during reconditioning assures that the work performed by the contractor is in conformance with the specifications, as to maximize its life expectancy. KLM's inspectors monitor workmanship during all phases of work to verify the contractor's work meets the specification. Utilizing this process reduces reconditioning cycles over the life of the tank.
4. Our project administration and inspection services provide a buffer between the project specifications and the real-world challenges that can negatively affect the project performance. To initiate the project correctly, KLM's project management assures that a qualified contractor is retained at an appropriate cost.

TIMELINE

Upon execution of an agreement, KLM proposes the following schedule to perform the work:

- A. Specifications Development.
 - ◆ Completed in 60 – 90 days.
- B. Bidding Services.
 - ◆ Completed by end of August.
- C. Construction Management & Inspection Services
 - ◆ Completed in 2025
- D. Warranty Inspection (2 year)
 - ◆ ROV, Completed per Agreement.

DESIGN

KLM will also perform the following related specification services:

1. Meet with the Owner to review plans and specifications.
2. Produce preliminary and completed copies of the specifications for the Owner.
3. Provide an updated cost estimate.
4. Advertise specifications.
5. Attend and facilitate a mandatory pre-bid meeting, virtually.
6. Respond (in writing) to bidder questions.
7. Tabulate results for Owners.
8. Evaluate contractors' bid proposals for conformance to the specification.
9. Make a written recommendation to the Owner on the low, qualified bidder(s).
10. Prepare Notice of Award and contract Agreement (forward to Owner).

SPECIFICATIONS

The project specifications will include:

a. [Advertisement for Bids](#)

This section provides a detailed description of the project and meets the requirements for legal advertisements.

b. [Instruction to Bidders](#)

This section provides precise instructions to bidders, including the scope of work, insurance, payments, time of completion, bidder qualifications, taxes and permits, legal requirements, performance and payment bonds and other important project information.

c. [Bid Forms](#)

This section contains the bid proposals, construction time frame, alternate bid proposals, legal requirements and the bidder and subcontractor qualification forms.

d. [Project Requirements](#)

This section includes a complete description of the project, project schedule(s), execution of contract documents, notice to proceed, project meetings, quality assurance, liquidated damages and legal and technical requirements for executing the scope of work.

e. [Technical Specifications](#)

This section details the technical specifications for structural modifications, surface repairs, interior and exterior surface preparation, exterior abrasive blast, containment, disposal of spent abrasives, dehumidification, lettering and logo, submittals, workmanship, unfavorable weather conditions, protective coating and material, repair work, health and sanitary facilities, clean up, ventilation and safety requirements, inspection of work, sterilization of tank interiors and containment plan.

f. [Supplemental Conditions](#)

This section supplements or amends the General Conditions and/or other provisions of the Contract Documents.

g. [General Conditions](#)

This section includes all the General Conditions designed for water tank reconditioning, such as authority of the Engineer, engineering inspection, modifications, additions and subtractions of scope of work, extensions of time, insurance and other appropriate items.

h. [Contract Documents](#)

This section provides the form of agreement to be used between the Owner and Contractor.

i. [Payment and Performance Bond](#)

Bonds for payment and performance are required for this project, as specified by state law.

j. [Appendix A – Photos](#)

This section includes copies of color photographs. This provides the contractor with a clear perspective of the interior/exterior conditions of the tank and the scope of work involved.

k. [Appendix B – Drawings](#)

This section includes drawings, which define structural repairs or modifications and welding definitions.

l. [Appendix C – Surface Preparation Requirements](#)

This section references excerpts from AMPP Standard Practice SP0178-2007 Standard Practice: Design, Fabrication and Surface Finish Practices for Tanks and Vessels to Be Lined for Immersion Services for defining welding and grinding requirements of the structural repair or modifications.

m. [Appendix D – Paint Chip Lead Test Results](#)

This section contains paint chip test results for lead and chromium used to calculate the risk factor and classification of containment required for conformance with Federal and State Environmental Regulations.

n. [Appendix E – Lettering and Logo \(optional\)](#)

If required, this section includes drawings of any required lettering and logo. Such drawings are to be provided by Owner.

CONSTRUCTION SERVICES

Construction Administration

The project manager and project supervisor work together on managing the project. KLM performs the review of the submittals and communicates with the inspector daily to help enforce the project specifications, as necessary. The project supervisor is the main contact between the contractor representative and the Owner/Engineer. The project manager performs the final review of the submittals and will assist the supervisor, as required.

Construction Management Consists of The Following:

- ◆ Attend the pre-construction conference.
- ◆ Removal of cellular equipment.
- ◆ Periodically perform on-site review of project's work status and report to the Owner.
- ◆ Coordinate progress meetings, as necessary.
- ◆ Review of meeting minutes.
- ◆ Scheduling of inspections.
- ◆ Project close-out administration.
- ◆ Establishes warranty date.
- ◆ Review of inspector's daily documentation.
- ◆ Process change-orders.
- ◆ Prepare monthly payment request forms.
- ◆ Review & approve of the contractor's submittals:
 - ✓ Drawing reviews.
 - ✓ Welder Certifications.
 - ✓ Welder Qualifications
 - ✓ Welding Procedures.
 - ✓ Coating Materials Submittal.
 - ✓ TLCP Sampling Plan.

Construction Observation

The inspector assigned to this project will be an AMPP Coating Inspector and/or AWS Certified Welding Inspector. All our inspectors have extensive practical experience and knowledge of water storage tank reconditioning. They are experienced sandblasters, painters, climbers, riggers, coating inspectors, welders and welding inspectors which allow the inspector to perform inspections alongside the contractor to ensure the conformance to the project specification.

Field Inspections Consist of the Following:

- ◆ A pre-construction meeting with the client and contractor to clearly define the role of the Engineer and Inspector, to discuss the intent of the specifications, and to ensure all parties agree to the scope of work and expectations regarding the quality of work.
- ◆ Monitor and approval of the structure repairs and modifications for conformance to the specifications.
- ◆ Inspection of the abrasive blasting media and equipment for conformance to the specifications and to prevent contamination of surfaces during surface preparation with moisture and oil or other contaminants.
- ◆ Monitor the paint removal and disposal process for conformance to the specifications and environmental regulations.
- ◆ Monitor the contractors mixing and application of the coats for conformance to the specifications and the coat manufacturer's recommendations.
- ◆ Approve surface preparation samples.
- ◆ Record the contractor's progress for adherence to the construction schedule.
- ◆ Submit daily and weekly inspection reports & photos. Prepare and file copies of the reports on construction activities.
- ◆ Coordinate and review testing of materials for conformance to the specification and environmental regulations.
- ◆ Monitor punch list items and subsequent corrective action by the contractor.
- ◆ Final inspection, substantial completion and project acceptance.

ANTENNA INSPECTION

The City is responsible for establishing escrow accounts from each cellular provider prior to the commencement of the rehabilitation. Cellular antenna management fees for engineering and inspections services are paid for by the carriers through these accounts. Antenna management fees during reconditioning are \$9,000 per carrier and \$3,000 for any City antennas.

WARRANTY INSPECTION (2 Year)

KLM proposes to perform a ROV warranty inspection on the referenced tank prior to the expiration of the performance bonded warranty. The warranty inspection will include an inspection report. The fixed fee does not include any necessary warranty repair work required.

DELIVERABLES

The city owns and retains this documentation. KLM also retains these records for future reference. Deliverables submitted electronically, unless indicated hard copy.

- ◆ Professional Engineering Certified plans and specifications.
- ◆ State Regulatory documentation including permitting, State Agency or Department of Health, TCLP Texting and Waste Tracking.
- ◆ Contractor Submittals.
- ◆ Daily Logs & Weather Logs.
- ◆ Surface Preparation.
- ◆ Daily Digital Photos.
- ◆ Weekly Summary & Progress Meetings.
- ◆ Project Acceptance Certificate.
- ◆ Warranty Inspection Report (Owner & Contractor).

FEE SUMMARY

KLM Engineering estimates this to be a fourteen (14) week project. KLM will manage the water tower rehabilitation with project management, welding inspection, coating inspection, antenna inspection and a ROV warranty inspection, as detailed below.

Specification, Bidding Assistance & Submittal Reviews - 2024	\$ 16,000.00
Construction Management and Observation - 2025	<u>\$102,486.00</u>
TOTAL HOURLY, NOT TO EXCEED	\$118,486.00
Warranty Inspection 2027	\$ 3,500.00
Antenna Inspections, Per Carrier	\$ 9,000.00
City/Emergency Antennas	\$ 3,000.00

WHY USE KLM

KLM Engineering, Inc. has been evaluating water towers for over 29 years. KLM is the leader in providing engineering and inspection services during reconditioning of towers greater than 500,000-gallons in Minnesota. Our reference list has customers including the US Military, US Steel, Indian Health Services, State of Minnesota and municipalities ranging from coast-to-coast and beyond, including Hawaii.

AGREEMENT

This proposal is valid for thirty (30) days from the date of this proposal. If the City of Hastings finds this proposal acceptable, please sign and return it by mail, fax or email. By signing and returning this signature page only, you agree to the terms of the entire proposal document submitted.

This Agreement, between Hastings, Minnesota and KLM Engineering, Inc. is accepted by:

CITY OF HASTINGS
1225 Progress Drive
Hastings, MN 55033

KLM ENGINEERING, INC.
1976 Wooddale Drive, Suite 4
Woodbury, MN 55125



Signature

Signature

Name

Dewey Prinzing
Name

Title

Vice President of Business Development
Title

Date

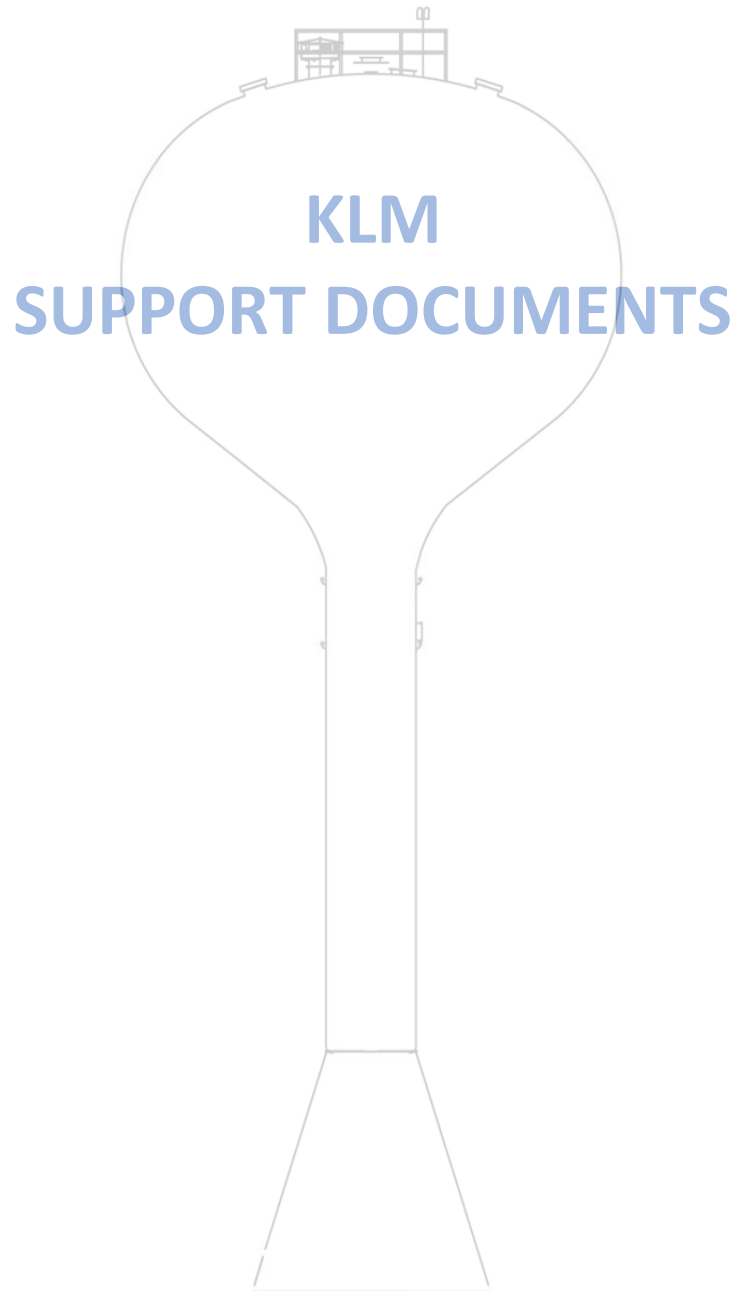
January 19, 2024
Date

We look forward to working with you.

Sincerely,

KLM ENGINEERING, INC.
Dewey Prinzing
Vice President of Business Development
1976 Wooddale Drive, Suite 4
Woodbury, MN 55125
Cell: 651-434-4321
Email: dprinzing@klmengineering.com

REV 2023.09.07



**KLM ENGINEERING, INC. (KLM)
TERMS AND CONDITIONS**

1. **AGREEMENT.** The agreement between the parties when entered by the parties shall include the applicable referenced agreement documents (i.e., KLM proposal/Agreement) and shall include these KLM Terms and Conditions (the “Agreement”). The Agreement may not be modified except by mutual agreement in writing.
2. **ADDITIONAL SERVICES.** Additional work or services shall not be performed without a KLM executed change order or purchase order outlining the scope of additional work or services.
3. **KLM CLIENT RESPONSIBILITIES.** The KLM Client shall fully disclose to KLM its knowledge of the condition of the project structure(s), its past and present contents and shall provide KLM with full information regarding the requirements for the project; shall designate an individual to act on the KLM Client’s behalf regarding the project; and provide safe access to and at the project site. When reasonably requested by KLM, the KLM Client shall furnish the services of other consultants including, but not limited to engineers and insurance representatives. The KLM Client shall test for pollution and hazardous materials when required by law or as requested by KLM. The KLM Client shall provide KLM with all necessary permits and other authorizations.
4. **SAFETY.** KLM shall be responsible for the safety of KLM personnel at the project site. The KLM Client or other persons shall be responsible for the safety of all other persons at the project site. The KLM Client shall inform KLM of any known or suspected hazardous materials or unsafe conditions at the project site. If, during the course of the KLM services, such materials, or conditions are discovered at the project site, KLM reserves the right to take measures to protect KLM personnel and equipment or to immediately terminate KLM services. The KLM Client agrees to be responsible for, and agrees to pay, any such additional protection costs. Upon such discovery by KLM, KLM agrees to use commercially reasonable efforts to notify the KLM Client in writing, of hazardous materials or unsafe conditions regarding the project site.
5. **HAZARDOUS MATERIALS.** Unless otherwise agreed to in the scope of work with the KLM Client, KLM has no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials at the project site. To the full extent permitted by the law, the KLM Client shall defend, indemnify, and hold harmless KLM, its employees and representatives from all claims, including costs and attorney fees, arising out of the presence of hazardous materials or exposure to the same on the job site.
6. **SITE ACCESS AND RESTORATION.** The KLM Client will provide KLM and its representatives with safe and legal project site access. It is understood by the KLM Client that in the normal course of KLM providing its services and work, some nominal damage to the project site may occur. KLM agrees to take reasonable commercial precautions to minimize such damage, if any. Restoration of the project site, if any, is the responsibility of the KLM Client, unless otherwise agreed to in writing in the scope of work.
7. **KLM LIMITED WARRANTY AND DISCLAIMER.** KLM will perform services consistent with the standard of care and skill normally performed by other like firms in the industry and profession at the time of this service and in the geographic area of the project. **EXCEPT AS EXPRESSLY STATED IN THIS SECTION, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, PERTAINING TO THE PRODUCTS AND SERVICES SOLD UNDER THIS AGREEMENT. KLM DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN**

8. **SCHEDULING.** Prior to KLM scheduling its services related to the project, the KLM Client shall furnish KLM with a written Agreement, purchase order or other written request for KLM services and shall give as much notice as reasonably possible in advance of the time when the KLM services are desired to commence. The KLM service schedule shall be mutually agreed upon by the parties in writing. If a KLM inspection is canceled or delayed after KLM personnel and/or equipment are in transit to the project site, then the KLM Client shall be billed, and the KLM Client agrees to pay for KLM time and expenses according to the then current KLM Fee Schedule for KLM time spent and KLM costs incurred. If KLM is unable to redirect KLM representatives to other third-party project sites on the canceled or delayed scheduled service day, at a minimum, the KLM Client will be billed and the KLM Client agrees to pay KLM for one (1) full day of KLM labor.
9. **INSURANCE.** KLM will maintain worker's compensation insurance and comprehensive general liability insurance. KLM will provide KLM Client with a certificate of insurance upon KLM Client's request.
10. **PAYMENT.** KLM will submit periodic invoices for KLM services provided and work performed. Invoices are due upon receipt. The KLM Client agrees to inform KLM of invoice questions or disputes within 10 business days of the invoice date. The KLM Client agrees to pay all undisputed KLM invoiced amounts within 45 days of the invoice date. The KLM Client agrees to pay interest on all overdue amounts at a rate of 1.5% per annum or the rate allowed by law, whichever is less, plus costs of collection, court costs, and reasonable attorney fees on all such amounts. If any undisputed invoice remains unpaid for 60 days, then KLM may, at its sole discretion, suspend or terminate services to the KLM Client without liability.
11. **INDEMNIFICATION.** KLM shall indemnify and hold harmless the KLM Client and its shareholders, directors, officers, members, governors and employees from liability, claims, losses, and damages arising out of or relating to the applicable Project, provided that such claims, costs, losses, or damages are attributable to bodily injury, sickness, disease, or death, or injury to, or destruction of tangible property, including the loss of use resulting therefrom to the extent caused by KLM's negligent acts or omissions.

The KLM Client shall indemnify and hold harmless KLM and its shareholders, directors, officers, members, governors and employees from liability, claims, losses, and damages arising out of or relating to the applicable Project, provided that such claims, costs, losses, or damages are attributable to bodily injury, sickness, disease, or death, or injury to, or destruction of tangible property, including the loss of use resulting therefrom to the extent caused by the KLM Client's negligent acts or omissions. Further, the KLM Client shall indemnify and hold harmless KLM from all claims or losses arising out of the unauthorized use of KLM's Documents.
12. **INTENTIONALLY OMITTED.**
13. **DELAYS.** If KLM service or work delays are caused by the KLM Client, by third parties, strikes, natural causes, weather, or other circumstances beyond KLM's control, a reasonable time extension for performance of KLM services and work shall be granted, and KLM shall be entitled to and the KLM Client agrees to pay KLM an equitable fee adjustment.
14. **TERMINATION.** After seven (7) days written notice, either party may elect to terminate this Agreement. Notwithstanding the foregoing, the KLM Client agrees to pay for all KLM services provided and work performed through the date of termination. Notwithstanding the foregoing, the following sections shall survive the termination of this Agreement: Sections 5, 7, 10, 11, 12, 15, 16, 21 and 24.

15. **SEVERABILITY.** Any provisions of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions of the Agreement shall continue in full force and effect.
16. **KLM'S DOCUMENTS.** All reports, specifications, drawings and other documents furnished by KLM are part of KLM's services and work for the KLM Client and the same are for use only for the project (KLM Documents). KLM retains all ownership of said documents regardless of whether the project is completed. The KLM Client may retain copies of the KLM Documents for reference purposes. KLM does not represent or warrant that the KLM Documents are suitable for reuse on any extension of the project or on other projects. The KLM Client shall not use the KLM Documents without KLM's written consent.
17. **ASSIGNMENT.** KLM may not assign this Agreement to any other person unless written consent is obtained from the KLM Client.
18. **AMENDMENTS.** Any modification or amendment of to this Agreement shall require a written agreement signed by both Parties.
19. **NONDISCRIMINATION.** In the hiring of employees to perform work under this Agreement, KLM shall not discriminate against any person by reason of any characteristic or classification protected by state or federal law.
20. **GOVERNING LAW.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota without regard to or application of conflicts of law rules or principles. All proceedings related to this Agreement shall be venued in **Washington County, Minnesota.**
21. **AUDIT.** Pursuant to **Minnesota Statutes, § 16C.05, Subdivision 5, KLM agrees that the KLM Client, the State Auditor, or any of their duly authorized representatives** at any time during normal business hours and as often as they may reasonably deem necessary (but under all circumstances not more often than once per calendar year), shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, or records which are pertinent to the accounting practices and procedures of KLM, and involve transactions relating to this Agreement.
22. **JOB SITE IMAGES, PHOTOGRAPHY AND VIDEO.** During the term of this Agreement and thereafter, KLM has the KLM Client's permission to take photographs or video of the project site for training, documentation, education or KLM promotional purposes. A signed Agreement that includes these KLM Terms and Conditions constitutes the KLM Client's written permission to KLM regarding the use of the items and information set forth in this section.
23. **WAIVER.** The waiver by either party of any breach or failure to comply with any provision of this Agreement by the other Party shall not be construed as or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.
24. **HEADINGS.** Section headings used in this Agreement are for convenience only, have no legal significance, and in no way change the construction or meaning of the terms hereof.

25. **NOTICE:** Notices shall be communicated to the following:

a. If to City:

City of Hastings
101– 4th Street
Hastings, MN 55033
Attention: _____

b. If to Contractor:

KLM Engineering, Inc.
1976 Wooddale Drive, Suite 4
Woodbury, MN 55125
Attention: Linda Gnasdoskey

26. **CITY’S REPRESENTATIVE.** The City has designated _____ to act as the City’s representative with respect to the Services to be performed under this Agreement. He or she shall have complete authority to transmit instructions, receive information, interpret, and define the City’s policy and decisions with respect to the Services covered by this Agreement.

27. **PROJECT MANAGER AND STAFFING.** The contractor has designed Dewey Prinzing to be the primary contact for the City in the performance of Services. The primary contact shall be assisted by other staff members as necessary to facilitate the completion of the Services in accordance with the terms established herein. Contractor may not remove or replace the designated staff without the approval of the City.

28. **INDEPENDENT CONTRACTOR STATUS.** All services provided by the Contractor, its officers, agents and employees pursuant to this Agreement shall be provided as employees of Contractor or as independent contractors of Contractor and not as employees of the City for any purpose.

29. **DATA PRACTICES COMPLIANCE.** All data collected by the City pursuant to this Agreement shall be subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

30. **ENTIRE AGREEMENT.** This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Parties and contains the entire agreement.

End of the KLM Terms and Conditions.