

**AGREEMENT FOR ENGINEERING SERVICES  
BETWEEN THE  
CITY OF NORTH RICHLAND HILLS  
AND  
BIRKHOFF, HENDRICKS & CARTER, LLP**

**I.**

This Agreement is executed by and between the City of North Richland Hills, a municipal corporation located in Tarrant County, Texas, acting by and through Mark Hindman, its duly authorized City Manager (hereinafter called "CITY"), and **BIRKHOFF, HENDRICKS & CARTER, LLP** a Texas corporation, acting by and through **John W. Birkhoff, P.E.**; its duly authorized Principal (hereinafter called "ENGINEER").

**WITNESSETH**, that CITY desires professional engineering services in connection with the **College Hills 5MG Ground Storage Reservoir Rehabilitation**.

**NOW, THEREFORE**, CITY and ENGINEER, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**II. PROJECT**

In this Agreement, the "PROJECT" means the engineering design of the **College Hills 5MG Ground Storage Reservoir Rehabilitation** in accordance with the Public Works Design Manual, applicable CITY codes, regulations and standards.

**III. BASIC AGREEMENT**

ENGINEER is an independent contractor and undertakes and agrees to perform professional engineering services in connection with the PROJECT, as stated in the sections to follow. It is understood and agreed that ENGINEER is not and will not by virtue of this contract be deemed to be an agent or employee of CITY and that CITY will not be entitled to direct the performance by ENGINEER's employees or subcontractors of the tasks contemplated by this contract. All engineering services shall be performed with diligence and in accordance with professional standards customarily obtained for such services in the State of Texas. For rendering such services CITY agrees to pay ENGINEER as set forth in Section VIII: "Compensation" and Exhibit F: "Compensation."

#### **IV. SCOPE OF ENGINEER'S SERVICES**

ENGINEER shall render the professional services necessary for development of the PROJECT, in accordance with the schedule in Exhibit A: "Project Schedule" and as detailed in Exhibit B: "Basic Engineering Services," said exhibits being attached hereto and incorporated herein for all purposes. ENGINEER shall perform services with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer in the Dallas/Fort Worth Metroplex area. Such services shall be of professional and technical soundness, accuracy, and adequacy of all designs, drawings, specifications, and other work and materials furnished under this Agreement.

#### **V. SPECIAL ENGINEERING SERVICES**

The CITY will pay the ENGINEER for Special Engineering Services as indicated in Exhibit C: "Special Engineering Services," attached hereto and made a part of this Agreement.

#### **VI. ADDITIONAL ENGINEERING SERVICES**

Additional Engineering Services are defined in Exhibit D: "Additional Engineering Services," attached hereto and made a part of this Agreement. No Additional Engineering Services are authorized unless authorization for specified additional services are provided to ENGINEER by CITY in writing and approved by CITY.

#### **VII. SCOPE OF CITY SERVICES**

The City will furnish items and perform those services as identified in Exhibit E: "Services to be provided by the City", attached hereto and made a part of this Agreement.

#### **VIII. COMPENSATION**

- A. In consideration of the services described herein, CITY shall pay and ENGINEER shall receive compensation in accordance with Exhibit F: "Compensation".
- B. Total payments including without limitation reimbursable expenses, to ENGINEER by CITY for the services stated in Section IV and Section V above shall not exceed **PROJECT COST (\$69,000.00)**.
- C. CITY may authorize additional services to be provided by ENGINEER as mutually agreed upon by the parties. Any authorization for additional services shall be given to ENGINEER by CITY in writing and approved by CITY.

- D. CITY and ENGINEER understand that the variables in ENGINEER's cost of performance may fluctuate. The parties agree that any fluctuation in ENGINEER's costs will in no way alter ENGINEER's obligations under this Agreement nor excuse performance or delay on ENGINEER's part.

## **IX. OWNERSHIP OF DOCUMENTS**

All completed or partially completed evaluations, reports, surveys, designs, drawings and specifications prepared or developed by ENGINEER under this Agreement, including any original drawings, computer disks, mylars or blue lines, shall become the property of CITY when the Agreement is concluded or terminated, and may be used by CITY in any manner it desires; provided, however, that ENGINEER shall not be liable for the use of such drawings for any project other than the PROJECT described in this Agreement.

## **X. INDEMNITY**

**ENGINEER HEREBY COVENANTS AND CONTRACTS TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, FROM AND AGAINST ANY AND ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES, OR SUITS, ARISING OUT OF, RELATING TO, OR RESULTING FROM ENGINEER'S NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY ENGINEER, ITS AGENT, ITS CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH ENGINEER EXERCISES CONTROL. ENGINEER SHALL NOT BE OBLIGATED TO INDEMNIFY OR DEFEND CITY, ITS OFFICERS, EMPLOYEES OR AGENTS IN ANY MANNER FOR THE NEGLIGENCE OF CITY, ITS OFFICERS, EMPLOYEES OR AGENTS.**

**THE INDEMNIFIED ITEMS MAY INCLUDE, BUT IS NOT LIMITED TO, PERSONAL INJURY AND DEATH CLAIMS, AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY. INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED BY AN INDEMNIFIED PARTY OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY PROVISION.**

**ENGINEER'S OBLIGATIONS UNDER THIS PROVISION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY ENGINEER UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.**

Approval by CITY of contract documents shall not constitute or be deemed to be a release of the responsibility and liability of ENGINEER, its officers, agents, employees and subconsultants, for the accuracy and competency of the services performed under this Agreement, including but not limited to evaluations, reports, surveys, designs, working drawings and specifications, and other engineering documents. Approval by CITY shall not be deemed to be an assumption of such responsibility and liability by CITY for any error, omission, defect, deficiency or negligence in the performance of ENGINEER's professional services or in the preparation of the evaluations, reports, surveys, designs, working drawings and specifications or other engineering documents by ENGINEER, its officers, agents, employees and subconsultants, it being the intent of the parties that approval by CITY signifies CITY's approval of only the general design concept of the improvements to be constructed.

## **XI. INSURANCE**

For the duration of this Agreement, ENGINEER shall maintain the following minimum insurance which shall protect ENGINEER, its subcontractors, its sub-consultants and CITY from claims for injuries, including accidental death, as well as from claims for property damage which may arise from the performance of work under this Agreement.

**A. Workers' Compensation and Employer's Liability Insurance:**

Workers' Compensation	Texas Statutory Requirements
Employer's Liability	\$500,000 injury - each accident
	\$500,000 disease - each employee
	\$500,000 disease - policy limit

**B. Commercial General Liability:**

On an "occurrence" basis, including, property damage, bodily injury, products and completed operations and personal & advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

**C. Automobile Liability:**

Covering any auto, or if ENGINEER has no owned autos, covering hired and non-owned autos with a Combined Single Limit no less than \$1,000,000 per accident for bodily injury and property damage.

**D. Professional Liability (Errors and Omissions)**

ENGINEER shall maintain Professional Liability (or equivalent) errors and omissions insurance appropriate to the ENGINEER'S profession, with a limit no less than \$1,000,000 per occurrence or claim.

Insurance limits can be met with a combination of primary and excess/umbrella coverage.

The CITY, its officers, officials and employees are to be named as "Additional Insured" on the commercial general liability and automobile liability policies as respects liability arising out of activities performed by or on behalf of the vendor.

A waiver of subrogation in favor of the CITY, its officers, officials and employees shall be contained in the Workers' Compensation insurance policy.

Policies of insurance shall not be cancelled non-renewed, terminated, or materially changed unless and until thirty (30) days notice has been given to CITY.

All insurance shall be issued by responsible insurance companies eligible to do business in the State of Texas and having an A.M. Best Financial rating of A- VI or better.

ENGINEER shall furnish the CITY certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be submitted on a form approved by the Texas Department of Insurance.

## **XII. ARBITRATION**

No arbitration arising out of or relating to this Agreement shall occur without both parties' written approval.

## **XIII. TERMINATION AND SUSPENSION**

- A. CITY may terminate this Agreement at any time for convenience or for any cause by a notice in writing to ENGINEER. Either CITY or ENGINEER may terminate this Agreement in the event the other party fails to perform in accordance with the provisions of this Agreement. Upon receipt of such notice, ENGINEER shall immediately discontinue all services and work and the placing of all orders or the entering into contracts for supplies, assistance, facilities, and materials, in connection with the performance of this Agreement and shall proceed to cancel promptly all existing contracts insofar as they are chargeable to this Agreement.
- B. If CITY terminates this Agreement under the foregoing Paragraph A, CITY shall pay ENGINEER a reasonable amount for services performed prior to such termination, which payment shall be based upon the payroll cost of employees engaged on the work by ENGINEER up to the date of termination of this Agreement and for subcontract and reproduction in accordance with the method of compensation stated in Section VIII: "Compensation" hereof. In the event of termination, the amount paid shall not exceed the amount appropriate for the percentage of work completed.

## **XIV. SUCCESSORS AND ASSIGNS**

CITY and ENGINEER each bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement; except as above, neither CITY nor ENGINEER shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of CITY.

## **XV. AUTHORIZATION, PROGRESS, AND COMPLETION**

CITY and ENGINEER agree that the PROJECT is planned to be completed in accordance with the Exhibit A: "Project Schedule" which is attached hereto and made a part hereof. ENGINEER shall employ manpower and other resources and use professional skill and diligence to meet the schedule; however, ENGINEER shall not be responsible for schedule delays resulting from conditions beyond ENGINEER's control. With mutual agreement, CITY and ENGINEER may modify the Project Schedule during the course of the PROJECT and if such modifications affect ENGINEER's compensation, it shall be modified accordingly, subject to City Council approval.

For Additional Engineering Services, the authorization by CITY shall be in writing and shall include the definition of the services to be provided, the schedule for commencing and completing the services and the basis for compensation as agreed upon by CITY and ENGINEER.

It is understood that this Agreement contemplates the full and complete Engineering services for this PROJECT including any and all services necessary to complete the work as outlined in Exhibit B: "Basic Engineering Services". Nothing contained herein shall be construed as authorizing additional fees for services to provide complete services necessary for the successful completion of this PROJECT.

## **XVI. SUBCONTRACTS**

ENGINEER shall be entitled, only if approved by CITY, to subcontract a portion of the services to be performed by ENGINEER under this Agreement.

## **XVII. RIGHT TO AUDIT**

ENGINEER agrees that CITY shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any directly pertinent books, design calculations, quantity take-offs, documents, papers and records of ENGINEER involving transactions relating to this Agreement. ENGINEER agrees that CITY shall have access during normal working hours to all necessary ENGINEER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. CITY shall give ENGINEER reasonable advance notice of intended audits.

ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that CITY shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, design calculations, quantity take-offs, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this article. CITY shall give subconsultant reasonable advance notice of intended audits.

## **XVIII. EXHIBITS**

Both parties agree to the following exhibits and as such, the following exhibits are made a part of this Agreement:

Exhibit "A"	Project Schedule
Exhibit "B"	Basic Engineering Services
Exhibit "C"	Special Engineering Services
Exhibit "D"	Additional Engineering Services
Exhibit "E"	Services to be provided by the City
Exhibit "F"	Compensation
Exhibit "G"	Form 1295

## **XIX. MISCELLANEOUS**

- A. Authorization to Proceed. Signing this Agreement shall be construed as authorization by CITY for ENGINEER to proceed with the work, unless otherwise provided for in the authorization.
- B. Legal Expenses. In the event legal action is brought by CITY or ENGINEER against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions of this Agreement, the prevailing party in any litigation between the parties to this agreement shall be entitled to reasonable attorney fees. Notwithstanding the foregoing, any award of attorney's fees to be paid by CITY shall be subject to the limitations set forth in Texas Local Government Code §271.153(3) as awarded by a court of competent jurisdiction.
- C. Notices. Any notice or correspondence required under this Agreement shall be sent by certified mail, return receipt requested, or by personal delivery and shall be effective upon receipt, if addressed to the party receiving the notice or correspondence at the following address:

If to ENGINEER:

Birkhoff, Hendricks & Carter, LLP  
Attn: John W. Birkhoff, P.E.  
11910 Greenville Avenue, Ste. 600  
Dallas, Texas 75243  
[jbirkhoff@bhcllp.com](mailto:jbirkhoff@bhcllp.com)

If to CITY:

City of North Richland Hills  
Attn: Caroline Wagoner, City Engineer  
Director of Public Works  
4301 City Point Drive  
North Richland Hills, Texas 76180

With Copies to the City Manager and City Attorney at the same address.

- D. Independent Contractor. ENGINEER shall perform services hereunder as an independent contractor, and not as an officer, agent, servant or employee of the CITY and ENGINEER shall have the exclusive right to control services performed hereunder by ENGINEER, and all persons performing same, and shall be responsible for the negligent acts and omissions of its officers, agents, employees, and subconsultants. Nothing herewith shall be construed as creating a partnership or joint venture between CITY and ENGINEER, its officers, agents, employees and subconsultants; and the doctrine of respondent superior has no application as between CITY and ENGINEER.
- E. Venue. This Agreement shall be governed by the laws of the State of Texas, and venue in any proceeding relating to this Agreement shall be in Tarrant County, Texas.
- F. Entire Agreement. This Agreement represents the entire agreement between CITY and ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both CITY and ENGINEER.
- G. Severability. If any provision in this Agreement shall be held illegal by a valid final judgment of a court of competent jurisdiction, the remaining provisions shall remain valid and enforceable.
- H. Disclosure. By signature of this Agreement, ENGINEER warrants to CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including but not limited to personal financial interests, direct or indirect, in property abutting the PROJECT and business relationships with abutting property owners. ENGINEER further warrants that it will make disclosure in writing of any conflicts of interest which develop subsequent to the signing of this Agreement and prior to final payment under this Agreement.

[Signature Page Follows]



This Agreement is executed in two (2) counterparts.

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF NORTH RICHLAND HILLS  
(CITY)

ABC CONSULTING ENGINEERS, INC.  
(ENGINEER)

By: \_\_\_\_\_  
Mark Hindman, City Manager

By: John W. Birkhoff  
John W. Birkhoff, P.E., Managing Partner

Date: \_\_\_\_\_

Date: 5/14/2021

ATTEST:

ATTEST:

\_\_\_\_\_  
Alicia Richardson, City Secretary/Chief  
Governance Officer

\_\_\_\_\_  
Notary Public in and for the State of Texas

APPROVED TO FORM AND LEGALITY:

\_\_\_\_\_  
Maleshia B. McGinnis, City Attorney

Shannon Allen  
Shannon Allen

My Commission Expires:

01/03/2023

**CITY SEAL**

**NOTARY SEAL**



**EXHIBIT A**  
**PROJECT SCHEDULE**  
**FOR**  
**COLLEGE HILLS GROUND STORAGE RESERVOIR REHABILITATION**

PROJECT SCHEDULE

The Scope of Services for this PROJECT is based on the following schedule:

<u>Activity</u>	<u>Due Date</u>
Notice To Proceed from City	<b>May 12, 2021</b>
Submit Preliminary 60% Plans	<b>July 2, 2021</b>
Receive City Review Comments	<b>July 16, 2021</b>
Submit 95% Plans	<b>August 18, 2021</b>
Receive Final City Review Comments	<b>September 3, 2021</b>
Submit Final Plans for Bid	<b>September 25, 2021</b>
Advertise for Construction Bids	<b>October 2021</b>
Open Construction Bids	<b>October 2021</b>
Begin Construction	<b>December 1, 2021</b>

**Note:** Due dates shown are submittal dates of task activities listed.

**EXHIBIT B**

**BASIC ENGINEERING SERVICES  
FOR  
COLLEGE HILLS GROUND STORAGE RESERVOIR REHABILITATION PROJECT**

The scope of work for BASIC Engineering Services involves Preliminary and Final Design, Project Plans, Specifications and Opinions of Probable Construction Costs.

**I. PROJECT MANAGEMENT**

Manage the Team:

- Lead, manage and direct design team activities
- Ensure quality control is practiced in performance of the work
- Communicate internally among team members
- Allocate team resources

Communications and Reporting:

- Attend a pre-design project kickoff meeting with CITY staff to confirm and clarify scope, understand CITY objectives, and ensure economical and functional designs that meet CITY requirements (completed).
- Conduct review meetings with the CITY at the end of each study/design phase.
- Prepare and submit monthly invoices in the format acceptable to the CITY.
- Prepare and submit monthly progress reports.
- Prepare and submit baseline Project Schedule initially and Project Schedule updates.
- Meet with City engineering staff and obtain any additional design criteria, available GIS information, pertinent utility plans, plats and right-of-way maps, existing easement information, previous studies prepared by others, as-built plans for portions of surrounding infrastructure, historical drainage complaints and other information available for the project area.

**II. PRELIMINARY DESIGN PLANS**

- A. Make site visit to the College Hills Pump and Ground Storage Reservoir site to identify current conditions.
- B. Complete topographic survey of the site.
- C. Prepare preliminary plan sheet of the pump station site and necessary details for the painting of the Reservoir Well Head Piping.
- D. Prepare location map.
- E. Prepare photograph sheets of the existing site.

- F. Prepare preliminary Technical Specifications for painting. Include dehumidification in specifications for interior painting. Include containment specification for exterior of Reservoir.
- G. Prepare preliminary bidding documents.
- H. Take sample of existing exterior coating on the Reservoir and have heavy metal testing completed. Publish test results in the bidding documents.
- I. Include in the plans and specifications the following:
  - 1. Replacement of exterior and interior ladders, new ladders to meet current OSHA requirements. Offset exterior ladder so it is not lined up with the hatch to enter the reservoir.
  - 2. Replace steel hatches with Aluminum hatch.
  - 3. Replace all fall protection systems to common system interior and exterior. Recommend Rockwall Soll Glide System.
  - 4. Attempt to turn down overflow pipe with 45-degree bend to direct overflow to the site and not adjacent property.
  - 5. Replace secondary hatch and roof plate that roof plate is corroding away.
  - 6. Modify center support structure, removing all corroded I beam ends.
  - 7. Add combination aluminum vent/access port at current vent location.
  - 8. Add additional handrail on roof at exterior ladder location and secondary hatch.
  - 9. Add sample port.
  - 10. Add 6-inch drain line and valve in lower shell at splash pad.
  - 11. Include remedial welding for faults located after blasting is completed.
  - 12. Re-grade the southwest quadrant of site to allow positive drainage away from the reservoir foundation.
  - 13. Include a flume detail along north fence line to eliminate opening under fence that is greater than the maximum 4-inch to conform to TCEQ regulations.
  - 14. Layout and detail 4-inch slabs at well head piping and at above grade valving.
  - 15. Include additive alternate to bidding set to recoat steel doors and frames at pump station and install door thresholds.
  - 16. Replace exterior water level target.
  - 17. Patch over abandoned pipe outlet in tank with flat plate welder inside and outside.
- J. Submit five sets of preliminary plans (11"x17" maximum sheet size), Special Conditions to the City for review. Submit requirements for sealed competitive proposals.
- K. Meet with the City to discuss preliminary plans, special conditions and sealed competitive proposal requirements.

### **III. FINAL DESIGN PLANS**

- A. Revise preliminary plans and specifications to address city comments.
- B. Complete proposal and bid schedule.
- C. Complete Bid Item Descriptions.
- D. Incorporate any city standard documents into bidding documents.
- E. Formulate Opinion of Probable Construction Cost
- F. Complete bidding documents
- G. Repost and final preliminary charges to final plans.

#### **IV. SEALED COMPETITIVE PROPOSALS (Bid Phase)**

- A. Assist the City staff in advertising for sealed competitive proposals. This will include providing City with Notice to Contractors for their use in publicly advertising project. Birkhoff, Hendricks & Carter L.L.P. will email to contractors experienced in blasting and painting ground storage reservoirs.
- B. Sell bidding documents to potential proposers and their suppliers and other parties.
- C. Assist City during opening of proposals
- D. Check references provided for all proposal packages received.
- E. Review submitted and complied material, and check if requested information was submitted at time of bid, complete spreadsheet of findings.
- F. Follow-up with each proposer that did not submit full package and request missing data is allowed by the city.
- G. Provide spreadsheet to City selection committee of data received reference comments and original submittal data for evaluation.
- H. Assist selection committee in selection process and ranking of proposers.

#### **V. CONSTRUCTION PHASE**

- A. Attend City's coordination meetings with contractor, quality control personnel, and City representatives to discuss strategy, problem areas, progress, and any required coordination. Prior to or immediately after coordination meeting make site visit to project location.
- B. Review shop drawings and other submittal information which the Contractor submits. This review is for the benefit of the Owner and covers only general conformance with information given by the Contract Documents. The contractor is to review and stamp their approval on submittals prior to submitting to the Engineer. Review of shop drawing submissions is solely for their conformance with the design intent and conformance with information given in the construction documents. Shop drawings will be processed electronically in PDF format.
- C. Birkhoff, Hendricks & Carter L.L.P. shall not be responsible for any aspects of a shop drawing submission that affect or are affected by the means, methods, techniques,

sequences and operation of construction, safety precautions and programs incidental thereto, all of which are the Contractors responsibility. Shop drawings will be in PDF format and handled electronically.

- D. Provide written responses to requests for information or clarification from city inspector or contractor.
- E. Attend four (4) site meetings to monitor progress and address contractor problems.
- F. Attend City's final inspection of the project.
- G. Prepare record drawings and provide city PDF copy.

**EXHIBIT C**  
**SPECIAL ENGINEERING SERVICES**  
**FOR**  
**COLLEGE HILLS 5MG GROUND STORAGE RESERVOIR REHABILITATION**

The scope of work for SPECIAL Engineering Services involves Quality Control Observations. The scope of work for the Special Engineering Services is more generally described as follows:

**I. QUALITY CONTROL OBSERVATION**

Include the services of ECQA Services, LLC of Saginaw, Texas to provide a NACE Coating Inspector for QA/QC services during construction on an on-call basis. The services will include 120 hours of structural steel inspection for any welding completed on and paint inspections to include inspection of the completed blast prior to coating and inspection of each coat of paint.

Paint and steel inspections will occur at stop points of construction. Typically, when remedial welding has been completed. It is anticipated inspection of wall plates to support raters and center vent replacement with inspection/vent port. Inspection of the blast will occur after a morning of blast and prior to prime coat. Contractor will blast to around noon then clean for inspection. Once complete, the prime coat will be applied, followed by topcoats. Mil thickness will be completed along with holiday testing.

It will be determined with the city, at the time of construction, who will notify the inspectors (contractor or city inspector) and how active the inspections will be.

**EXHIBIT D**

**SERVICES TO BE PROVIDED BY THE CITY  
FOR  
COLLEGE HILLS 5MG GROUND STORAGE RESERVOIR REHABILITATION  
PROJECT**

The CITY will provide the following services to the ENGINEER in the performance of the PROJECT upon request:

- I.** Provide any existing data the CITY has on file concerning the PROJECT, if available.
- II.** Provide any available Record Drawings of Castle Hills Pump Station and Ground Storage Reservoir.
- III.** Give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of the ENGINEER's services.



**EXHIBIT E**  
**COMPENSATION**  
**FOR**  
**COLLEGE HILLS 5MG GROUND STORAGE RESERVOIR REHABILITATION**  
**PROJECT**

**I. COMPENSATION**

For and in consideration of the services to be rendered by the ENGINEER, the CITY shall pay, and the ENGINEER shall receive the compensation hereinafter set forth for the Design and Construction Phases of the work and additionally for Special Engineering Services and/or Additional Engineering Services that are in addition to the Basic Engineering Services. All remittances by CITY of such compensation shall either be mailed or delivered to the ENGINEER's home office as identified in the work authorization.

- A. Compensation for the Basic Engineering Services (Design and Bid phases) shall be completed for a lump sum amount not to exceed \$40,000.00, and Bidding Phase Construction Phase services will be completed for an hourly not to exceed fee of \$17,000.00 (\$7,000.00 for bidding and \$10,000.00 for construction).
- B. Compensation for Special Engineering Services not covered by the Basic Engineering Services provided herein above shall be as follows:

Quality Control Observation not-to-exceed \$12,000.00

For all direct non-labor and/or subcontract expense, including mileage, travel and living expenses at invoice or internal office cost times a multiplier of 1.1.

Payments to the ENGINEER for authorized Additional Engineering Services will be due monthly, upon presentation of monthly statement by the ENGINEER for such services.

**II. AUDIT AND SCOPE CHANGE**

Cost budgets are set forth above and are subject to the audit provisions of this Agreement, Section XVII: "Right to Audit". It is also understood that the cost budgets are based upon ENGINEER's best estimate of work and level of effort required for the proposed scope of services. As the PROJECT progresses, it is possible that the level of effort and/or scope may differ up or down from that assumed. If there are no scope changes, the ENGINEER shall receive the full amount of lump sum and unit price fees, regardless of the cost. If at any time it appears that the cost budget may be exceeded, the ENGINEER shall notify the CITY as soon as possible in writing.

If there is a scope change, the ENGINEER shall notify the CITY as soon as possible in writing and shall include a revised scope of services, estimated cost, revised fee schedule, and a revised

time of completion. Upon negotiation and agreement via a signed amendment by both parties, the cost budget, fee schedule, and total budget will be adjusted accordingly.

CITY shall not be obligated to reimburse the ENGINEER for costs incurred in excess of the cost budget. The ENGINEER shall not be obligated to perform on any change in scope of work or otherwise incur costs unless and until the CITY has notified the ENGINEER in writing that the total budget for Engineering Services has been increased and shall have specified in such notice a revised total budget which shall thereupon constitute a total budget for Engineering Services for performance under this Agreement.

A detailed scope of work, total budget, and schedule will be prepared by the ENGINEER and executed by the CITY if the ENGINEER is authorized to perform any Additional Engineering Service(s).

### **III. PAYMENT**

Payments to the ENGINEER will be made as follows:

#### **A. Invoice and Time of Payment**

Monthly invoices will be issued by the ENGINEER for all work performed under this Agreement. Invoices are due and payable on receipt. Invoices will be prepared in a format approved by the CITY prior to submission of the first monthly invoice. Once approved, the CITY agrees not to require changes in the invoice format, but reserves the right to audit. Monthly payment of the fee will be in proportion to the percent completion of the total work (as indicated in Exhibit B: "Basic Engineering Services").

Upon completion of services enumerated in Exhibit B: "Scope of Basic Engineering Services", the final payment of any balance will be due upon receipt of the final invoice.

**EXHIBIT G**  
**FORM 1295**  
**FOR**  
**COLLEGE HILLS 5MG GROUND STORAGE RESERVOIR REHABILITATION**  
**PROJECT**

[Form 1295 is submitted as the following page]

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Birkhoff, Hendricks & Carter LLP  
Dallas, TX United States

Certificate Number:  
2021-724485

Date Filed:  
03/08/2021

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of North Richland Hills

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

College Hills GSR Repaint  
Professional Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Kerkhoff, Craing	Dallas, TX United States	X	
	Chaney, Derek	Dallas, TX United States	X	
	Mata, Andrew	Dallas, TX United States	X	
	Hickey, Matt	Dallas, TX United States	X	
	Carter, Joe	Dallas, TX United States	X	
	Hendricks, Gary	Dallas, TX United States	X	
	Birkhoff, John	Dallas, TX United States	X	

5 Check only if there is NO Interested Party.

☐

### 6 UNSWORN DECLARATION

My name is John W Birkhoff, and my date of birth is 10/10.

My address is 11910 GREENVILLE #600, Dallas, TX, 75243, USA.  
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 8<sup>th</sup> day of MARCH, 20 21.  
(month) (year)

John W Birkhoff

Signature of authorized agent of contracting business entity  
(Declarant)