



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		5/27/14		
Department:		Engineering		
Department Head:		Jack Carr, P.E.		
Agenda Coordinator (include phone #):			Project No. 6341	
CAPTION				
To approve an Engineering Services Agreement by and between the City of Plano and Birkhoff, Hendricks & Carter, LLP., in the amount of \$55,300, for the Jupiter and Coit Elevated Tanks Project No. 6341; and authorizing the City Manager to execute all necessary documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2013-14	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	100,000	900,000	1,000,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-55,300	0	-55,300
BALANCE	0	44,700	900,000	944,700
FUND(S): WATER CIP				
<p>COMMENTS: Funds are included in the 2013-14 Water CIP. This item, in the amount of \$55,300, will leave a current year fund balance of \$44,700 for expenses related to the Jupiter and Coit Elevated Tanks project.</p> <p>STRATEGIC PLAN GOAL: Retaining engineering services for elevated storage tank projects relates to the City's goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
This agreement is for engineering design services required to prepare painting plans and specifications for the Jupiter and Coit Elevated Tanks project. The project will provide for over-coating of the top coat of paint on each tank.				
The contract fee is \$55,300.00.				
	<u>Task</u>	<u>Fee</u>		
	Preparation of Bidding Documents	\$35,000.00		
	Bidding	\$5,500.00		
	Construction	\$10,000.00		
	<u>Additional Services:</u>			
	Adhesion Testing	\$800.00		
	Inspection Meeting	\$3,000.00		
	Reproduction	\$300.00		
	Meeting Expenses	\$700.00		
	Total Amount:	\$55,300.00		



CITY OF PLANO
COUNCIL AGENDA ITEM

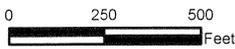
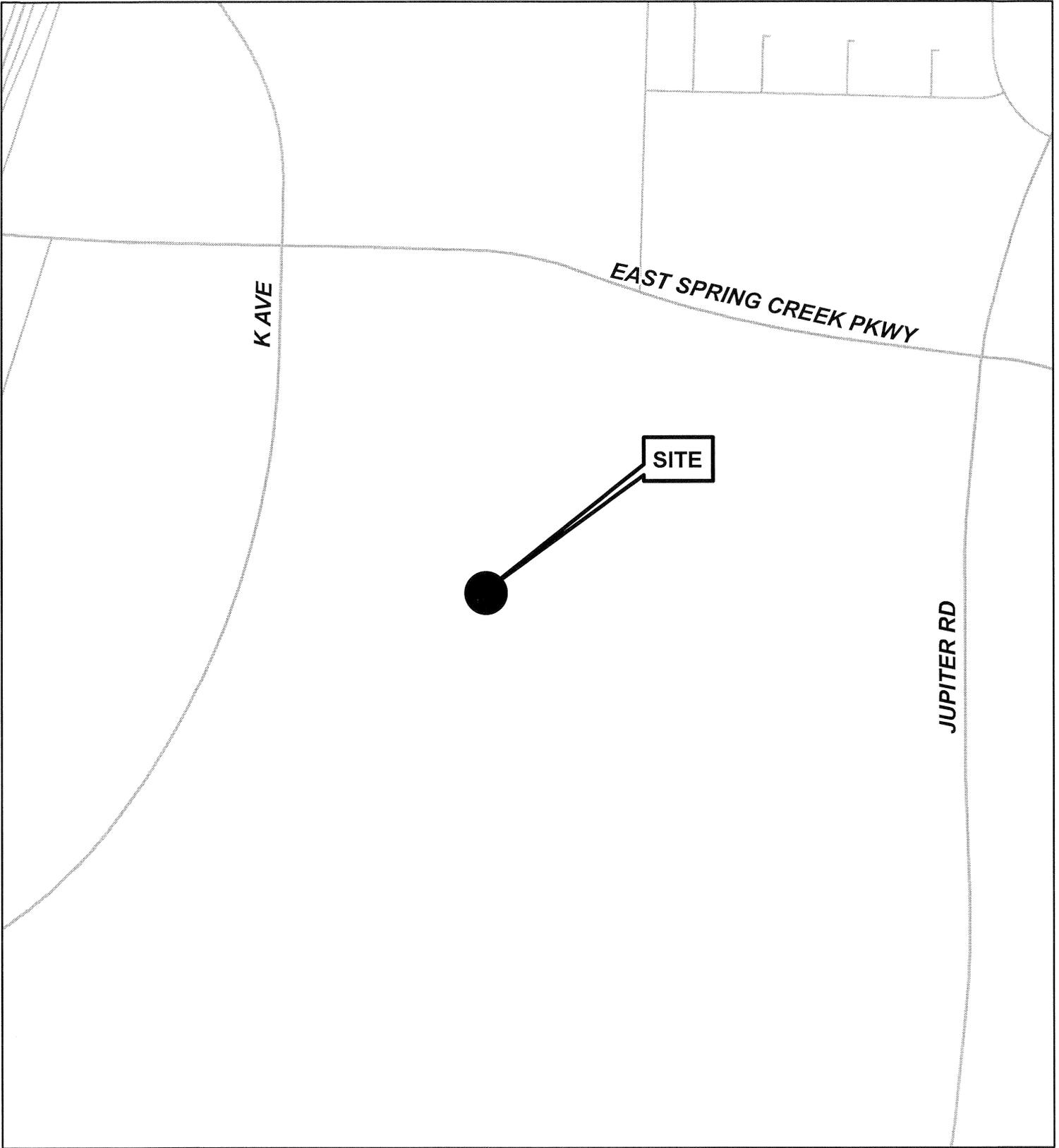
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List of Supporting Documents:
Location Maps; Engineering Services Agreement

Other Departments, Boards, Commissions or Agencies
N/A

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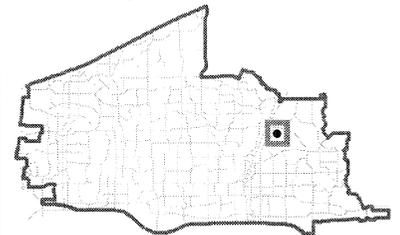


**Jupiter and Coit Elevated Tanks
Project No. 6341
1 of 2**

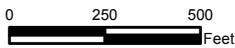
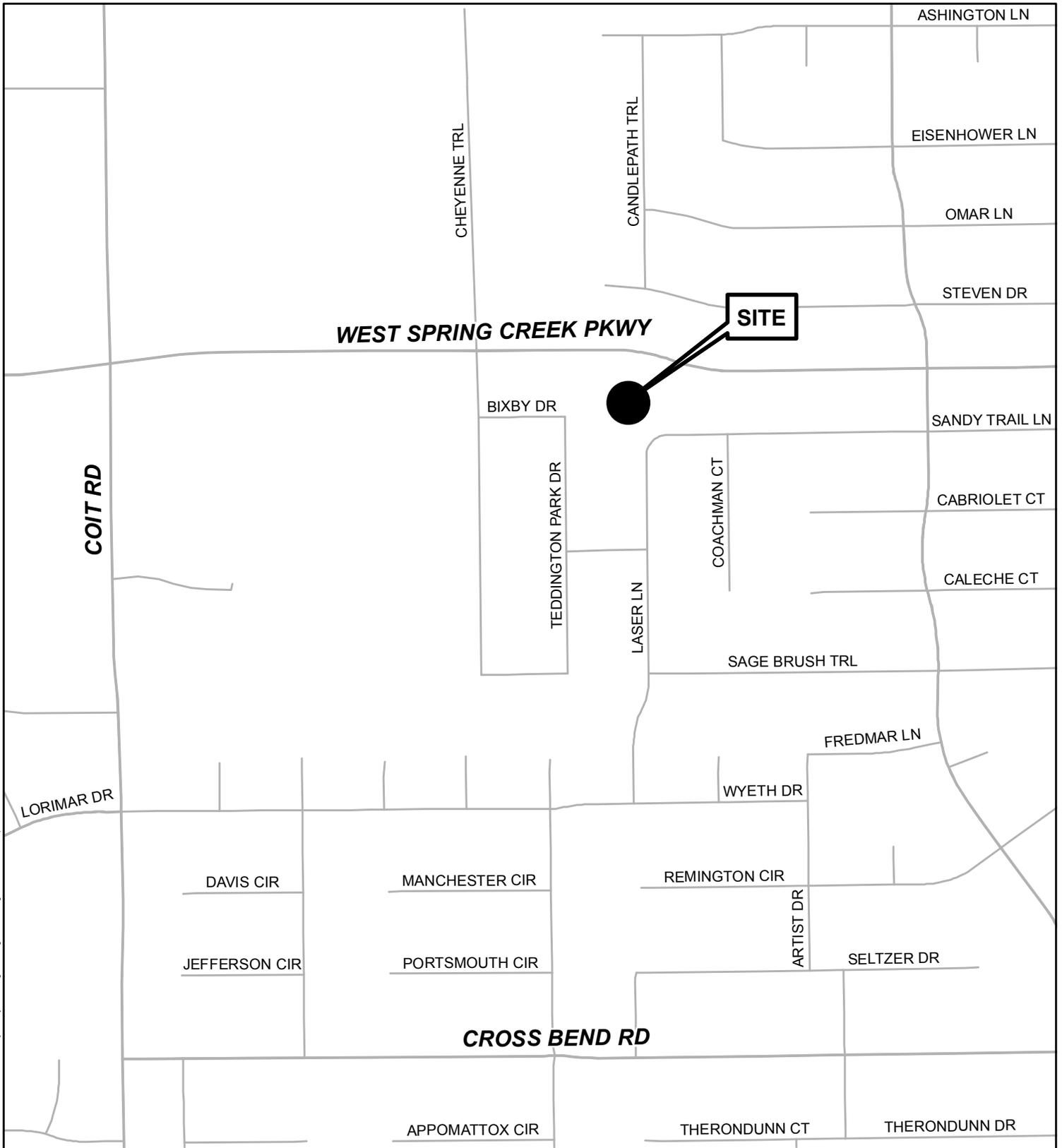


Jupiter Water Tank Location

Project Location



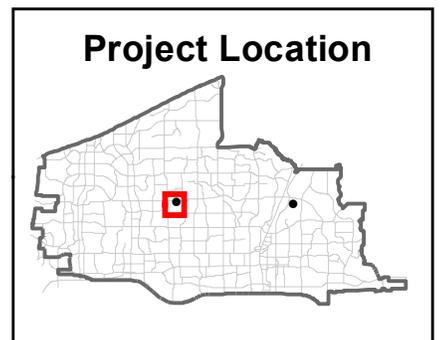
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**Jupiter and Coit Elevated Tanks
Project No. 6341
2 of 2**

 Coit Water Tank Location

May 2014
Source: City of Plano GIS Division



JUPITER AND COIT ELEVATED TANKS

PROJECT NO. 6341

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **BIRKHOFF, HENDRICKS & CARTER, LLP**, a **TEXAS** Limited Liability Partnership, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **JUPITER AND COIT ELEVATED TANKS** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

WHEREAS, the Engineer desires to render such engineering services for the City upon the terms and conditions provided herein.

NOW, THEREFORE, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

I. Employment of the Engineer

The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.

II. Scope of Services

The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City.

III. Schedule of Work

The Engineer agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the reasonable control of Engineer, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

IV. Compensation and Method of Payment

The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "C". The contract amount specified in Exhibit "C" shall not be exceeded without the written permission of the City.

V. Information to be Provided by the City

The City agrees to furnish, prior to commencement of work, all that information requested by Engineer and available in City's files.

VI. Insurance

Engineer agrees to meet all insurance requirements, and to require all consultants who perform work for Engineer to meet all insurance requirements, as set forth on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

Engineer agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Engineer shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Engineer's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

VII. INDEMNITY

THE ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ENGINEER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY

NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE ENGINEER, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE ENGINEER IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ENGINEERS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

ENGINEER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ENGINEER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ENGINEER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ENGINEER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ENGINEER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND ENGINEER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

VIII. Independent Contractor

Engineer covenants and agrees that Engineer is an independent contractor and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

IX. Assignment and Subletting

The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

X. Audits and Records/Prohibited Interest

The Engineer agrees that at any time during normal business hours and as often as City may deem necessary, Engineer shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Engineer agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful representative of Engineer shall execute the affidavit shown in Exhibit "E". Engineer understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

XI. Contract Termination

The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

XII. Engineer's Opinion of Probable Construction Costs

The parties recognize and agree that any and all opinions of probable construction costs prepared by Engineer in connection with the Project represent the best judgment of Engineer as a design professional familiar with the construction industry, but that the Engineer does not guarantee that any bids solicited or received in connection with the Project will not vary from opinions prepared by Engineer.

XIII. Ownership of Documents

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Engineer will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

XIV. Complete Contract

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

XV. Mailing of Notices

Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

City of Plano
Engineering Department
Attn: Tim Bennett, P.E.
P.O. Box 860358
Plano, TX 75086-0358

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Birkhoff, Hendricks & Carter, LLP
Attn: John Birkhoff, P.E.
11910 Greenville Avenue, Ste. 600
Dallas, TX 75243

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

XVI. Miscellaneous

A. Paragraph Headings:

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

B. Contract Interpretation:

Although this Agreement is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

C. Venue/Governing Law:

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. Exclusive venue shall lie in Collin County, Texas.

D. Successors and Assigns:

City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

E. Severability:

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

F. Effective Date:

This Agreement shall be effective from and after execution by both parties hereto.

G. Authority to Sign:

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

SIGNED on the date indicated below.

BIRKHOFF, HENDRICKS & CARTER, LLP
A Texas Limited Liability Partnership

DATE: 5/15/19

BY: 
John W. Birkhoff, P.E.
MANAGING PARTNER

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Bruce D. Glasscock
CITY MANAGER

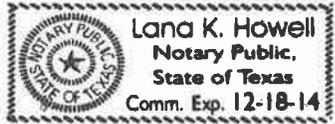
APPROVED AS TO FORM:

Paige Mims
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 15th day of May, 2014, by **JOHN W. BIRKHOFF, P.E., Managing Partner**, of **Birkhoff, Hendricks & Carter, LLP**, a Texas limited liability partnership, on behalf of said limited liability partnership.





Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2014, by **BRUCE D. GLASSCOCK, City Manager**, of the **City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

EXHIBIT "A"

ENGINEERING SERVICES

JUPITER ELEVATED TANK ROOF OVERCOAT (STEEL) COIT ELEVATED TANK EXTERIOR OVERCOAT (STEEL) & SITE IMPROVEMENTS *Project No. 6341*

PART I: PRELIMINARY DESIGN

- A. Complete topographic surveys at each site to identify current conditions, locate existing fence, obstructions along fence and ground line at fence.
- B. Prepare preliminary plan sheet for Coit Elevated Tank exterior overcoat and Jupiter Tank site for roof overcoat.
- C. Prepare specification for over-coating of top coat at each tank.
- D. Prepare plan and details to erect decorative aluminum fence at each site.
- E. Prepare profile sheet along fence line and set grade along top of fence.
- F. Location fence post based on standard fence panel of six feet.
- G. Utilize in design of fence swing gate.
- H. Prepare landscape plan at Coit Tank site.
- I. Prepare grading plan at Coit Tank site.
- J. Prepare irrigation plan for Coit Tank site.
- K. Prepare location map of the sites.
- L. Color for Elevated Tank will be Tank White (Tnemec BL).
- M. Include current City of Plano logo for Coit Tank. City to provide graphics, dimensions and colors.
- N. Include in design a three-level sample line, and include repair specification for existing paint systems.
- O. Prepare preliminary Special Conditions, which will be outside City provided Special Conditions. Additional Special Conditions will include special Technical Specifications.
- P. List in Special Conditions submittal data required at time of bid.
- Q. Submit five sets of preliminary plans (11" x 17" maximum sheet size), Special Conditions to the City for review.
- R. Meet with the City of Plano to discuss preliminary plans and Special Conditions.

PART II: FINAL DESIGN

- A. Revise and finalize preliminary plan sheet and Special Conditions, incorporating City comments.
- B. Formulate opinion of probable construction cost based on final plans.
- C. Prepare final bid documents including bid proposal forms, construction plans, specifications and contract documents. Contract documents will be provided by City of Plano.
- D. Submit three sets of final plans (11" x 17" maximum sheet size), Special Conditions and contract documents to the City.
- E. Prepare layout plan for inspection documentation.

PART III: BIDDING PHASE

- A. Assist the City of Plano staff in advertising for bids. This will include providing City with Notice to Contractors for their use in publicly advertising project. Birkhoff, Hendricks & Carter L.L.P. will e-mail and/or fax notices to Publishers, and to contractors experienced in tank painting.
- B. Sell bidding documents to potential proposers, suppliers and other parties.
- C. Provide one copy of proposal documents to City's independent testing lab.
- D. Assist City of Plano during opening of proposals and provide bidding tally sheets.
- E. Provide bid tabulation to City and contractors who submit bids.
- F. Check references provided for all bid packages received.
- G. Review submittal material and check if requested information was submitted at time of bid.
- H. Follow up with each bidder that did not submit full package and request missing data.
- I. After award of contract, furnish eight sets of prints of the specifications to the City for construction use by the City and Contractor.
- J. Attend City's Pre-Construction Conference at City facilities.

PART IV: 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. 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. Electronic copy of shop drawings in which no exceptions, or make corrections noted are taken by Birkhoff, Hendricks & Carter L.L.P. will be provided to the City. All shop drawings will be completed electronically in PDF format.
- C. Provide written responses to requests for information or clarification.
- D. Accompany the City during their final inspection of the project. Climb tank at this time.
- E. Visit the site at appropriate intervals as construction proceeds to observe progress and formulate opinion as to quality of work as it relates to contract documents.
- F. Review the City's on-site representative's daily reports and independent laboratory's test reports to formulate opinion of progress and attempt to identify potential problems.
- G. Prepare record drawings utilizing City and Contractor construction record information.
- H. Visit tanks at 9-Month Anniversary to determine defects in the works.

PART V: ADDITIONAL SERVICES

- A. Complete a second round of adhesion test on the roofs of the two elevated tanks. The timing will be before project bids to ensure the epoxy has not degraded significantly from UV rays.
- B. Meet with City's Inspector and Henley-Johnston's Inspector to review inspection process. Include Axis Construction in discussions. Develop plan to implement inspection procedure. Task to include up to 4-hours of inspector time.

PART VI: EXCLUSIONS

The intent of this section is to specifically exclude from this contract the following:

- A. Providing an on-site representative.
- B. Environmental impact statements and assessments.
- C. Fees for permits or advertising.
- D. Certification that work is in accordance with plans and specifications.
- E. Environmental cleanup.
- F. Quality control and testing services during construction.
- G. Phasing of Contractors work.
- H. On-site safety precautions, programs and responsibility.
- I. Revisions and/or changes after completion of original design, unless to correct errors in the plans.

EXHIBIT "B"

COMPLETION SCHEDULE ESTIMATE

Notice to Proceed from City	June 2, 2014
Complete Site Visit	June 13, 2014
Complete Preliminary Plans and Technical Specifications	July 31, 2014
Receive Comments from City	August 15, 2014
Complete Final Plans and Technical Specifications	September 4, 2014
Advertise Project	September 2014
Receive Bids	September 2014
Award Contract	October 2014
Notice to Proceed	January 15, 2015
Construction	January 2015 ⇒ June 2015

EXHIBIT "C"
PAYMENT SCHEDULE

Payment for engineering services described under Parts I and II shall be based on a lump sum amount of \$35,000.00

Payment for engineering services described under Parts III, IV and V shall be on the basis of salary cost times 2.40 with expenses at invoice cost times 1.10, survey crew at \$160.00 per hour.

<u>SUMMARY OF FEE</u>	
Preparation of Bidding Documents	\$35,000.00
Bidding	\$5,500.00
Construction	\$10,000.00
<u>Additional Services:</u>	
Adhesion Testing	\$800.00
Inspection Meeting	\$3,000.00
Reproduction	\$300.00
Meeting Expenses	<u>\$700.00</u>
Total Amount:	\$55,300.00

Total fee not to exceed \$55,300.00 unless authorized by the City.

EXHIBIT "D"

ENGINEERING

INSURANCE

INSURANCE: (Review this section carefully with your insurance agent prior to bid or proposal submission. See "Insurance Checklist" on the last page or specific coverages applicable to this contract).

1. General Insurance Requirements:

- 1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."
- 1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.
- 1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
 - 1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.
- 1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

- 1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.
- 1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.
- 1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.
- 1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. Engineer's Insurance - "Occurrence" Basis:

- 2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.
 - 2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
 - i. General aggregate limit is to apply per project;
 - ii. Premises/Operations;
 - iii. Actions of Independent Contractors;
 - iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;
 - v. Personal Injury Liability including coverage for offenses related to employment;
 - vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.
 - 2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

- 2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

3.0 Engineer's Insurance – Claims Made

Professional Errors and Omissions

The Engineer shall carry Professional Liability insurance which will pay for injuries arising out of negligent errors or omissions in the rendering, or failure to render professional services under the contract, for the term of the Contract and up to three years after the contract is completed in the amount shown in the Checklist.

Professional Errors and Omissions, Limit \$1,000,000
per claim and aggregate of \$2,000,000

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

<u>Coverages Required</u>	<u>Limits (Figures Denote Minimums)</u>
<input checked="" type="checkbox"/> 1. Workers' Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2. For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	\$150,000 medical, safety program
<input checked="" type="checkbox"/> 4. General Liability	Complete entry No. 26 Minimum \$500,000 each occurrence \$1,000,000 general aggregate
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	(Items No. 3-10 & 12 require)
<input checked="" type="checkbox"/> 7. Independent Contractors	<u>\$500,000</u> combined single limit for bodily injury and property damage
<input type="checkbox"/> 8. Products	damage each occurrence with
<input type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<input checked="" type="checkbox"/> 10. Contractual Liability	
<input checked="" type="checkbox"/> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input type="checkbox"/> 12. XCU Coverages	
<input checked="" type="checkbox"/> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<input checked="" type="checkbox"/> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<input checked="" type="checkbox"/> 16. Professional Liability	\$1,000,000 each claim \$2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$_____ BI & PD each occurrence



CERTIFICATE OF LIABILITY INSURANCE

BIRKH-1 OP ID: JMC

DATE (MM/DD/YYYY)
04/29/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER ACEC/MARSH 701 Market St., Ste. 1100 St. Louis, MO 63101 Kevin P. Woolley	Phone: 800-338-1391 Fax: 888-621-3173	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE NAIC #	FAX (A/C, No): INSURER A : Hartford Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :
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INSURED **Birkhoff, Hendricks & Carter, LLP**
 Attn: John W. Birkhoff
 11910 Greenville Ave, Ste 600
 Dallas, TX 75243

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC			84SBWPE9258	07/28/2013	07/28/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPIOP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			84UEGAR0773	07/28/2013	07/28/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			84SBWPE9258	07/28/2013	07/28/2014	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	84WBGBM6253	07/28/2013	07/28/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 RE: Jupiter and Coit Elevated Tanks, Project No. 6341 - When required by written contract: The City of Plano, including its elected and appointed officials, agents, volunteers, and employees are included as additional insured for above coverages except WC. Coverage is primary and non-contributory to any other insurance carried except Umbrella. Waiver of

CERTIFICATE HOLDER City of Plano PO Box 860358 Plano, TX 75086	CITY OF	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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ACORD 25 (2010/05)

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NOTEPAD:

HOLDER CODE CITYOF
INSURED'S NAME Birkhoff, Hendricks & Carter,

BIRKH-1
OP ID: JMC

PAGE 2
DATE 04/29/14

Subrogation is included in favor of additional insureds for all policies.
30 days notice of cancellation will be given to the certificate holder.
A.M. Best Rating AXV for all policies.

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare that I am authorized to make this statement on behalf of Birkhoff, Hendricks & Carter, LLP and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of Birkhoff, Hendricks & Carter, LLP is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

I further understand and acknowledge that a violation of Section 11.02 of the City Charter at anytime during the term of this contract will render the contract voidable by the City.

Birkhoff, Hendricks & Carter, LLP
Name of Consultant

By: 
Signature

JOHN W BIRKHOFF
Print Name

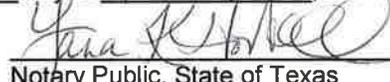
MANAGING PARTNER
Title

5/15/14
Date

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

SUBSCRIBED AND SWORN TO before me this 15th day of MAY, 2014.




Notary Public, State of Texas