

**CITY OF GONZALES**



City of Gonzales  
**REQUEST FOR PROPOSAL (RFP)**  
**Lead and Copper Rule Revisions**

RFP Issued: February 8, 2024

Proposals Due: **Friday, February 23, 2024 by 2:00 PM**

Submittals to: Kristina Vega, [citysecretary@gonzales.texas.gov](mailto:citysecretary@gonzales.texas.gov)

**COME AND TAKE IT**

**1. INTRODUCTION**

**1.1. About the City of Gonzales**

The City of Gonzales, founded in 1825, is located 62 miles south of Austin, 70 miles east of San Antonio, and 60 miles north of Victoria. According to the U.S. Census Bureau the estimated population of the City of Gonzales is 7,196 and serves as the county seat of Gonzales County.

The City provides services to its citizens that are considered necessary and meaningful and that can be provided by the City at a reasonable cost. Major services provided under general government and enterprise functions are police and fire protection, electric, water, wastewater and solid waste, park and recreational facilities, library services, street upkeep and maintenance, and general administrative services. Other services include code enforcement, building inspection, animal control, museum, cemetery, airport, and economic development. The City operates a municipal court as established by the City's charter.

**1.2. Need**

The new Lead and Copper Rule Revisions (LCRR) was developed by the Environmental Protection Agency to better protect communities from exposures to lead in drinking water. LCRR includes using protocols to find more sources of lead in drinking water, jumpstart mitigation measures and lead service line replacements, testing in schools and child care facilities, and identify the location of lead service lines that can be available to the public.

**1.3. Invitation**

The City of Gonzales (City) is seeking proposals from qualified firms and consultants (Consultant) to assist and provide services to the City, in order to develop an inventory and be in compliance with the LCRR for its water system by October 2024.

The City of Gonzales owns and operates its own water treatment plant that supplies water to approximately 3,500 customers within the City of Gonzales' jurisdiction. GPS coordinates for each meter connection will be provided.

## 2. SCOPE OF SERVICES

### 2.1. Lead and Copper Rules Revisions Scope

The Consultant shall perform the following services to assist the City to be in compliance with the Lead and Copper Rule Revisions:

- Development of an inventory of water service line materials, including service lines on both sides of the water meter, through field investigation and research of historical records (if any are available), and have findings available to upload in a GIS database and PDF maps.
- Development of a compliance and replacement plan/program of lead services lines, including recommended options for future water service line materials.
- Identify childcare facilities and schools that receive potable/drinking water from the City of Gonzales, and review records/reports of prior lead testing at Gonzales schools from 2018.
- Preparation of a sampling/testing plan to find sources of lead in drinking water at childcare facilities and schools, and other locations as needed.
- Establishing an inventory of lead service lines that can be published online website, GIS Map, database) and match the EPA's inventory template,
- Recommendation on planning, training, public education, notifications, and outreach programs.
- Assistance in identifying funding sources to assist the City and private program owners with implementing the requirements of Lead and Copper Rule Revisions, assist the City when EPA finalizes Lead and Copper Rule Improvements (LCRI), and identifying and applying for state and federal grants on behalf of the City.
- Monthly meetings with City Staff to go over progress of project and meetings with other staff/stakeholders when needed.
- Coordination with the TCEQ as needed for compliance with inventory, sampling/testing, and replacement plans.

### 2.2. Deliverables

The Consultant is expected to provide the following deliverables (but not limited to):

- Baseline project schedule for the completion of tasks and milestones, including monthly updates.
- Inventory map of service lines in GIS, Excel, and PDF formats. Map to include location of childcare and school facilities, and area of at risk and underserved communities. Inventory must be prepared in a way that can be kept up to date by City Staff.

- Draft and Final Technical Memorandum on compliance measure and replacement program of lead service lines, including cost estimates, and funding opportunities.
- Listing and Map of Childcare Facilities and Schools, and other locations if needed, that receive drinking water and in need of sampling/testing.
- Draft and Final Sampling and Testing Program
- Draft and Final Public Outreach program and website to publish relevant information in regards to Lead and Copper Rule Revisions, and notification requirements.
- Outline, Draft, and Final Report showing background and information gathered and measures the City needs to take to be in compliance with Lead and Copper Rule Revisions.

### **2.3. Payment**

The Consultant shall prepare and submit one invoice per month to the City for all the completed tasks/deliverables in a calendar month. The payment shall be approved once the City approves of the task completion and/or deliverable. All invoices shall include details of the service provided and the completion date of each item. Each invoice shall be submitted along with a cover memo summarizing the work completed that month, by scope task. E-mail invoices to the Water/Wastewater Superintendent, Marland Mercer at [mmercerc@gonzales.texas.gov](mailto:mmercerc@gonzales.texas.gov).

### **2.4. Ownership of Documents**

Title to all final documents, including but not limited to drawings, specifications, data, reports, summaries, correspondences, photographs, computer software (if purchased on the City's behalf), video and audio recordings, software output, and any other materials with respect to work performed shall be provided to City upon completion of the work. Any information obtained by the Consultant as a result of performing the services shall become the property of the City and shall not be released to others without prior written consent from the City.

## **3. PROPOSAL REQUIREMENTS**

The Proposal submission shall be on single-sided letter sized (8½" x 11"), minimum font size of 12 required, no more than 30 pages (including cover page, cover letter and table of contents). Costs for preparing and submitting a response to this RFP are entirely the responsibility of the Contractor. All expenses related to the Contractor's response to the RFP, or other expenses incurred during the period of time the selection process is underway, are the sole obligation and responsibility of that Contractor. The City will not directly, or indirectly, assume responsibility for such costs.

### 3.1. Format

The proposal submittal content shall include the following:

1. Cover Letter

Describe your firm or team's interest and commitment in providing services for the City of Gonzales. An officer of the Consulting firm who is authorized to contractually bind the firm and to negotiate a contract with the City shall sign the letter. Provide name, title, address, email, and telephone number of this officer. Cover Letter shall also acknowledge any addenda issued during the RFP.

2. Table of Contents

3. Work Plan and Approach

Discuss your firm's understanding of the Scope of Services to be performed. Describe the method for management of overall project costs, schedule, quality assurance/quality control, outreach plan, investigation methods, development of inventory, and other issues critical to this project. Also describe how services will be provided and method of communication and providing updates.

4. Optional Tasks

Based on your firm's professional opinion and experience, provide additional or alternate cost-effective tasks that will assist the City.

5. Key Personnel Background

Name, position, summary of qualifications, resumes, related experience and proposed responsibilities of the project manager and key personnel. Include an organization chart and who would be reporting to the City's project manager/staff.

6. Team Experience

List of projects and studies performed within the last five years involving potable water distribution system of a local municipal/utility agency; particularly any work performed for government agencies of similar nature. Include the following information:

- Clients name, point of Contact, addresses, and telephone numbers
- Contract amount and funding source
- Key personnel involved in all disciplines
- Description of project and services provided and location of related project(s) and year of completion

7. References

Provide at least three references (name, company title, address, email, and telephone number) for the preparation of recent/similar work.

8. Standard Agreement Acknowledgement

Provide an acknowledgement that the Consultant agrees with and is willing to enter into the City's Standard Consultant Services Agreement without any changes unless agreed upon during the Questions and Answers portion of the RFP process.

9. Conflict of Interest Statement

Disclose any financial, business or other relationship with the City of Gonzales that may have impact upon the outcome of the contract or project.

10. Work Force Allocation

Consultant shall provide an estimate of the required personnel hours by task and job title in the proposal for the tasks described in the scope of services. This information is not meant as a fee proposal, but only an indication of the level of effort envisioned for completion of the project at hand.

11. Cost

Provide a complete summary of the estimated number of engineering hours, schedule of hourly rates for each classification, and total not-to-exceed cost for the Scope of Services to be performed. Please include optional tasks and associated costs for City consideration. Reference sample cost estimate in the Local Assistance Procedure Manual, LAPM Exhibit 10-H. Consultant shall prepare a Lump Sum Fee estimate with progress payments at defined milestones/tasks.

**3.2. Submittal Requirements**

A pdf version of the proposal shall be emailed to Kristina Vega at [citysecretary@gonzales.texas.gov](mailto:citysecretary@gonzales.texas.gov) by: **Friday, February 23, 2024 at 2:00 PM**. Be certain to request and obtain confirmation of receipt of this emailed submission.

The selected consultant will be required to submit a hard copy of the proposal prior to issuance of the contract.

**3.3. Questions**

Please submit any questions regarding this RFP, insurance requirements and consultant services agreement in writing to [citysecretary@gonzales.texas.gov](mailto:citysecretary@gonzales.texas.gov) by Friday, February 16, 2024. Answers to all questions will be posted on the City's website.

Questions will only be accepted via e-mail and responses will be compiled and posted on the City's RFP/RFQ website at [http https://www.gonzales.texas.gov/p/government/bidrfp](http://https://www.gonzales.texas.gov/p/government/bidrfp). It is your responsibility to obtain the answers from the City's website and the City shall not be responsible for transmitting the answers to any holders of the RFP.

### 3.4. City Reservation of Rights

1. RFP Process Modifications

The City reserves the unqualified right to modify, suspend or terminate at its sole discretion any and all aspects of the RFP and/or RFP process, to obtain further information from any and all consultant teams and to waive any defects as to form or content of the RFP or any responses by any consultant teams.

2. Ownership of Proposals

All responses to the RFP become the property of the City. Once a final award is made, all RFP responses, except financial and proprietary information, become a matter of public information and shall be regarded by the City as public records. The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Information Act.

3. Contract Award

The RFP does not commit the City to award a contract or to pay any cost incurred in the preparation of the proposal. Award of a contract does not guarantee that a consultant or its sub-consultants will actually receive any work.

### 4. SELECTION PROCESS

The RFP process will establish a ranking based on how each proposal meets the qualifications of the Scope of Services and the requirements of the RFP. The proposal shall conform to the Proposal Requirements (Section 3). It is important that all listed items be included in the proposal. Proposals, which do not comply with all the requirements per or the proposal deadline, will not be considered. The City reserves the right to reject any or all proposals without qualifications, and to negotiate specific requirements and costs using the selected proposal as a basis.

The selected consultant shall be required to enter into the City's standard consultant services agreement. All Consultants that respond to the RFP shall assume that the execution of this agreement, without changes unless approved during the Questions and Answers portion of the RFP process, will be a required condition.

At the conclusion of the evaluation and interview (or if a best-qualified firm is selected without the need for an oral presentation), the City will enter into contract negotiations with the top-ranking firm. If negotiations with the top-ranking firm are unsuccessful, negotiations will terminate, and the City will undertake negotiations with the second- ranking firm. City staff will make recommendations to the City Council, which reserves the right to reject any or all proposals. The selection process will be completed when a contract is executed.

Furthermore, the City reserves the right to reject any or all proposals, and to waive any and all irregularities to choose the firm which, in the City's opinion, best serves the City's interests.

**5. SELECTION CRITERIA**

Proposals submitted are to be reviewed by an evaluation committee who will establish a ranking based on responses to the criteria below:

- Knowledge of Lead and Copper Rule Revisions, drinking/potable water distribution system, and sampling/testing guidelines, as well as other applicable policies and procedures
- Proposed work plan and approach, as well as understanding of scope of services to be performed in order to assist the City to be in compliance with Lead and Copper Rule Revisions.
- Schedule of proposed work and services to be provided, targeted milestones, and deliverables.
- Method of project management, quality assurance/quality control plan, engagement with City’s project manager/staff, and public outreach.
- Optional cost-effective tasks proposed or recommended.
- Qualifications and experience of firm and relevant staff.
- Work force allocation.
- Format of proposal meeting submittal requirements.

**6. SCHEDULE OF EVENTS**

<b>Milestone</b>	<b>Date*</b>
Request for Proposal Issued	Thursday, February 8, 2024
Written Questions Deadline	Friday, February 16, 2024 at 2:00 PM
Answers Posted on City Website	Wednesday, February 21, 2024
<b>Proposal Submittal Deadline</b>	<b>Friday, February 23, 2024 at 2:00 PM</b>
City Council Approval of Agreement	Thursday, March 14, 2024
City Signs and Executes Agreement	Dependent on requirement for Council Approval

\*Dates are subject to change

**7. ATTACHMENTS**

- A. Standard Consultant Agreement**





**CITY OF GONZALES**  
**STANDARD PROFESSIONAL SERVICES AGREEMENT**

**THE STATE OF TEXAS   §**  
**§**  
**GONZALES COUNTY     §**

This Professional Services Agreement (“Agreement”) is made and entered by and between the City of Gonzales, Texas, (the “City”) a Texas home rule municipality, and \_\_\_\_\_ (“Professional”).

**Section 1. Duration.** This Agreement shall become effective upon execution by the City and shall remain in effect until satisfactory completion of the Scope of Work unless terminated as provided for in this Agreement.

**Section 2. Scope of Work.**

(A) Professional shall perform the Services as more particularly described in the Scope of Work attached hereto as Exhibit “A”. The work as described in the Scope of Work constitutes the “Project”. Unless otherwise provided in the Scope of Work, the anticipated submittal of all Project deliverables is immediately upon completion of the Project.

(B) The Quality of Services provided under this Agreement shall be performed with the professional skill and care ordinarily provided by competent Professionals practicing in the same or similar locality and 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 Professional holding the same professional license.

(C) The Professional shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.

(D) The Professional may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

**Section 3. Compensation.**

(A) The Professional shall be paid in the manner set forth in Exhibit “B” and as provided herein.



(B) *Billing Period:* The Professional may submit monthly, or less frequently, an invoice for payment based on the estimated completion of the described tasks and approved work schedule. Subject to Chapter 2251, Texas Government Code (the “Prompt Payment Act”), payment is due within thirty (30) days of the City’s receipt of the Professional’s invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.

(C) *Reimbursable Expenses:* Any and all reimbursable expenses related to the Project shall be included in the scope of services (Exhibit A) and accounted for in the total contract amount in Exhibit “B”. If these items are not specifically accounted for in Exhibit A they shall be considered subsidiary to the total contract amount.

#### **Section 4. Changes to the Project Work; Additional Work.**

(A) *Changes to Work:* Professional shall make such revisions to any work that has been completed as are necessary to correct any errors or omissions as may appear in such work. If the City finds it necessary to make changes to previously satisfactorily completed work or parts thereof, the Professional shall make such revisions if requested and as directed by the City and such services will be considered as additional work and paid for as specified under following paragraph.

(B) *Additional Work:* The City retains the right to make changes to the Scope of Work at any time by a written order. Work that is clearly not within the general description of the Scope of Work and does not otherwise constitute special services under this Agreement must be approved in writing by the City by supplemental agreement before the additional work is undertaken by the Professional. If the Professional is of the opinion that any work is beyond that contemplated in this Agreement and the Scope of Work governing the project and therefore constitutes additional work, the Professional shall promptly notify the City of that opinion, in writing. If the City agrees that such work does constitute additional work, then the City and the Professional shall execute a supplemental agreement for the additional work and the City shall compensate the Professional for the additional work on the basis of the rates contained in the Scope of Work. If the changes deduct from the extent of the Scope of Work, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement. Any work undertaken by Professional not previously approved as additional work shall be at risk of the Professional.

#### **Section 5. Time of Completion.**

The prompt completion of the services under the Scope of Work is critical to the City. Unnecessary delays in providing services under a Scope of Work shall be grounds for dismissal of the Professional and termination of this Agreement without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Professional prior to the time of termination. The Scope of Work shall provide, in either calendar days or by providing a final date, a time of completion prior to which the Professional shall have completed all tasks and services described in the Scope of Work.

## **Section 6. Insurance.**

Before commencing work under this Agreement, Professional shall obtain and maintain the liability insurance provided for in attached Exhibit C throughout the term of this Agreement and thereafter as required herein.

In addition to the insurance provided for in Exhibit C, Professional shall maintain the following limits and types of insurance:

**Professional Liability Insurance:** professional errors and omissions liability insurance with limits of liability not less than \$1,000,000 per occurrence covering all work performed by the Professional, its employees, sub-contractors, or independent contractors. If this coverage can only be obtained on a "claims made" basis, the certificate of insurance must clearly state coverage is on a "claims made" basis and coverage must remain in effect for at least two years after final payment with the Professional continuing to furnish the City certificates of insurance.

**Workers Compensation Insurance:** The Professional shall carry and maintain during the term of this Agreement, workers compensation and employers liability insurance meeting the requirements of the State of Texas on all the Professional's employees carrying out the work involved in this contract.

**General Liability Insurance:** The Professional shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than \$1,000,000 per each occurrence and for fire damage. For Bodily Injury and Property Damage, coverage shall be no less than \$1,000,000 per each occurrence. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be \$1,000,000 per each occurrence. This coverage shall protect the public or any person from injury or property damages sustained by reason of the Professional or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than \$2,000,000.

Automobile Liability Insurance: Professional shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Professional or its employees.

Subcontractor: In the case of any work sublet, the Professional shall require subcontractor and independent contractors working under the direction of either the Professional or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Professional.

Qualifying Insurance: The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be written on a "per occurrence basis" and not a "claims made" form.

Evidence of such insurance shall be attached as Exhibit "C".

## **Section 7. Miscellaneous Provisions.**

(A) *Subletting.* The Professional shall not sublet or transfer any portion of the work under this Agreement or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the City, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the City in the subletting of any work shall not relieve the Professional of any responsibility for work done by such subcontractor.

(B) *Ownership of Documents.* Upon completion or termination of this Agreement, all documents prepared by the Professional or furnished to the Professional by the City shall be delivered to and become the property of the City. All drawings, charts, calculations, plans, specifications and other data, including electronic files and raw data, prepared under or pursuant to this Agreement shall be made available, upon request, to the City without restriction or limitation on the further use of such materials PROVIDED, HOWEVER, THAT SUCH MATERIALS ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY THE CITY OR OTHERS. ANY REUSE WITHOUT PRIOR VERIFICATION OR ADAPTATION BY THE PROFESSIONAL FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE CITY'S SOLE RISK AND WITHOUT LIABILITY TO THE PROFESSIONAL. Where applicable, Professional shall retain all pre-existing proprietary rights in the materials provided to the City but shall grant to the City a non-exclusive, perpetual, royalty-free license to use such proprietary information solely for the purposes

for which the information was provided. The Professional may, at Professional's expense, have copies made of the documents or any other data furnished to the City under or pursuant to this Agreement. The Professional may utilize all of its work product and deliverables for archival, marketing and promotional purposes.

(C) *Professional's Seal.* To the extent that the Professional has a professional seal it shall be placed on all documents and data furnished by the Professional to the City and shall remain as placed in all iterations and uses of the documents and data. All work and services provided under this Agreement will be performed in a good and workmanlike fashion and shall conform to the accepted standards and practices of the Professional's industry. The plans, specifications and data provided by Professional shall be adequate and sufficient to enable those performing the actual work to perform the work as and within the time contemplated by the City and Professional. The City acknowledges that Professional has no control over the methods or means of work nor the costs of labor, materials or equipment. Unless otherwise agreed in writing, any estimates of costs by the Professional are for informational purposes only and are not guarantees.

(D) *Compliance with Laws.* The Professional shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Professional shall furnish the City with satisfactory proof of compliance.

(E) *Independent Contractor.* Professional acknowledges that Professional is an independent contractor of the City and is not an employee, agent, official or representative of the City. Professional shall not represent, either expressly or through implication, that Professional is an employee, agent, official or representative of the City. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Professional.

(F) *Non-Collusion.* Professional represents and warrants that Professional has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the City under this Agreement. Professional further agrees that Professional shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the City pursuant to this Agreement) for any of the services performed by Professional under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Professional, Professional shall immediately report that fact to the City and, at the sole option of the City, the City may elect to accept the consideration for itself or to take the

value of such consideration as a credit against the compensation otherwise owing to Professional under or pursuant to this Agreement.

(G) *Force Majeure*. If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

(H) In the case of any conflicts between the terms of this Agreement and wording contained within the Scope of Services, this Agreement shall govern. The Scope of Services is intended to detail the technical scope of services, fee schedule, and contract time only and shall not dictate Agreement terms.

### **Section 8. Termination.**

(A) This Agreement may be terminated:

- (1) By the mutual agreement and consent of both Professional and City;
- (2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;
- (3) By the City, immediately upon notice in writing to the Professional, as consequence of the failure of Professional to perform the services contemplated by this Agreement in a timely or satisfactory manner;
- (4) By the City, at will and without cause upon not less than thirty (30) days written notice to the Professional.

(B) If the City terminates this Agreement pursuant to Section 5 or subsection 8(A)(2) or



(3), above, the Professional shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those services that have been timely and adequately performed by the Professional considering the actual costs incurred by the Professional in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another Professional to complete the work required and the time required to do so, and other factors that affect the value to the City of the work performed at time of termination. In the event of termination that is not the fault of the Professional, the Professional shall be compensated for all basic, special, and additional services actually performed prior to termination, together with any reimbursable expenses then due.

**Section 9. Indemnification. Professional shall indemnify, defend and hold harmless the City of Gonzales, Texas and its officials, employees and agents (collectively referred to as “Indemnitees”) and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including reasonable attorney’s fees) or liabilities (collectively referred to as “Liabilities”) by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of Services contemplated by this Agreement but only to the extent caused by the negligent acts, errors or omissions, intentional torts, intellectual property infringement, or a failure to pay a sub-contractor or supplier committed by Professional or Professional’s agent, consultant under contract, or another entity over which Professional exercises control (whether active or passive) of Professional or its employees, agents or sub-contractors (collectively referred to as “Professional”) (ii) the failure of Professional to comply with any of the paragraphs herein or the failure of Professional to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal, state or local, in connection with the performance of this Agreement. Professional expressly agrees to indemnify and hold harmless the Indemnitees, or any one of them, from and against all liabilities which may be asserted by an employee or former employee of Professional, or any of its sub-contractors, as provided above, for which Professional’s liability to such employee or former employee would otherwise be limited to payments under State Workers’ Compensation or similar laws. Nothing herein shall require Professional to indemnify, defend, or hold harmless any Indemnitee for the Indemnitee’s own negligence or willful misconduct. Any and all indemnity provided for in this Agreement shall survive the expiration of this Agreement and the discharge of all other obligations owed by the parties to each other hereunder and shall apply prospectively not only during the term of this Agreement but thereafter so long as any liability could be asserted in regard to any acts or omissions of Professional in performing Services under this Agreement.**

**For Professional Liability Claims, Professional shall be liable for reasonable defense costs incurred by Indemnitees but only after final adjudication and to the extent and percent that Professional or Professional's agents are found negligent or otherwise at fault. As used in this Agreement, final adjudication includes any negotiated settlement and release of claims, without limitation as to when a negotiated settlement and release of claims occurs.**

**Section 10. Notices.** Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

**Section 11. No Assignment.** Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

**Section 12. Severability.** If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

**Section 13. Waiver.** Either City or the Professional shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

**Section 14. Governing Law; Venue.** This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in



Gonzales County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Gonzales County, Texas.

**Section 15. Paragraph Headings; Construction.** The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

**Section 16. Binding Effect.** Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

**Section 17. Gender.** Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

**Section 18. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 19. Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**Section 20. Entire Agreement.** It is understood and agreed that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

**Section 21. Relationship of Parties.** Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

**Section 22. Right To Audit.** City shall have the right to examine and audit the books and records of Professional with regards to the work described in Exhibit A, or any subsequent

changes, at any reasonable time upon reasonable notice. Such books and records will be maintained in accordance with generally accepted principles of accounting and will be adequate to enable determination of: (1) the substantiation and accuracy of any payments required to be made under this Agreement; and (2) compliance with the provisions of this Agreement.

**Section 23. Dispute Resolution.** In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

**Section 24. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire.** Professional represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code and Chapter 2252 of the Texas Government Code.

**Section 25. Texas Government Code Mandatory Provisions.** The City of Gonzales may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Company hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Company hereby verifies that it does not boycott energy companies, and agrees that, during the term of this agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as

amended. Company hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Further, Company hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

**EXECUTED**, by the City on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**CITY:**

**PROFESSIONAL:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**ADDRESS FOR NOTICE:**

**CITY**

**PROFESSIONAL**

City of Gonzales  
Attn: Timothy L. Crow  
City Manager  
820 St. Joseph Street  
Gonzales, TX 78629

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to:

City Attorney  
City of Gonzales, Texas  
Attn: Megan Santee  
2517 N. Main Avenue  
San Antonio, Texas 78212

## Exhibit "A"

### Scope of Services

#### **LEAD AND COPPER RULES REVISIONS SCOPE**

The Consultant shall perform the following services to assist the City to be in compliance with the Lead and Copper Rule Revisions:

- Development of an inventory of water service line materials, including service lines on both sides of the water meter, through field investigation and research of historical records (if any are available), and have findings available to upload in a GIS database and PDF maps.
- Development of a compliance and replacement plan/program of lead services lines, including recommended options for future water service line materials.
- Identify childcare facilities and schools that receive potable/drinking water from the City of Gonzales, and review records/reports of prior lead testing at Gonzales schools from 2018.
- Preparation of a sampling/testing plan to find sources of lead in drinking water at childcare facilities and schools, and other locations as needed.
- Establishing an inventory of lead service lines that can be published online website, GIS Map, database) and match the EPA's inventory template,
- Recommendation on planning, training, public education, notifications, and outreach programs.
- Assistance in identifying funding sources to assist the City and private program owners with implementing the requirements of Lead and Copper Rule Revisions, assist the City when EPA finalizes Lead and Copper Rule Improvements (LCRI), and identifying and applying for state and federal grants on behalf of the City.
- Monthly meetings with City Staff to go over progress of project and meetings with other staff/stakeholders when needed.
- Coordination with the TCEQ as needed for compliance with inventory, sampling/testing, and replacement plans.

#### **DELIVERABLES**

The Consultant is expected to provide the following deliverables (but not limited to):

- Baseline project schedule for the completion of tasks and milestones, including monthly updates.
- Inventory map of service lines in GIS, Excel, and PDF formats. Map to include location of childcare and school facilities, and area of at risk and underserved communities. Inventory must be prepare in a way that can be kept up to date by City Staff.

- Draft and Final Technical Memorandum on compliance measure and replacement program of lead service lines, including cost estimates, and funding opportunities.
- Listing and Map of Childcare Facilities and Schools, and other locations if needed, that receive drinking water and in need of sampling/testing.
- Draft and Final Sampling and Testing Program
- Draft and Final Public Outreach program and website to publish relevant information in regards to Lead and Copper Rule Revisions, and notification requirements.
- Outline, Draft, and Final Report showing background and information gathered and measures the City needs to take to be in compliance with Lead and Copper Rule Revisions.

Exhibit "B"  
Compensation

Exhibit "C"

Evidence of Insurance