

September 2, 2022

City of Keller
Attn: Alonzo Liñán, P.E.
Director of Public Works
1100 Bear Creek Pkwy
Keller, Texas 76244

Subject: Scope of Service to Provide Professional Services for TCEQ Backflow Cross Connection Control Program Assistance and Plan Review

Dear Mr. Liñán:

This letter of agreement confirms Hardin & Associates will provide professional services to assist with Texas Commission on Environmental Quality (TCEQ) Cross Connection Control Program and plan reviews as needed (the Project). These program and plan review are conducted to ensure regulatory compliance is being achieved as required by TCEQ Texas Administrative Code, Title 30, and Chapter 290.

SCOPE OF WORK

The scope of services to be performed by Hardin & Associates under this letter agreement is described in Exhibit A.

Total Project costs for this scope of service will not exceed \$100,000 annually without prior written approval from the City of Keller (City). These costs include labor, travel, and other direct costs associated with this assignment. A description of each task, along with labor and inspection rates, is provided for your review (see Exhibit B & C).

All work will be performed in accordance with Hardin & Associates attached (see Exhibit D) Standard Terms and Conditions. This Agreement will be effective on the earliest date subscribed below and will remain in full force and effect for a period of one (1) year from October 1, 2022, to September 30, 2023 (the "Initial Term"), unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement. After the expiration of the Initial Term, this Agreement shall automatically renew each year for up to a total of 5 years, unless either party provides written notice of its intent to terminate the Agreement to the other party at least thirty (30) days prior to the expiration of any term.

To accept this proposal, please sign and date two copies and return one copy to Hardin & Associates. The work defined herein shall begin after Hardin & Associates receives the signed copy of this letter agreement.

Please review the enclosed scope and fees, and feel free to contact me with any questions or comments at 972-823-8800 or via email at hbayo@hactexas.com.



(972) 823-8800
www.hactexas.com
2105 Luna Road, Suite 310
Carrollton, Texas 75006

We look forward to the opportunity to perform the work for you.

Sincerely yours,

Hardin & Associates

HADDIJATOU BAYO, P.E.
Engineering Manager

A handwritten signature in blue ink that reads 'Haddijatou Bayo'. The signature is written in a cursive style and is positioned above a solid black horizontal line.

The undersigned agrees to the Terms and
Conditions of this Letter Agreement
attached hereto.

City of Keller

Signature _____

Printed Name _____

Title City Manager _____

Date _____

Attachment

EXHIBIT A SCOPE OF WORK

The purpose of this scope of services is for the City of Keller to allow Hardin & Associates to provide TCEQ compliance inspections for backflow cross connection control and re-inspections as required by the TCEQ. Plan review services will also be provided as requested. Backflow cross connection control inspections and plan review are necessary for ensuring continued TCEQ compliance and protecting public health by identifying and preventing backflow cross-connections to the potable water supply.

BACKGROUND

Texas has promulgated regulations that mandate that all public water suppliers have a program to require backflow prevention devices be installed to protect against contamination of public water supplies. Effective January 1, 1996, the Texas Commission on Environmental Quality (TCEQ) required that all public water systems comply with Texas Administrative Code, Title 30, Chapter 290, which states as follows:

§290.44 Water Distribution. *(h). (1). No water connection from any public drinking water supply system shall be made to any establishment where an actual or potential contamination or system hazard exists without an air gap separation between the drinking water supply and the source of potential contamination. Under these conditions, additional protection shall be required at the meter in the form of a backflow prevention device ...on those establishments handling substances deleterious or hazardous to the public health. The water purveyor need not require backflow protection at the water service entrance if an adequate cross-connection control program is in effect that includes an **annual inspection and testing** by a certified backflow prevention device tester. **It will be the responsibility of the water purveyor to ensure that these requirements are met.** (Emphasis added)*

§290.46(j) Customer service inspections. *A customer service inspection certificate shall be completed prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. Any customer service inspection certificate form which varies from the format found in §290.47(d) of this title must be approved by the executive director prior to being placed in use.*

The TCEQ began full enforcement of these regulations and evaluates public water systems for compliance through its annual public water system inspection program. All systems found **without a program or with an inadequate program** may risk potential enforcement action in the form of fines each day from the TCEQ until an approved program is in place.

THE OBJECTIVES TO BE ACHIEVED WITH THIS PROPOSAL

1. Provide full oversight for the Cross Connection Program Management until the point of City enforcement
2. Identify additional backflow/cross-connection assemblies for annual inspection;
3. Provide TCEQ Compliance Inspections, including HAC water use survey;
4. Provide Inspection Report findings and recommendations for compliance; and
5. Participate in Development Review Committee (DRC) meetings and provide comments as they pertain to the TCEQ backflow prevention cross-connection control requirements for the City of Keller.

TASKS NECESSARY TO ACHIEVE AGREEMENT

The major tasks that will be performed by Hardin & Associates include the following:

CROSS CONNECTION CONTROL PROGRAM SERVICES

TASK 1 – Program Management

Hardin & Associates Project Manager will be responsible for the following:

- 1.1 Lead the project efforts and serve as the key contact between the City of Keller and Hardin & Associates;
- 1.2 Update client SOP as Program Requirements change;
- 1.3 Review and monitor inspections results;
- 1.4 Schedule and organize meetings and assignments; and
- 1.5 Ensure that the project is completed in accordance with the Scope of Work and schedule.

TASK 2 – Administrative

Hardin & Associates Consulting will provide administrative duties and functions associated with this project.

- 2.1 Coordinate with City staff and provide completed Cross-Connection Control Compliance (4C) inspection report findings and recommendations;
- 2.2 Mail and/or email correspondence letters on City of Keller letterhead, with appropriate inspection documents, if applicable;
- 2.3 Provide required program customer support (via e-mails, phone, and mail);
- 2.4 Inform City staff of all correspondence made on the client's behalf, copy City staff on email communication;
- 2.5 Schedule inspections and coordinate meetings, if necessary;
- 2.6 Prepare and maintain reports and correspondence as required by the Cross Connection Control Program;
- 2.7 Conduct quality control review to ensure complaints and required documents are accurately recorded in city tracking database; and
- 2.8 Provide monthly status reports for the required environmental services related program such as but not limited to, tracking compliance and non-compliance, regarding the Cross Connection Control Program.

TASK 3 – Conduct TCEQ Compliance Inspections and Re-inspections to ensure compliance

Hardin & Associates will conduct TCEQ Compliance Inspections and re-inspections as necessary using our Cross-Connection Control Compliance (4C) inspection form. Inspections will include 4C inspections on new and existing facilities for the purpose of validating existing, or requiring new, backflow prevention assemblies as identified from the inspection. Inspection data will be made available for entry into the City's backflow data management system.

- 3.1 Conduct TCEQ compliance inspections and re-inspections as needed

TASK 4 – Plan Review and Meetings

- 5.1 Review building plans (electronically or on site) for compliance with City of Keller ordinances, and provide written comments and recommendations to City staff; and
- 5.2 Attend on site meetings (DRC, Pre-Construction) with City staff and development community as needed to reach resolution on outstanding issues.

EXHIBIT B
PAYMENT OF FEES
BACKFLOW CROSS-CONNECTION CONTROL PROFESSIONAL SERVICES
HARDIN & ASSOCIATES CONSULTING

The City shall pay Hardin & Associates for services set forth in Exhibit A on an hourly rate basis and per inspection basis as estimated in the attached schedule below.

INSPECTION SERVICES

Task 1: Project Management

Task 2: Administrative (including mailing services)

Task 3: Conduct TCEQ Compliance Inspections and Re-inspections

Task 4: Plan Review and Meetings On Site

Total Amount	\$ 100,000
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**EXHIBIT C
RATE SCHEDULE
BACKFLOW CROSS-CONNECTION CONTROL PROFESSIONAL SERVICES
HARDIN & ASSOCIATES CONSULTING**

COMPENSATION

Project Team Member	Labor Rate*
Project Manager	\$150 per hour
Administrative Assistant	\$ 40 per hour

Inspection Services	Inspection Rate*
Performing CSI Compliance Inspections	\$125 per hour
Performing CSI Compliance Re-Inspections	\$125 per hour

Plan Review Services	Meeting / Review Inspection Rate*
Providing Plan Review (On-Site)	\$95 per hour

*These costs include all labor, per diem, and materials associated with this assignment. Reimbursable expenses include mailing services incurred when transmitting correspondence on behalf of client.

EXHIBIT D

HARDIN & ASSOCIATES STANDARD TERMS AND CONDITIONS

I. SCOPE

Hardin & Associates Consulting (HAC) agrees to perform the services described in the scope of work attached hereto which incorporates these terms and conditions. Unless modified in writing by the parties hereto, the duties of HAC shall not be construed to exceed those services specifically set forth in the proposal. These terms and conditions and the proposal, when executed by Client, shall constitute a binding agreement on both parties (hereinafter the "Agreement").

II. COMPENSATION

Client agrees to pay for the services Article I in accordance with the compensation provisions in the proposal. Payment to HAC will be made within 30 days after the date of billing. Interest on the unpaid balance will accrue beginning on the 31st day at the maximum interest rate permitted by law.

Time-related charges will be made in accordance with the billing rate referenced in the proposal or Agreement. Direct expenses and HAC Contractor services shall be billed in accordance with the proposal or compensation exhibit attached to this Agreement. Otherwise, HAC's standard billing rates shall apply. In the event any uncontested portions of any invoice are not paid within 30 days of the date of Consultant's invoice, Consultant shall have the right to suspend work per Article XIV, Suspension of Work.

III. RESPONSIBILITY

STANDARD OF CARE. HAC is employed to render a professional service only, and any payments made by Client are compensation solely for such services rendered and recommendations made in carrying out the Work. HAC does not expressly or impliedly warrant or guarantee its services.

RELIANCE UPON INFORMATION PROVIDED BY OTHERS. If HAC's performance of services hereunder requires HAC to rely on information provided by other parties (excepting HAC's Contractors), HAC shall not independently verify the validity, completeness or accuracy of such information unless otherwise expressly engaged to do so in writing by Client.

IV. INDEMNIFICATION

HAC agrees to indemnify and hold Client harmless from and against any liability to the extent arising out of the negligent acts, errors or omissions of HAC, its agents, employees, or representatives, in the performance of duties under the Agreement. Regardless of any other term of this Agreement, in no event shall

HAC be responsible or liable to Client for any incidental, consequential, or other indirect damages.

V. INSURANCE

HAC shall maintain during the life of the Agreement the following minimum insurance:

1. **Automobile bodily injury and property damage liability** insurance covering owned, non-owned, rented, and hired cars. The combined single limit for bodily injury and property damage shall be not less than \$1,000,000.
2. **Professional liability** insurance with limits of not less than \$1,000,000.

Client shall be named as additional insured on policies 1 and 2 above. Upon request, a certificate of insurance will be provided to Client with a 30-day written notice in the event the above policies are cancelled.

VI. SUBCONTRACTS

HAC shall be entitled, to the extent determined to be appropriate by HAC, to subcontract any portion of the Work to be performed under this Agreement.

VII. ASSIGNMENT

If the authorized scope of work includes construction activities or the oversight of construction, HAC may, at its discretion and upon notice to Client, assign all of its contractual rights and obligations with respect to such activities or services to a registered engineering affiliate.

If the authorized scope of work requires professional services to be performed in a jurisdiction in which HAC renders professional services solely through a locally registered engineering affiliate for purposes of compliance with professional licensing requirements in that jurisdiction, HAC may, in its discretion, upon notice to Client, assign its contractual rights and obligations with respect to such services to such locally registered engineering affiliate.

VIII. INTEGRATION

These terms and conditions and the proposal to which they are attached represent the entire understanding of Client and HAC as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both parties, provided further that any terms and conditions in any client authorization or purchase order issued in connection or under the Agreement which are

Hardin & Associates / Client Standard Terms and Conditions (cont.)

inconsistent with the Agreement are hereby superseded and shall be of no force and effect.

IX. CHOICE OF LAW/JURISDICTION

This Agreement shall be administered and interpreted under the laws of the state in which the HAC office responsible for the project is located. Jurisdiction of litigation arising from the Agreement shall be in that state.

X. SEVERABILITY

If any part of the Agreement is found unenforceable under applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall be in full force and effect.

XI. FORCE MAJEURE

HAC shall not be responsible for delays in performing the scope of services that may result from causes beyond the reasonable control or contemplation of HAC. HAC will take reasonable steps to mitigate the impact of any force majeure.

XII. NO BENEFIT FOR THIRD PARTIES

The services to be performed by HAC hereunder are intended solely for the benefit of Client, and no right nor benefit is conferred on, nor any contractual relationship intended or established with any person or entity not a party to this Agreement. No such person or entity shall be entitled to rely on HAC's performance of its services hereunder.

XIII. WORK PRODUCT

HAC and Client recognize that HAC's work product submitted in performance of this Agreement is intended only for the Client's benefit and use. Change, alteration, or reuse on another project by Client shall be at Client's sole risk, and Client shall hold harmless and indemnify HAC against all losses, damages, costs and expense, including attorneys' fees, arising out of or related to any such unauthorized change, alteration or reuse. All TCEQ Customer Service Inspections (CSI's) will be conducted by licensed inspectors and copies of current inspector licenses will be provided upon request by client.

XIV. SUSPENSION OF WORK

Work under this Agreement may be suspended as follows:

1. **By Client.** By written notice to HAC, Client may suspend all or a portion of the Work under this Agreement if unforeseen circumstances beyond Client's control make normal progress of the Work impracticable. HAC shall be compensated for its reasonable expenses resulting from such suspension including mobilization and demobilization. If suspension is greater than 30 days, then HAC shall have the right to terminate this Agreement in accordance with Article XV, Termination of Work.
2. **By HAC.** By written notice to Client, HAC may suspend the Work if HAC reasonably determines that working conditions at the Site (outside HAC's control) are unsafe, or in violation of applicable laws, or in the event Client has not made timely payment in accordance with Article II, Compensation, or for other circumstances not caused by HAC that are interfering with the normal progress of the Work. HAC's suspension of Work hereunder shall be without prejudice to any other remedy of HAC at law or equity.

XV. TERMINATION OF WORK

This Agreement may be terminated as follows:

1. **By Client** (a) for its convenience on 30 days' notice to HAC, or (b) for cause, if HAC materially breaches this Agreement through no fault of Client and HAC neither cures such material breach nor makes reasonable progress toward cure within 15 days after Client has given written notice of the alleged breach to HAC.
2. **By HAC** (a) for cause, if Client materially breaches this Agreement through no fault of HAC and Client neither cures such material breach nor makes reasonable progress toward cure within 15 days after HAC has given written notice of the alleged breach to Client, or (b) upon five days' notice if Work under this Agreement has been suspended by either Client or HAC in the aggregate for more than 30 days.
3. **Payment upon Termination.** In the event of termination, HAC shall perform such additional work as is reasonably necessary for the orderly closing of the Work. HAC shall be compensated for all work performed prior to the effective date of termination, plus work required for the orderly closing of the Work.

XVI. NOTICES

All notices required under this Agreement shall be by personal delivery, facsimile or mail to the HAC Project Manager and to the person signing the proposal on behalf of the Client, and shall be effective upon delivery to the addressed stated in the proposal.