



PROFESSIONAL SERVICES AGREEMENT

(LAN Revised 1-16-2025, JBG)

This AGREEMENT (“Agreement”) is entered by and between **LAN, Inc** (the “Professional”), located at **3700 W Sam Houston Parkway S, Suite 400** and the **City of League City** (“City”), a home-rule municipality, located at 300 W. Walker St., League City, Texas 77573 on the date set forth below.

Terms:

- 1. Scope of Services:** Professional will perform the services as set forth in **Exhibit A**, which is attached and incorporated herein, and which can be generally described as **Transmission Waterline Assessment and Rehabilitation Project (WT2501)**. Services related to design, bid, or construction of a public work shall conform to the requirements set forth in **Exhibit B**, if applicable. If there is a conflict between the terms of this Agreement and Exhibits A (or B, if applicable), the terms of this Agreement will prevail.
- 2. Term and Termination:** This Agreement shall commence on **February 1, 2025** and shall expire on **September 30, 2025**. City reserves the right to terminate this Agreement for convenience upon seven (7) days written notice to Professional. Upon such termination, City shall pay Professional, at the rate set out in **Exhibit A**, for services satisfactorily performed up through the date of termination. Notwithstanding any provision in this Agreement to the contrary, City will not be required to pay or reimburse Professional for any services performed or for expenses incurred by Professional after the date of the termination notice that could have been avoided or mitigated by Professional.
- 3. Compensation:** Professional shall be paid for the services as set forth in **Exhibit A**. In no event shall the total compensation exceed **\$245,824.00** during the term of this Agreement. City shall tender payment (including progress/partial payments) for services only after such services are completed and are deemed to be acceptable under this Agreement, in the sole reasonable discretion of City. Professional must submit to City invoices for all services provided, which invoices must include details and dates of service. Payment by City shall be made within thirty (30) days of receipt of an invoice, except for any portion of the invoiced amount that City disapproves as not compliant under this Agreement, in the sole reasonable discretion of City. If City disapproves any amount submitted for payment by Professional, City shall give Professional specific reasons for disapproval in writing.
- 4. Insurance:** Professional **is** required during the Contract Term to maintain insurance as set forth below: (a) Comprehensive General Commercial Liability insurance covering bodily injury and property damage, with minimum coverage limits—exclusive of defense costs—of \$1,000,000 per claim and \$2,000,000 aggregate; (b) Professional Liability (errors and omissions/malpractice) insurance with minimum coverage limits—exclusive of defense costs—of \$2,000,000 per occurrence; and (c) If at any point during the Contract Term it is foreseeable that Professional will enter upon City premises: (i) Worker’s Compensation coverage with statutory limits for the State of Texas, and (ii) Commercial Automobile Liability coverage with minimum coverage limits—

exclusive of defense costs—of \$1,000,000 per occurrence and \$2,000,000 aggregate. All policies must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name the City as Additional Insured. Professional shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City. Professional shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.

5. **Liquidated Damages:** Liquidated damages **are not** applicable to this transaction. Professional acknowledges that time is of the essence in performing this Agreement. City and Professional (collectively, the “Parties”) agree that if Professional is late in performing any service designated as **Time Critical** on the Scope of Services attached to this Agreement, City will suffer loss, damages, or other harm from Professional’s delay. The Parties agree that the amount of loss, damages, or harm likely to be incurred as a result of Professional’s delay is incapable or difficult to precisely estimate, and therefore the Parties desire to stipulate the amount of such loss, damages, or harm. Accordingly, Professional shall have deducted from any amounts owed under this Agreement liquidated damages equal to the number of calendar days of the delay(s) times the daily rate, which rate shall be one-tenth of one percent (0.1%) times the compensation shown in the Scope of Services for such Time Critical service. The Parties further agree that: (i) the liquidated damages specified herein are not a penalty but rather bear a reasonable relationship to, and is not plainly or grossly disproportionate to, the probable loss likely to be incurred by City as a result of Professional’s delay; (ii) one of the reasons for City and Professional to agree to such amounts is the uncertainty and cost of litigation regarding the question of actual damages; and (iii) City and Professional are sophisticated business parties and negotiated this Agreement at arm’s length.
6. **Independent Professional:** Professional is an independent Professional and is not an employee, partner, joint venture, or agent of City. Professional understands and agrees that he/she will not be entitled to any benefits generally available to City employees. Professional shall be responsible for all expenses necessary to carry out the services under this Agreement and shall not be reimbursed by City for such expenses except as otherwise provided in this Agreement.
7. **Intellectual Property:** This Agreement shall be an Agreement for services and the parties intend and consider any work created as a result of this Agreement, including any and all documentation, images, products or results, to be a work (the “Work”) for hire under federal copyright law. Ownership of the Work, except previously owned intellectual property of the Professional, shall belong to and remain the exclusive property of City. The Work may be edited at any time within City’s discretion. If the Work would not be considered a work-for-hire under applicable law, Professional hereby assigns, transfers, and conveys any and all rights, title and interest to City, including without limitation all copyrights, patents, rights of reproduction, rights to ownership, and right to secure registrations, renewals, reissues and extensions thereof. As the sole copyright holder of the Work, City maintains and asserts the rights to use, reproduce, make derivative works from, and/or edit the Work in any form of medium, expression or technology now known or hereafter developed, at any time within City’s discretion. Professional shall not sell, disclose or obtain any other compensation for the services provided herein or the Work. If the Work is one to which the provisions of 17 U.S.C. § 106A apply, Professional hereby waives and appoints City to assert on Professional's behalf Professional's moral rights or any equivalent rights regarding the form or extent of any alteration to the Work (including, without limitation, removal or destruction) or the making of any derivative works based on the Work, including, without limitation, photographs, drawings or other visual reproductions of the work, in any medium, for City’s purposes.

8. **Confidentiality:** During the course of the services to be provided under this Agreement, Professional may become privy to confidential information of City. Professional agrees to treat as confidential the information or knowledge that becomes known to Professional during performance of this Agreement and to not use, copy, or disclose such information to any third party unless authorized in writing by City. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. Professional shall promptly notify City of any misuse or unauthorized disclosure of City's confidential information and upon expiration of this Agreement shall return to City all confidential information in Professional's possession or control. Professional shall further comply with all information security policies of City that may apply and shall not make any press releases, public statements or advertisement referring to the services provided under this Agreement or the engagement of Professional without the prior written approval of City.
9. **Warranties and Representations:** Professional warrants and agrees that Professional shall perform its services in conformance with the care and skill ordinarily exercised by similar members of the profession providing similar services, practicing under similar conditions at the same time and in the same or similar locality, and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any service performed on premises owned or controlled by City, Professional warrants and agrees that Professional will perform said services in compliance with all City rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.
10. **Licenses/Certifications:** Professional represents and warrants that it will obtain and maintain in effect, and pay the cost of, all licenses, permits or certifications that may be necessary for Professional's performance of this Agreement. If Professional is a business entity, Professional warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its formation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of Professional.
11. **Performance/Qualifications:** Professional agrees and represents that Professional has the personnel, experience, and knowledge necessary to qualify Professional for the particular duties to be performed under this Agreement. Professional warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards.
12. **Conflict of Interest:** Professional warrants, represents, and agrees that Professional presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Professional's performance of the services hereunder. Professional further warrants and affirms that no relationship or affiliation exists between Professional and City that could be construed as a conflict of interest with regard to this Agreement.
13. **INDEMNIFICATION: PROFESSIONAL SHALL INDEMNIFY AND HOLD HARMLESS CITY , AND EACH OF ITS OFFICIALS, OFFICERS AND EMPLOYEES FROM AND AGAINST CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES AND LIABILITIES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND REASONABLE LITIGATION COSTS, ARISING OUT OF,**

CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF PROFESSIONAL OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROFESSIONAL IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT, TO THE EXTENT THE CLAIM ARISES FROM NEGLIGENCE, WILLFUL ACT, BREACH OF CONTRACT OR VIOLATION OF LAW.

14. **Force Majeure:** Neither party shall be liable to the other for (i) any delay in performance; (ii) any other breach; (iii) any loss or damage; or (iv) any contribution to or aggravation of any of the foregoing; arising solely from uncontrollable forces such as fire, theft, storm, war, discovery of hazardous material, unforeseeable site conditions, or any other cause that could not have been reasonably avoided by the party's exercise of due diligence.
15. **Notices:** Any notice given under this Agreement by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the Parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notices shall be deemed communicated three (3) days after mailing.
16. **Texas Family Code Child Support Certification:** Pursuant to Section 231.006 of the Texas Family Code, Professional certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated, and payment may be withheld if this certification is inaccurate.
17. **State Auditor:** Professional understands that acceptance of funds under the Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, the "Auditor"), to conduct an audit or investigation in connection with those funds. Professional agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Professional will include this provision in all contracts with permitted subprofessionals.
18. **Jurisdiction:** Any disputes under this Agreement shall be brought in a court of competent jurisdiction in Galveston, Texas and governed by Texas law.
19. **Alternative Dispute Resolution:** To the extent that Chapter 2260, Texas Government Code, is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General Pursuant to Chapter 2260, shall be used by City and Professional to attempt to resolve any claim for breach of contract made by Professional that cannot be resolved in the ordinary course of business. The Director of Finance of City shall examine Professional's claim and any counterclaim and negotiate with Professional in an effort to resolve such claims. This provision shall not be construed as a waiver by City of its right to seek redress in the courts.
20. **Entire Agreement:** This Agreement contains the entire understanding between the Parties and supersedes all prior agreements, arrangements, and understanding, oral or written between the Parties relating to this Agreement. This Agreement may not be modified except by mutual written agreement of the Parties executed subsequent to this Agreement.

21. **Eligibility to Receive Payment:** Professional certifies that, as a matter of state law, it is not ineligible to receive the Agreement and payments pursuant to the Agreement and acknowledges that the Agreement may be terminated, and payment withheld if this representation is inaccurate.
22. **Payment of Debt/Delinquency to State:** Professional certifies that it is not indebted to the City of League City and is current on all taxes owed to the City of League City. Professional agrees that any payments owing to Professional under the Agreement may be applied directly toward any debt or delinquency that Professional owes the City of League City regardless of when it arises, until such debt or delinquency is paid in full.
23. **Products and Materials Produced in Texas:** If Professional will provide services under the Agreement, Professional covenants and agrees that in performing its duties and obligations under the Agreement, it will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
24. **Risk of Loss:** All work performed by Professional pursuant to the Agreement will be at Professional's exclusive risk until final and complete acceptance of the work by City. In the case of any loss or damage to the work, or the need to redo or revise the work for any reason except to accommodate a City request to materially alter the work, prior to City's acceptance, bearing the costs of such loss or damage to or such redo or revision of the work will be Professional's responsibility.
25. **Publicity:** Professional shall not use City's name, logo or likeness in any press release, marketing materials or other public announcement without receiving City's prior written approval.
26. **Legal Construction/Severability:** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this Agreement are declared to be severable. The Parties may mutually agree to renegotiate the Agreement to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.
27. **Limitations:** The Parties are aware that there are constitutional and statutory limitations on the authority of City to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on City's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"). Any terms and conditions related to the Limitations will not be binding on City except to the extent authorized by the laws and Constitution of the State of Texas.
28. **Sovereign Immunity:** The Parties agree that neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement constitutes a waiver of sovereign immunity by City.

29. **Authority:** The Parties stipulate that in entering into this Agreement, the City is performing a solely governmental function and not a proprietary function. Professional warrants and represents that Professional has full power and authority to enter into and perform this Agreement and to make the grant of rights contained herein. The person signing on behalf of City represents that he/she has authority to sign this Agreement on behalf of City.
30. **Non-Waiver:** The Parties specifically agree that neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Professional. No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.
31. **Prohibitions Pursuant to Texas Government Code:** By executing this Agreement Professional verifies that Profession (1) does not boycott Israel and will not during the term of this Agreement per Section 2271.002; (2) is not engaged in business with Iran, Sudan, or any company on the list referenced in Section 2252.152; (3) does not boycott energy companies and will not during the term of this Agreement per 2274.002; and (4) does not have a practice, policy, guidance, or directive of this Agreement against a firearm entity or firearm trade association and will not during the term of this Agreement per 2274.002.

(signature block on next page)

Executed on _____ . *(date to be filled in by City Secretary)*

LAN, INC - “Professional”

Mackrena L. Ramos, Vice President

CITY OF LEAGUE CITY – “City”

John Baumgartner, City Manager

Attest:

Diana Stapp, City Secretary

Approved as to Form:

Office of the City Attorney

Exhibit A

Scope of Services/Description of Products/Payment Schedule
(6 pages, including this page)

See Next 5 Pages...



Planning
Engineering
Program Management

January 3, 2025

Mr. Anthony Talluto
Project Manager
City of League City

Reference: W17 Transmission Waterline Assessment and Rehabilitation
Request for Authorization for Phase I – Planning and Non-invasive Assessment

Mr. Talluto,

Lockwood, Andrews & Newnam, Inc. (LAN) is pleased to submit the following proposal to perform Phase I Planning and Non-Invasive Assessment services needed to evaluate methods and provide recommendations for the condition assessment of approximately 20,000 LF of existing 42-inch and 39-inch prestressed concrete cylinder pipe (PCCP) water line which conveys surface water from the State Hwy 3 BPS to near IH 45.

The objective of this task is to provide a design concept review and acquire information through research and indirect testing to identify the most appropriate methods to assess the condition of the existing PCCP waterline and its valves and other appurtenances. This effort will also identify impediments to construction, such as site accessibility and ability to isolate water lines fed by the line without disrupting service. The findings and recommendations will be presented to the City for inclusion into design of a Condition Assessment support construction project.

A detailed scope of work and fees are included in Exhibit A. This work effort will be performed in accordance with the final agreed terms of the Professional Services Agreement between the City and LAN.

Thank you for your consideration of this proposal. If you have any questions or comments concerning the proposed work, please contact me or Greg Henry at (713) 821-0428.

Sincerely,

A handwritten signature in blue ink that reads "Gregory J. Henry". The signature is fluid and cursive, with the first letters of each word being capitalized and larger than the rest of the letters.

Gregory J Henry, P.E.
Project Manager

GJH:mcm

Attachment: Exhibit A: Phase I Scope of Work
Exhibit B: Project Location Map

Exhibit A

City of League City Condition Assessment Phase I Preliminary Engineering

Scope of Work

The purpose of this project is to provide preliminary engineering services as part of a comprehensive assessment of approximately 20,000 linear feet of existing 42- and 39-inch Prestressed Concrete Cylinder Pipe (PCCP) water line from State Hwy 3 to near IH 45. This 50-year-old pipe is critical to convey surface water from the City of Houston to League City. The goal of this effort is to evaluate the current condition and identify any rehabilitation or replacement which can reduce future maintenance needs and extend its safe useful life.

1. Project Management, Administration, and QA/QC

Project management will be provided for resource allocation, preparation of deliverables, scheduling, progress, and budget monitoring to ensure that the work adheres to the proposed schedule and complies with this scope of work. QA/QC reviews of the draft and final technical memorandum will be conducted to confirm that City comments have been addressed and the final technical memorandum complies with this scope of work.

2. Data Collection and Review / Coordination

a. Obtain and Review Existing Data and Reports

Collect and review distribution systems maps, record drawings, maintenance data from Drinking Water Operations and current & previous construction activities along the length of the water line.

Coordinate with City personnel familiar with the maintenance and operation of the existing water line to gather information about maintenance history, accessibility constraints, condition of isolation valves, customer services and other background information.

b. Field Site Investigations

Conduct field visits to confirm the locations of air release valves, isolation valves, and access manways; conduct above grade visual observations; verify existing conditions of surrounding area of valves. Photographs will be used to document existing conditions observed during field visits.

c. Non-invasive External Corrosion Surveys

This Indirect Assessment effort utilizes various ground surface techniques such as Close Interval Survey (CIS) or Two-Cell Survey, which involves taking potential measurements, on a regular interval, above the pipeline. These potential measurements will be analyzed to outline locations to locate possible areas of stray current interference, quantify the corrosivity of the soils, and locate areas where there is an increased likelihood for active corrosion cells or “hot spots” along the pipeline.

Based on the determined severity of corrosion cells, we will provide recommendations for excavation locations to be included in the design for Direct Assessments to be performed during construction with the support of the construction contractor.

Where metallic connections to the pipe are accessible, we will also collect data on the existing cathodic protection system, and attempt to verify electrical continuity or locations of discontinuity along the line. This effort will be used to determine the effectiveness of existing protective systems and assist with detailed design of improvements.

3. Data Analysis

A Design Concept Review will be performed to determine the scope of work for Phase II and identify special design requirements associated with the shutdown of water lines during construction and preferred operational considerations. The Engineer will evaluate existing conditions and propose methods of assessment and rehabilitation to be included in the design phase.

a. Evaluate Effective Assessment Technologies - Determine Operational Constraints / Accessibility Issues vs Reliability of Data

The Engineer will evaluate historical and innovative assessment technologies and recommend the method or methods of assessment which are most cost effective to provide useful and actionable data for assessment. This includes identifying impediments to manned or unmanned entry of the existing water line, such as locations of existing outlets, ability to isolate the water line, and traffic and property impacts.

Shutdown requirements involve identifying valve phasing diagrams, anticipated dewatering limits and a conceptual evaluation of potential temporary line stop and grid extension requirements to maintain service during construction.

The preliminary recommendations will include conceptual plans to mitigate identified impediments to construction, which may include items such as; additional drain or access points, temporary line stop valves, temporary facilities, or permanent grid extensions.

Preliminary construction cost estimates will be developed based on the anticipated cost to provide access to the existing waterline for the selected assessment technologies and potential repair methods and mitigate operational and accessibility constraints.

b. Data Analysis

Comparison of findings, such as corrosion survey results, field reconnaissance, maintenance history, other facility crossings, and other adjacent construction modifications will be overlaid and analyzed to provide engineering recommendations for further testing, rehabilitations, or replacement. Additional testing may be requested as an additional service, or deferred to the Phase II design or construction phases, as determined by the City.

Evaluate cost, risks, and construction impact of suggested rehabilitation methods. Provide life-cycle cost comparison of options including “leave as-is,” rehabilitation, and complete replacement to assist with decision making process.

4. Permitting, Cost Estimating, and Bidding Requirements

a. Identify required permits, approvals, and third-party inspections

This effort will determine what approvals are necessary to perform the construction work, and begin coordination with responsible agencies, such as TxDOT and Flood Control, USACE, and railroads, as necessary.

b. Provide Opinion of Probable Construction Cost and Construction Schedule

As the work progresses, maintain an updated estimate of the probable construction cost and schedule for design, assessment and construction.

c. Evaluate Bidding Options

Based on the desired schedule and recommended assessment and rehabilitation options, evaluate various construction procurement methods, which may include selection of a prime contractor through standard design-bid-build, pre-selection or competitive bidding. Specific assessment technologies may be procured through a Prime Contractor, or as a vendor through this contract or directly to the City. Each option impacts schedule, cost, and ability to direct field work.

5. Preliminary Engineering Report

a. Prepare Draft Preliminary Engineering Report

This task will include preparing a draft Preliminary Engineering Report that will summarize the results of work performed and present recommendations for improvements and

associated construction cost estimates. The draft Preliminary Engineering Report will be submitted to the City for review and comments.

b. Finalize Preliminary Engineering Report

Based on the comments received from the City, a final Preliminary Engineering Report will be prepared and submitted to the City. This document will service as the basis of Phase II – Final Design of Assessment Project.

6. Miscellaneous Project Expenses

We recommend a budget not to exceed \$2,500 to be set for the project’s miscellaneous expenses, such as preproduction, plotting, local mileage, and single-use testing supplies. We will not exceed this amount without prior approval.

7. Fees

For the services rendered in this phase, Engineer proposes a lump sum fee of \$243,324.00 for Tasks 1 through 5 and a not-to-exceed budget of \$2,500.00 for Task 6. Below is a summary of fees:

Phase I Tasks		
1	Project Management, Admin, and QA/QC	\$ 22,608.00
2	Data Collection and Review and Coordination	\$ 70,530.00
3	Data Analysis	\$ 96,702.00
4	Permitting, Cost Estimating, and Bidding Requirements	\$ 11,304.00
5	Reporting	\$ 42,180.00
SUBTOTAL PHASE I Basic Service Effort (Lump Sum)		\$243,324.00
6	Miscellaneous Expenses (Not-to-Exceed)	\$ 2,500.00
TOTAL Phase I Design Effort		\$245,824.00

Invoices shall be submit monthly based on percent completion of tasks listed above. Payments are due within 30 days of receipt of invoice by the City. Expenses will be invoices based on a cost plus 10%.

8. Schedule

Engineer proposes 180 days to complete this phase of the project, excluding City review and decision making periods.

Exhibit B

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