

PROFESSIONAL SERVICES AGREEMENT
for
CASTLE HILLS-CONDITION ASSESSMENT FOR SANITARY SEWER &
WATER DISTRIBUTION SYSTEM

The City of Lewisville, Texas (the “City”), hereby engages RJN GROUP, INC. (the “Consultant”), to perform professional services in connection with Castle Hills Condition Assessment (the “Project”).

I. PROJECT. The Project is described as follows:

- A.** The City previously underwent a project with the Consultant to develop a condition assessment to grade assets in both the sanitary sewer and water distribution systems. The City is soon to annex Castle Hills (as shown in Attachment “E”) and desires to apply the condition assessment grading system to the newly acquired area. This will be accomplished through field investigations and as-built research to map and assess the area. Following investigations, InfoMaster (an Innovyze software) will be used to establish condition assessment grades.

II. SCOPE OF SERVICES.

A. PROJECT ADMINISTRATION:

1. Prepare a final schedule of work activities.
2. Meet with City staff on a periodic bases to discuss progress of various tasks, coordinate upcoming work, and receive input from the City.
3. Perform Consultant’s internal project control procedures on a monthly basis, including schedule and budget control, quality control review, and monthly progress reports.

B. FIELD INVESTIGATION SERVICES:

1. Mapping

Limited field investigations will be performed to survey areas within Castle Hills that appear to be missing data. Assets will be mapped at a GPS survey level and reflected within the GIS and geodatabases. Along with GPS points, the depth of manhole, size of pipe, and material will be collected during investigations. This will not be a full MACP Inspection. Any critical items noticed during field investigations will be reflected in the LOF and notified to the City immediately. Field investigations will be completed for sanitary sewer on an as needed basis. Limited field investigation will be performed for the water distribution system; mapping will rely heavily upon attribute data research for the water distribution system.

C. ATTRIBUTE DATA RESEARCH:

All pertinent attribute data will be gathered from record drawings and imported into the GIS Database, if not already present. This includes asset age, construction material, size, and depth. A portion of Castle Hills attribute data research was completed during the previous condition assessment and will not be duplicated; strictly newly mapped areas will be assessed. Every effort will be made to locate record drawings for each asset. If an asset's record drawing cannot be located, attribute data will be assumed based upon immediate connecting structures, if applicable.

D. SYSTEM ANALYSIS:

The GIS Database populated with data collected from field investigations and as-built research will be imported into InfoMaster Software. Parameters established in the original condition assessment project will be applied to the Castle Hills sanitary sewer and water distribution analysis. Consequence of Failure (COF) and Likelihood of Failure (LOF) ratings will be calculated and then inputted into a Risk Analysis Matrix to generate a grade on a scale of 1 to 5. A grade will be provided for each asset in the sanitary sewer and water distribution system. The sanitary sewer condition assessment grade is based upon depth of manhole/diameter of pipe, age, material, and proximity to waterways, railroads, facilities, and roads. The LOF will be based upon material and age (if available), not a structural and I/I score since full inspections have not been completed within the area. The water distribution condition assessment grade is based upon diameter/size, pipe redundancy, water consumption, age, 5-year repair history, and proximity to waterways, railroads, facilities, and roads.

E. REPORTING/DELIVERABLES:

InfoMaster generates GIS feature classes for all COF, LOF, and Risk (Condition Assessment Grade) analysis results. These feature classes will be imported into a GIS Database along with the City's shapefiles that were populated with pertinent attribute data used to grade the assets. The Engineer will provide the City with this GIS Database and a Technical Memorandum detailing the analysis process and discussing results.

Three (3) copies of the draft technical memorandum will be submitted and discussed. After comments are received, a final technical memorandum will be prepared and submitted to the City. RJN will provide three (3) copies of the final technical memorandum.

A more detailed description of services is provided in Attachment "A" – Scope of Services.

III. COMPENSATION.

The Consultant agrees to perform the services described herein for the amounts stated herein, and the City agrees to make payments in the amounts stated. The total fee agreed to for all described services is **\$131,400.00**. A breakdown of fees for scoped services is included in Attachment “B”, which is hereby included in this Agreement by reference.

Invoices shall be submitted by cover letter from the project manager. The letter shall certify that the invoice properly represents work actually done. The City reserves the right to request additional justification prior to payment of any invoice. If satisfactory justification is not received, the City reserves the right to amend the invoice or to refuse to make payment without incurring penalty or interest. Invoices shall be based on percentage of work completed per identifiable unit of work. The City agrees to make prompt payments for all approved invoices and agrees to pay interest at the rate approved by law for approved invoices not paid within 30 days from the date of approval.

- IV. INSURANCE.** The Consultant agrees to maintain insurance throughout the term of the contract, in accordance with Attachment “C”. All Certificates of Insurance shall be kept current and shall be forwarded to the Purchasing Division of the City by cover letter from the Consultant. Insurance certificate must be received and approved prior to commencement of work. The Consultant shall also review and forward certificates covering sub-consultants.
- V. REUSE OF DOCUMENTS.** All documents, including drawings and specifications prepared by the Consultant pursuant to this Agreement, are instruments of service in respect of the Project. They are not intended or represented to be suitable for reuse by the City or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by the Consultant for the specific purpose intended will be at City’s sole risk and without liability or legal exposure to the Consultant from all claims, damages, losses and expenses including attorney’s fees arising out of or resulting therefrom. Any such verification or adaptation will entitle the Consultant to further compensation at rates to be agreed upon the City and the Consultant.
- VI. OWNERSHIP OF DOCUMENTS.** Original documents, plans, designs, reports and survey notes developed in connection with services performed hereunder belong to, and remain the property of the City, in consideration of which it is mutually agreed that the City will use them solely in connection with the Project, save with the express consent of the Consultant. The Consultant shall retain reproducible copies or electronic files of such documents for at least five (5) years and shall furnish copies to the City for reimbursable costs, if so requested.
- VII. THE CONSULTANT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT IS CAUSED BY OR RESULTS FROM ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS AGENT, EMPLOYEE,**

CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY AND DEFENSE PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONSULTANTS OR CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE CONSULTANT AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE DUTY TO DEFEND SHALL NOT APPLY IN THE CASE OF A CLAIM BASED WHOLLY OR PARTLY ON THE NEGLIGENCE OF, FAULT OF, OR BREACH OF CONTRACT BY THE CITY, ITS AGENTS OR EMPLOYEES, OR OTHER ENTITY (EXCLUDING THE CONSULTANT OR ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL) OVER WHICH THE CITY EXERCISES CONTROL, IN WHICH INSTANCE THE CITY'S REASONABLE ATTORNEY'S FEES SHALL BE REIMBURSED BY CONSULTANT IN PROPORTION TO THE CONSULTANT'S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

- VIII. TIME OF COMPLETION.** A project schedule, shown in Attachment "D" is hereby included in this Professional Services Agreement by reference. The Consultant agrees to perform the services in accordance with the schedule, to the extent over which the Consultant has control.
- IX. TERMINATION.** This Agreement may be terminated without cause at any time prior to completion of the Consultant's services by the City, or by the Consultant with cause, upon seven days written notice to the City at the address of record. Termination shall release each party from all obligations of this Agreement, except those outlined in Paragraphs V, VI and VII above. Upon notice of termination, the Consultant shall prepare and submit to City a final invoice within 15 days.
- X. INDEPENDENT CONTRACTOR.** Consultant shall be considered an independent contractor and not an agent, servant, employee, or representative of the City in the performance of the services. No term or provision herein or act of the City shall be construed as changing that status.
- XI. CONFIDENTIAL INFORMATION.** To the extent allowed by law, the City will safeguard and keep from release any documents marked "proprietary" or information not generally available to the public. However, the City will, if required, comply with all

requirements of the Texas Public Information Act with regard to any documents in its possession at the time of a request made under that Act.

- XII. GOVERNING LAW AND VENUE.** This Agreement is governed by the laws of the State of Texas. Exclusive venue for any dispute arising out of this Agreement is in Denton County, Texas.
- XIII. ARBITRATION.** In the event of a dispute which may arise under this Agreement, the City does not agree to arbitration.
- XIV. PROTECTION OF RESIDENT WORKERS.** The City of Lewisville actively supports the Immigration and Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). The Consultant shall establish appropriate procedures and controls so no services under the Contract Documents will be performed by any worker who is not legally eligible to perform such services or employment. The City reserves the right to audit consultant's employment records to verify the existence of a completed Employment Eligibility Verification Form (I-9) for every worker performing services under the Contract Documents. The audit will be at the City's expense.
- XV. IMMIGRATION REFORM AND CONTROL ACT (8 U.S.C. §1324a).** The City of Lewisville supports the Immigration Reform and Control Act (IRCA) which is a comprehensive scheme prohibiting the employment of unauthorized aliens in the United States. The Consultant shall submit a declaration signed under penalty of perjury of the laws of the State of Texas stating that it has not been found in violation of IRCA by the United States Attorney General or Secretary of Homeland Security in the preceding five (5) years. The Consultant shall ensure that its Subcontractors submit a declaration signed under penalty of perjury of the laws of the State of Texas stating that they have not been found in violation of IRCA by the United States Attorney General or Secretary of Homeland Security in the preceding five (5) years. The Consultant and its Subcontractors shall at all times during the term of the contract with the City comply with the requirements of IRCA and shall notify the City within fifteen (15) working days of receiving notice of a violation of IRCA. The City may terminate a contract with the Consultant if the City determines that (a) the Consultant or its Subcontractors have been untruthful regarding IRCA violations in the preceding five (5) years; (b) if the Consultant fails to ensure that its Subcontractors submit the aforementioned declaration; or (c) the Consultant or its Subcontractors fail to timely notify the City of an IRCA violation.
- XVI. ADA COMPLIANCE.** All goods and services provided to the City must be compliant with the Americans with Disabilities Act ("ADA") and all regulations promulgated pursuant to the ADA. Consultant will be required to certify compliance, if applicable.

XVII. SUCCESSORS AND ASSIGNS. The City and Consultant each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to partners, successors, executors, administrators and assigns of each other in party in respect to all covenants of this Agreement. Neither the City nor the Consultant shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as giving any right or benefits hereunder to anyone other than the City and the Consultant.

XVIII. DISCLOSURE. Pursuant to Chapter 176 of the Texas Local Government Code, a person or agent of a person who contracts or seeks to contract with the City of Lewisville must complete a conflict of interest questionnaire if the person or agent has an affiliation or business relationship that might cause a conflict of interest with the City. The conflict of interest questionnaire, which is available online at ethics.state.tx.us, must be filed with the City Secretary of the City of Lewisville no later than the seventh business day after the person or agent begins contract discussions or negotiations with the City of Lewisville or submits to the City of Lewisville an application, response to a request for proposal or bid, correspondence, or another writing related to a potential agreement with the City of Lewisville. An updated conflict of interest questionnaire must be filed in accordance with Chapter 176 of the Local Government Code.

Said person should consult with legal counsel if they have questions regarding its compliance with the requirements of Chapter 176. It is the responsibility of each person or agent who is contracting or seeking to contract with the City of Lewisville to comply with the filing requirements of Chapter 176.

XIX. TEXAS GOVERNMENT CODE CHAPTER 2270. Pursuant to Texas Government Code Chapter 2270, Contractor affirms that execution of this Agreement serves as written verification that Contractor: (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the Agreement.

XX. TEXAS GOVERNMENT CODE CHAPTER 2252. Pursuant to Texas Government Code Chapter 2252, Subchapter F, Contractor affirms, by entering into this Agreement, that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to Iran, Sudan, or a foreign terrorist organization.

XXI. PERFORMANCE: In compliance with Texas Local Government Code 271.904, the Contractor agrees to perform the services outlined herein with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license; and to perform the services outlined herein as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer, under the schedule as referenced in Section VIII of this Agreement.

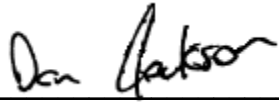
XXII. CLOSURE. By signature below, the parties to this Agreement hereby bind themselves to the terms stated herein, including all attachments referred to herein.

CITY OF LEWISVILLE, TEXAS
Approved by the Lewisville City
Council _____

By: _____
Donna Barron, City Manager

Date: _____

Attest: _____
Julie Worster, City Secretary

By:  _____
Daniel Jackson, Vice President,
RJN Group. Inc

Date: 7/23/2019

Attest:  _____

CITY OF LEWISVILLE
151 West Church Street
Lewisville, Texas 75057

APPROVED AS TO FORM:

Lizbeth Plaster, City Attorney

**ATTACHMENT A
SCOPE OF WORK**

CITY OF LEWISVILLE

**CASTLE HILLS-CONDITION ASSESSMENT FOR SANITARY SEWER & WATER
DISTRIBUTION SYSTEM**

BACKGROUND:

The City of Lewisville, Texas, hereinafter called CITY, previously underwent a project with RJN Group, Inc. to develop a condition assessment to grade assets in both the sanitary sewer and water distribution systems. The CITY is soon to annex an area known as Castle Hills (as shown in Attachment “E”) and desires to apply the condition assessment grading system to the newly acquired area. This will be accomplished through field investigations and as-built research to fully map and assess the area. Following investigations, InfoMaster (an Innovyze software) will be used to establish condition assessment grades. Total anticipated cost for this Scope of Work is \$131,400.00.

The services to be provided include the following:

I. PROJECT ADMINISTRATION:

A. *Project Administration*

Project Administration tasks include the following:

1. Prepare a final schedule of work activities.
2. Meet with CITY staff on a periodic bases to discuss progress of various tasks, coordinate upcoming work, and receive input from the CITY.
3. Perform Consultant’s internal project control procedures on a monthly basis, including schedule and budget control, quality control review, and monthly progress reports.

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this GIS Database and a Technical Memorandum detailing the analysis process and discussing results.

Three (3) copies of the draft technical memorandum will be submitted and discussed. After comments are received, a final technical memorandum will be prepared and submitted to the CITY. RJN will provide three (3) copies of the final technical memorandum.

**ATTACHMENT B
COMPENSATION SCHEDULE**

CITY OF LEWISVILLE

**CASTLE HILLS-CONDITION ASSESSMENT FOR SANITARY SEWER & WATER
DISTRIBUTION SYSTEM**

Task	Description	Cost (\$)
1100	Project Administration	<u>13,000.00</u>
	<i>Subtotal</i>	<i>13,000.00</i>
3100	Field Investigation Services	<u>75,000.00</u>
	<i>Subtotal</i>	<i>75,000.00</i>
9200	Attribute Data Research	<u>20,000.00</u>
	<i>Subtotal</i>	<i>20,000.00</i>
5410	System Analysis	<u>12,000.00</u>
	<i>Subtotal</i>	<i>12,000.00</i>
5420	Reporting/Deliverables	<u>11,400.00</u>
	<i>Subtotal</i>	<u>11,400.00</u>
	Total Not-to-Exceed Amount	131,400.00

**Billing will be hourly not to exceed (Time and Materials)*

Schedule of Hourly Professional Services Billing Rates

Employee Classification	Hourly Rate
Project Director	\$265
Project Manager	\$175
Project Engineer	\$120
Field Manager	\$93
Field Supervisor	\$86
Field Technician	\$80
Project Coordinator	\$96
Office Technician	\$72
Clerical	\$97

**ATTACHMENT C
INSURANCE REQUIREMENTS**

CITY OF LEWISVILLE

**CASTLE HILLS-CONDITION ASSESSMENT FOR SANITARY SEWER & WATER
DISTRIBUTION SYSTEM**

Vendor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Vendor's bid.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage "occurrence" form CG 00 01 (10 01). **"Claims Made" form is unacceptable except for professional liability.**
2. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability – as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract. Coverage not required for delivery services.
4. Professional Liability and/or Errors and Omissions Insurance.

B. MINIMUM LIMITS OF INSURANCE

Vendor shall maintain throughout contract limits not less than:

1. Commercial General Liability: \$500,000 per occurrence/\$1,000,000 aggregate for bodily injury, personal injury and property damage. Policy will include coverage for:
 - a. Premises – Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Use of Contractors and Subcontractors
 - e. Personal Injury
 - f. Broad Form Property Damage
 - g. If applicable, Explosion Collapse and Underground (XCU) Coverage (when applicable, Fire Damage, Medical Expense).

NOTE: The aggregate loss limit applies to each project.

2. Workers' Compensation and Employer's Liability: Workers' Compensation Statutory limits as required by the Labor Code of the State of Texas and Employer's Liability

minimum limits of \$500,000 per injury, \$500,000 per occurrence, and \$500,000 per occupational disease.

3. Automobile Liability - \$500,000 Combined Single Limit. Limits can only be reduced if approved by the HR Director or designee.
4. Professional Liability and/or Errors and Omissions - \$500,000 per occurrence - \$1,000,000 Aggregate.
5. Builders' Risk Insurance (as applicable) – Completed value form, insurance carried must equal the completed value of the structure.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductible or self-insured retentions must be declared to and approved by the City.

D. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverages
 - a. The City, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "Additional Insured" as respects liability arising out of activities performed by or on behalf of the vendor, products and completed operations of the vendor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers. It is understood that the business auto policy under "Who is an Insured" automatically provides liability coverage in favor of the City.
 - b. The vendor's insurance coverage shall be primary and non-contributory insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the vendor's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, and employees, Boards and Commissions or volunteers.
 - d. The vendor's insurance shall apply separately to each insured against whose claim is made or suit is brought, except to the limits of the insured's liability.
2. Waiver of Subrogation – All Coverages except Professional Liability

Each insurance policy required by this exhibit except Professional Liability shall waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the vendor for the City.
3. Notice of Cancellation - All Coverages

Each insurance policy required by this exhibit shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified

mail, return receipt requested, has been given the City, or ten (10) days prior written notice for non-payment of premium.

4. Professional Liability (applicable only to certified or licensed Engineers and or Architects)

“Claims made” policy is acceptable coverage which must be maintained during the course of the project and up to two (2) years after completion and acceptance of the project by the City.

E. ACCEPTABILITY OF INSURERS

The City prefers that Insurance be placed with insurers with an A.M. Best’s rating of no less than **A-:VI, or, A or better** by Standard and Poors. Professional Liability carriers will need to be approved by the HR Director or designee.

F. VERIFICATION OF COVERAGE

Contractor shall furnish the City with certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be provided on forms approved by the Texas Department of Insurance. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

G. HOLD HARMLESS AND INDEMNIFICATION

THE CONSULTANT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT IS CAUSED BY OR RESULTS FROM ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY AND DEFENSE PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONSULTANTS OR CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE CONSULTANT AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE DUTY TO DEFEND SHALL NOT APPLY IN THE CASE OF A CLAIM BASED WHOLLY OR PARTLY ON THE NEGLIGENCE OF, FAULT OF, OR BREACH OF CONTRACT BY THE CITY, ITS AGENTS OR EMPLOYEES, OR OTHER ENTITY (EXCLUDING THE CONSULTANT OR ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT,

OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL) OVER WHICH THE CITY EXERCISES CONTROL, IN WHICH INSTANCE THE CITY'S REASONABLE ATTORNEY'S FEES SHALL BE REIMBURSED BY CONSULTANT IN PROPORTION TO THE CONSULTANT'S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

**ATTACHMENT D
TIME OF COMPLETION**

CITY OF LEWISVILLE

**CASTLE HILLS-CONDITION ASSESSMENT FOR SANITARY SEWER & WATER
DISTRIBUTION SYSTEM**

The Consultant agrees to perform its services in accordance with the schedule below, to the extent over which the Consultant has control.

Proposed Schedule	
Field Investigation Services	September 2019 – December 2019
Attribute Data Research	September 2019 – December 2019
System Analysis	January 2020 – March 2020
Reporting/Deliverables	April 2020 – May 2020

