

CITY OF JOHNSTOWN, PENNSYLVANIA

RESOLUTION NO. 10211

A RESOLUTION OF CITY COUNCIL OF THE CITY OF JOHNSTOWN ACCEPTING THE CODIFICATION OF ORDINANCES UPDATED FOR THE PERIOD OF JANUARY 2018 THROUGH DECEMBER 2018.

WHEREAS, the City of Johnstown is required by the Home Rule Charter to codify all ordinances on a regular basis; and

WHEREAS, the City Manager and the City Clerk of the City of Johnstown prepared and submitted all ordinances to American Legal to perform these services; and

WHEREAS, the submitted ordinances have been codified according to the Charter.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager sign accepting the codified ordinances of the City of Johnstown as updated for the period of January 2018 through November 14, 2018 and continuing further through December 2018.

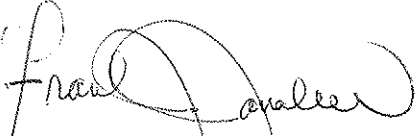
ADOPTED:

September 11, 2019

By the following vote:

Yeas: Mrs. Mock, Mrs. Stanton, Mr. Vitovich, Mr. Williams, Mr. Britt, Mayor Janakovic,  
Rev. King. (7)

Nays: None (0)

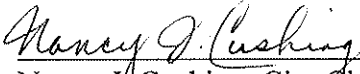


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Frank J. Janakovic, Mayor  
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10211** as the same adopted by the City Council of the City of Johnstown, Pennsylvania.



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Nancy J. Cushing, City Clerk

CITY OF JOHNSTOWN,  
CAMBRIA COUNTY, PENNSYLVANIA  
RESOLUTION NO. 10212

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA AUTHORIZING THE CITY MANAGER TO SIGN A MUNICIPAL WINTER TRAFFIC SERVICES SUPPLEMENTAL AGREEMENT WITH THE COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION FOR FOR THE EFFECTIVE DATE OF OCTOBER 15, 2019 AND THE WINTER SEASONS OF 2019-2020; 2020-2021;2021-2022.

WHEREAS, THE COMMONWEALTH OF PENNSYLVANIA HAS CONTROL AND MAINTENANCE REponsibilities FOR CERTAIN PUBLIC HIGHWAYS AND BRIDGES WITHIN THE CORPORATE LIMITS OF THE CITY OF JOHNSTOWN; AND

WHEREAS, THE CITY HAS THE ABILITY, PERSONNEL, EQUIPMENT AND MATERIALS TO REMOVE SNOW AND ICE FROM THESE PUBLIC HIGHWAYS IN A PROMPT AND EFFICIENT MANNER; AND

WHEREAS, THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION DESIRES TO ENTER INTO A SUPPLEMENTAL AGREEMENT FOR SNOW REMOVAL AND DEICING SERVICES WITH THE CITY OF JOHNSTOWN FOR THE WINTER SEASONS OF 2019-2020; 2020-2021; 2021-2022 WITH EFFECTIVE START DATE OCTOBER 15, 2019

WHEREAS, THE CITY COUNCIL OF THE CITY OF JOHNSTOWN DESIRES TO ENTER INTO THE SAID AGREEMENT WITH THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

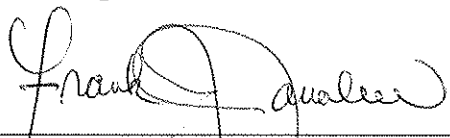
NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Johnstown, hereby authorizes the City Manager to sign and submit A MUNICIPAL WINTER TRAFFIC SERVICES SUPPLEMENTAL AGREEMENT to the Pennsylvania Department of Transportation

ADOPTED: September 11, 2019

By the following Vote:

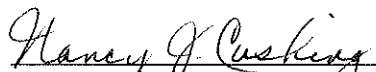
Yeas: Mr. Williams, Mr. Britt, Mayor Janakovic, Rev. King, Mrs. Mock, Mrs. Stanton, Mr. Vitovich. (7)

Nays: None (0)

  
\_\_\_\_\_  
Frank J. Janakovic, Mayor  
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. 10212 as the same by the City Council of the City of Johnstown, Pennsylvania.

  
\_\_\_\_\_  
Nancy Cushing, City Clerk

2019-20

CONTRACT EXHIBIT A  
Revised August 9, 2018

AGREEMENT NO. 39600038232  
YEAR 3  
OF 5

COUNTY: Cambria  
MUNICIP: City of Johnstown  
SAP #: 158965

STATE ROUTE	LOCAL DESCRIPTION	BEGIN SEGMENT	BEGIN OFFSET	END SEGMENT	END OFFSET	SNOW LANE MILES	MFC	RATE PER MEC*	COST
0056	Strayer St, Fairfield Ave	0060	0000	0080	3403	4.90	B	\$1,920.06	\$9,408.29
0271	Bedford St, Clinton St	0190	0000	0240	1200	1.46	B	\$1,920.06	\$2,803.29
0403	Various street names	0070	0108	0160	0692	9.29	B	\$1,920.06	\$17,837.36
0756	Ohio St	0010	0000	0020	0682	1.89	C	\$1,920.06	\$3,628.91
3002	Hairshberger Rd	0020	1878	0030	1535	0.94	D	\$1,920.06	\$1,804.86
3004	Southmont Blvd	0010	0000	0010	0629	0.48	D	\$1,742.39	\$836.35
3004	Southmont Blvd	0030	0629	0010	1125	0.38	C	\$1,920.06	\$729.62
3011	Franklin St	0030	0482	0050	3381	4.40	B	\$1,920.06	\$8,448.26
3016	Vine St	0011	0000	0011	1263	0.72	D	\$1,742.39	\$1,254.52
3016	Vine St	0011	1263	0020	0289	0.22	C	\$1,920.06	\$422.41
3016	Bedford St	0020	0000	0031	0879	0.50	C	\$1,920.06	\$960.03
3016	Vine St	0051	0000	0051	0868	0.49	B	\$1,920.06	\$940.83
3016	Bedford St	0040	0000	0050	0868	0.65	B	\$1,920.06	\$1,248.04
3021	Barnett St	0070	1652	0070	2960	0.74	B	\$1,920.06	\$1,420.84
3024	Adams St	0010	0000	0010	0444	0.17	C	\$1,920.06	\$326.41
3025	Union St	0010	0000	0010	0659	0.37	C	\$1,920.06	\$710.42
3025	William Penn Ave	0010	0000	0010	1053	0.60	E	\$1,742.39	\$1,045.43
3037	William Penn Ave	0030	0000	0050	0904	2.40	C	\$1,920.06	\$4,608.14
3039	4th Ave	0010	0000	0010	2062	0.78	C	\$1,920.06	\$1,497.65
3044	Washington St	0010	0000	0010	0576	2.87	B	\$1,920.06	\$5,510.57
3055	Franklin St	0010	0000	0020	1492	1.79	C	\$1,920.06	\$3,436.91
				TOTAL MILEAGE	36.23				\$69,243.95

\*For the Standard Agreement, rates may vary per county depending on the MFC - see Attachment A Rate Schedule  
\*For the Actual Cost Agreement, rates may not reflect those that appear on Attachment A because PermitDOT is paying actual costs. Rates used must be pre approved by BOMD.

TERMS OF PAYMENT: The Municipality will be compensated with a lump sum payment in the amount indicated as Total Cost, and as adjusted by the Department of Transportation at the end of each year. The Municipality will be compensated with an adjustment to offset severe winters at the following rate. The Municipality will receive an adjustment equal to the percentage of the Department's actual costs (for similar roads serviced) over and above the five-year average for a particular county less a \$1,000.00 deductible for Municipalities with agreements totaling \$5,000.01 or more and a \$500.00 deductible for all others.

Suggested Total Amount Encumbrance	
1st Year:	\$89,243.95
2nd Year:	\$89,243.95
3rd Year:	\$71,321.27
4th Year:	\$146,921.82
5th Year:	
<b>TOTAL:</b>	<b>\$287,487.04</b>

OGC Form 18-FA-33.0  
Approved OAG 5/6/2013

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

**WINTER TRAFFIC SERVICES SUPPLEMENTAL**

**AGREEMENT NO** 3900038232  
**FID/SSN #** 256000865  
**SAP VENDOR #** 158965

**THIS SUPPLEMENTAL AGREEMENT**, fully executed and approved this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, by and between the COMMONWEALTH of Pennsylvania, acting through the Department of Transportation  
("COMMONWEALTH"),

**AND**

the City of Johnstown of the COMMONWEALTH of Pennsylvania, acting  
through its authorized officials ("MUNICIPALITY").

**WITNESSETH:**

WHEREAS, the parties entered into Agreement No. 3900038232, whereby the MUNICIPALITY agreed to perform snow and ice clearance together with the application of anti-skid and/or de-icing materials for certain State Highways as set forth therein; and,

WHEREAS, the parties desire to amend Agreement No. 3900038232 for the purpose of **adding/deleting** certain State Highways.

NOW, THEREFORE, the parties agree to amend Agreement No. 3900038232 in accordance with the following:

1. Exhibit "A" attached to Agreement No. 3900038232 is revised in accordance with Supplemental Exhibit "AA," which is attached to and made part of this Supplemental Agreement, for the purpose of **adding/deleting** the specified state Highway(s).  
SR 0056 decrease from 13.12 miles to 4.90 miles.  
SR 0271 decrease from 6.06 miles to 1.46 miles.  
SR 0403 decrease from 14.49 miles to 9.29 miles.  
SR 0756 increase from 1.76 miles to 1.89 miles.  
SR 3002 increase from 0.93 miles to 0.94 miles.  
SR 3004 decrease from 8.86 miles to 0.85 miles.  
SR 3016 increase from 3.08 miles to 3.51 miles.  
SR 3037 increase from 2.38 miles to 2.40 miles.

2. The effective date of these **additions/deletions** shall be the date on which this Supplemental Agreement has been fully executed and approved by the COMMONWEALTH, or October 15 of the calendar year in which this Supplemental Agreement is made, whichever date is later.
3. The original agreement as hereby supplemented shall continue to renew on October 15 of each successive season through the original termination date. If this Supplemental Agreement is not fully executed and approved prior to October 15 of the Winter Season for which it will initially take effect, the COMMONWEALTH shall prorate payment for that Winter Season only. Furthermore, the proration shall affect the **added/deleted** roadways only. The amount to be prorated shall be based upon the percentage that the affected roadway bears to the total State Highway mileage maintained by the MUNICIPALITY, multiplied by 1/198 (1/199 for leap years). This number shall be multiplied by (a) the number of days between October 15 and the effective date of this Supplemental Agreement and then by (b) the rate applicable to that roadway classification. The COMMONWEALTH will then add the resulting amount to, or subtract it from, the total annual payment.
4. Because the COMMONWEALTH will be making payments under this Agreement through the Automated Clearing House ("ACH") Network, the MUNICIPALITY shall comply with the following provisions governing payments through ACH:
  - a) The COMMONWEALTH will make payments to the MUNICIPALITY through ACH. Within 10 days of the execution of this Agreement, the MUNICIPALITY must submit or must have already submitted its ACH information on a ACH enrollment form (obtained at [www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf](http://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf)) and electronic addenda information, if desired to the Commonwealth's Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street – 9<sup>th</sup> Floor, Harrisburg, PA 17101.
  - (b) The MUNICIPALITY must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the respective invoice or program.
  - (c) It is the responsibility of the MUNICIPALITY to ensure that the ACH information contained in the Commonwealth's Central Vendor Master File is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.
5. The COMMONWEALTH has implemented a Strategic Environmental Management Program (SEMP) which complies with the ISO 14001:2004 standard. As part of SEMP, the COMMONWEALTH has established a Green Plan Policy that can be found at [www.dot.state.pa.us](http://www.dot.state.pa.us) and is also posted at the COMMONWEALTH's District and County Offices. The Green Plan Policy is designed to protect the environment, conserve resources and comply with environmental laws and regulations. The MUNICIPALITY shall ensure that its personnel (including the personnel of any of its subcontractors) are aware of the COMMONWEALTH's commitment to protecting the environment, are properly trained about the environmental impacts of their work and are competent (through appropriate work experience, job training or classroom education) to perform the work that they do.

6. The following is added to Agreement No. 3900038232:

The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, applies to this Agreement. Therefore, this Agreement is subject to, and the MUNICIPALITY shall comply with, the clause entitled Contract Provisions – Right to Know Law 8-K-1532, attached as Exhibit “B” and made a part of this Agreement. As used in this exhibit, the term “Contractor” refers to the MUNICIPALITY.

7. Paragraph 12 of Agreement No. 3900038232 is deleted in its entirety and replaced with the following:

The MUNICIPALITY agrees that the COMMONWEALTH may set off the amount of any state tax liability or other obligation of the MUNICIPALITY or its subsidiaries to the COMMONWEALTH against any payments due the MUNICIPALITY under any contract with the COMMONWEALTH.

8. All other terms and conditions of Agreement No. 3900038232 not modified by this Supplemental Agreement shall remain in full force and effect.

9. Replacing the clauses and provisions provided for in Paragraph 11 of Agreement Number 3900038232, the following clauses or provisions are added:

The most current versions of the Commonwealth Nondiscrimination / Sexual Harassment Clause, the Contractor Integrity Provisions the Provisions Concerning the Americans with Disabilities Act, the Contractor Responsibility Provisions, and the Enhanced Minimum Wage Provisions.

These provisions are designated as Exhibit “C,” attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed this Supplemental Agreement.

ATTEST

MUNICIPALITY

x Nancy J. Cushing 9/17/19  
Title: City Clerk DATE

BY x George Hayfield  
Title: City Manager DATE 9/17/19

If a Corporation, the president or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a MUNICIPALITY, Authority or other entity, please attach a resolution.

DO NOT WRITE BELOW THIS LINE – FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

BY \_\_\_\_\_  
District Executive Date

APPROVED AS TO LEGALITY  
AND FORM

\_\_\_\_\_  
for Chief Counsel Date

Certified Funds Available Under  
SAP DOCUMENT NO. 3900038232  
SAP FUND 1058200712  
SAP COST CENTER 7840930000  
GL. ACCOUNT 6344450  
AMOUNT \$287,487.04  
BY \_\_\_\_\_  
for Comptroller Operations Date

Contract No. 3900038232, is split 0 %, expenditure amount of 0.00 for federal funds and 100 %, expenditure amount of \_\_\_\_\_ for state funds. The related federal assistance program name and number is N/A ; N/A . The state assistance program name and SAP Fund is Highway Maintenance ; 582 .

Preapproved Form: OGC No. 18-FA-33.0  
Appv'd OAG 5/6/2013

CITY OF JOHNSTOWN, PENNSYLVANIA  
RESOLUTION NO. 10213

A RESOLUTION OF CITY COUNCIL OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY PENNSYLVANIA, AUTHORIZING THE CITY MANAGER TO SIGN ALL DOCUMENTS NECESSARY TO ENGAGE THE COHEN LAW GROUP IN CABLE FRANCHISE RENEWAL SERVICES AT A RATE OF \$13,320 FOR CABLE FRANCHISE RENEWAL NEGOTIATIONS AND CABLE FRANCHISE FEE AUDIT SERVICES.

WHEREAS, the City of Johnstown agrees to retain Cohen Law Group. to use its expertise to negotiate cable franchise renewal and perform a cable franchise fee audit on Atlantic Broadband; and,

WHEREAS, the City of Johnstown will pay Cohen Law Group. \$13,320 to negotiate cable franchise renewal and perform a cable franchise fee audit, billing one-third at commencement of project, second one-third at middle of project, and final one-third at conclusion of project.; and,

NOW, THEREFORE, BE IT RESOLVED, by City Council of Johnstown, Cambria County, Pennsylvania, that the City Manager is hereby authorized to sign all documents necessary to execute the contract with Cohen Law Group for cable franchise renewal services, as attached herein.

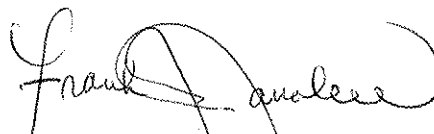
ADOPTED:

September 11, 2019

By the following Vote:

Yeas: Mr. Britt, Mayor Janakovic, Rev. King, Mrs. Mock, Mr. Vitovich. (5)

Nays: Mrs. Stanton, Mr. Williams. (2)

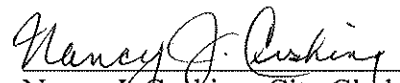


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Frank J. Janakovic, Mayor  
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10213** as the same by the City Council of the City of Johnstown, Pennsylvania.



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Nancy J. Cushing, City Clerk





**PROPOSAL TO PERFORM  
CABLE FRANCHISE RENEWAL SERVICES**

**submitted to the**

**CITY OF JOHNSTOWN**

**by the**

**COHEN LAW GROUP**

**413 South Main Street  
Pittsburgh, PA 15215**

**[www.cohenlawgroup.org](http://www.cohenlawgroup.org)**

**(412) 447-0130**

**MAY 29, 2019**

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## **I. INTRODUCTION**

The Cohen Law Group (“CLG”) welcomes this opportunity to submit a proposal for legal services to assist the City of Johnstown (the “City”) for cable franchise services with Atlantic Broadband. As the City is approaching the expiration of the City’s current franchise agreement, now is the time to plan for cable franchise renewal. Franchise renewal is the best opportunity for municipalities to obtain significant benefits and to assert their legal rights with their cable company.

We have reviewed the City’s current franchise agreement and have found that it does not provide the City with many of the benefits to which it is eligible under federal law. In addition, there have been dramatic changes in video technology since the inception of the City’s current cable franchise agreement, including the expansion of digital technology, high definition (HD) format, the growth in video-on-demand programming, and, perhaps most important, internet-based video (also referred to as video streaming or “over-the-top” technology). There have also been major changes in both the franchise operations of Atlantic Broadband as well as federal law and regulations applicable to cable franchising.

As described in this proposal, we recommend that the City: 1) perform a franchise fee audit to ensure that the City has received all the franchise fee revenue to which it is entitled under the current franchise agreement; and 2) negotiate a new franchise agreement that addresses the changes since the last franchise and secures not only the greatest financial and in-kind benefits that are available, but also proper legal protections for the City.

Municipal officials have three critical roles when it comes to renewing (or, in the rare circumstance, not renewing) a cable franchise. First, they are effectively the landlords of their cable company. The cable company utilizes the municipality’s public rights-of-way to operate its

cable system. Municipal officials manage those rights-of-way as a public trust and are entitled to a fair return for the cable company's use of those public properties.

Second, municipal officials have an obligation to protect and advance the interests of their residents. This means not only getting the best possible services from the cable operator today, but also doing everything possible to prepare for the future. Video technology changes very rapidly. A cable franchise agreement must provide for the benefits available from existing technologies as well as those that may become available from future technologies.

Third and finally, municipal officials are consumers of telecommunications services in all three forms -- voice, video and data. From internet access at City Hall to television service at the Fire Station, municipalities use a wide range of telecommunications services. They are entitled, therefore, to the most efficient, state-of-the-art services at the best possible prices.

CLG is uniquely qualified to represent the City in cable franchise renewal negotiations. For 21 years, our firm has specialized in cable franchise matters on behalf of local governments - representing over 450 municipalities in negotiations with their cable companies. With respect to Atlantic Broadband, our firm has negotiated numerous renewals in Pennsylvania. We know Atlantic Broadband's negotiators, we know the company's corporate policies, and we know their negotiating tactics.

The principal of the firm is Dan Cohen. He has assisted local governments in cable, wireless, and broadband issues for over 25 years. He is a Board member of the National Association of Telecommunications officers and Advisors ("NATOA"), which is the national organization that advocates for local governments in these fields. Aside from his credentials as a telecommunications attorney, Mr. Cohen is especially qualified to represent municipalities, because he was a municipal official himself. As a member of the Pittsburgh City Council for 12

years prior to founding CLG, he understands the practical needs and the financial constraints facing municipal officials. In addition, the CLG includes attorney Phil Fraga, attorney Stacy Browdie, attorney Mike Roberts, attorney Joel Winston, and office manager Akila Iyer.

CLG has developed a three-step approach to cable franchise renewal projects. The first step is identifying the client's specific needs. Since clients' needs often become better defined as the negotiation progresses, we maintain flexibility throughout the process to achieve a franchise agreement that accomplishes the client's specific goals. Second, we negotiate firmly and deliberately with the cable operator in order to reach agreement in a timely fashion. Finally, we work efficiently to achieve results that are cost effective for the client. We are keenly aware of the fiscal constraints facing municipalities, and focus on keeping attorneys' fees as low as possible.

## **II. POTENTIAL FRANCHISE BENEFITS**

There are significant benefits available to municipalities in a cable franchise renewal agreement. The key to receiving these benefits is to know the law and regulations relating to each benefit and to negotiate from strength to obtain them from the cable operator. The following is a list of some of the more important potential benefits:

- 1. Franchise Fee Revenue.** Under federal law, municipalities may assess a franchise fee of up to five percent (5%) of the cable company's "gross revenues" for cable services derived from the municipality. The central subject of negotiation with the cable operator is the specific revenue sources to be included in the definition of "gross revenues." CLG has developed a comprehensive list of cable operator revenue sources to which municipalities may apply the

franchise fee. This list currently includes close to 20 revenue sources and is expanded regularly based on the increasing number of fees being charged by the cable operator.

2. **Franchise Fee Accountability.** In addition to franchise fee revenue, it is also essential for municipalities to require franchise fee protection and accountability. In a franchise agreement, these include detailed franchise fee reports with each payment, the right to conduct comprehensive franchise fee audits with penalties for underpayments, and protections against franchise fee reductions due to bundled services (also referred to as the “triple play” of internet, television, and telephone services) discounts.
3. **Cable System Upgrade.** Depending on technical features of the current cable system, the City may wish to negotiate a time frame for an upgrade of the cable system to provide state-of-the-art cable, internet and phone services. It is essential to know the specifications of the system and whether it is technologically current. Even if the system is up to date, it is important to include the technical specifications of the system in the renewal agreement.
4. **Customer Service Standards.** In a franchise agreement, municipalities may impose customer service standards to which the cable operator must adhere. It is important to include comprehensive and enforceable standards. Examples include telephone answering time limits for customer service operators, refunds for service

interruptions, time frames for home visits by technicians, rules for resolving customer billing disputes, privacy standards, and a prohibition against early application of late fees.

5. **Free Services.** It is common in a franchise agreement for cable companies to provide complimentary cable television and/or internet services to community facilities. The types and amount of such services are different for different cable operators. The major subject of negotiation is the number of community facilities (including municipally operated buildings, public and private schools, and public libraries) that will receive the service, the type of service and the level of service received noting that the policies of any given cable operator are constantly evolving.
6. **Legal Protections of the Rights-of-Way.** Because cable companies place wires and equipment in the public rights-of-way, it is critical that a franchise agreement include legal protections for the municipality. These protections include, but are not limited to, safety standards, repair and restoration of property damage within a specified time frame, emergency removal of equipment, indemnification, and full insurance coverage.
7. **Public, Educational and Governmental (PEG) Channel.** Municipalities have a legal right under federal law to dedicated channel space for public, educational and governmental (“PEG”) programming. PEG Channels may be used to inform citizens by

broadcasting government meetings, providing public safety alerts, and making local announcements. We will work with the City and, if requested, the School District regarding any such channel needs.

- 8. Reporting Requirements.** It can be helpful to obtain periodic information from the cable operator related to financial and customer service issues. A franchise agreement may require the cable operator to provide written reports on such matters as franchise fee verification, customer service complaints, and construction activity in the public rights-of-way.
- 9. Enforcement.** Once the cable operator agrees in a franchise agreement to provide certain benefits to the City, it must be able to enforce these obligations. This includes strict and practical enforcement tools to ensure the company's performance of its obligations under the agreement. These tools may include, but are not limited to, monetary fines, a substantial performance bond, and the right to revoke the franchise in extreme circumstances.
- 10. Length of Term.** Because video technology changes so rapidly, municipalities typically seek a shorter length of franchise term. On the other hand, cable companies typically seek longer terms to protect their capital investment in the cable system. The difference between these two positions is resolved through negotiation.



### **III. SCOPE OF SERVICES**

The following is the scope of services that CLG will perform if hired to assist the City in cable franchise renewal with Atlantic Broadband.

#### **A. Preliminary Setting of Priorities**

We will first arrange an initial client call. We will describe the franchise fee audit and the franchise renewal process, including both the formal and informal processes prescribed by Section 626 of the federal Cable Act, 47 U.S.C. §546. We will also inform City officials regarding their legal rights, including the substantive areas in which they have legal authority over Atlantic Broadband and those areas in which their legal authority is limited. We will outline the potential benefits to the City and solicit the concerns of the officials with respect to Atlantic Broadband. We will also then decide upon a list of priorities negotiations with Atlantic Broadband.

Finally, we will provide the City with a public notice and written talking points for a public hearing on cable franchise renewal. Section 626 of the Cable Act includes a “notice and comment” requirement, and we typically recommend that it be satisfied by a public hearing inviting citizen input. During this preliminary phase, we recommend that the City perform a franchise fee audit to determine whether Atlantic Broadband has paid them all the franchise fee revenue to which it is entitled. Franchise renewal is the single best time to perform such an audit, because, if underpayments are discovered, the City has greater leverage to collect the underpayments. The scope of services for a franchise fee audit is discussed below.

#### **B. Franchise Fee Audit**

During the preliminary setting of priorities, we recommend that the City perform a franchise fee audit of Atlantic Broadband. CLG performs such audits on a regular basis, including

many Atlantic Broadband audits. In 2015-18, we performed over 120 franchise fee audits and discovered underpayments in 73% of them. The Cable Act requires that municipalities, as part of cable franchise renewal, review the cable operator's past performance and identify their future cable-related needs. A franchise fee audit is a key component of assessing the cable operator's past performance. It is the best method for holding the operator accountable for past franchise fees and to ensuring the City receives the future revenues to which it is entitled.

The Cable Act authorizes municipalities to assess up to five percent (5%) of the cable operator's "gross revenues" for cable services derived from the municipality. "Gross revenues" consists of numerous revenue sources, including both subscriber and non-subscriber revenues, that the cable operator collects from cable customers. Pursuant to the franchise fee audit, we will prepare a written Request for Information and Documents ("RFID") to Atlantic Broadband for specific franchise fee information relevant to the City. CLG will then perform the following activities:

- Make a determination of all eligible revenue sources for the City based upon the municipality's current definition of "gross revenues."
- Review Atlantic Broadband's supporting documentation for franchise fee revenue, including quarterly spreadsheets, worksheets, and other revenue reports for the City.
- Identify the revenue sources that Atlantic Broadband has included in its franchise fee documentation. Determine whether Atlantic Broadband has applied the fee to all eligible revenue sources. Identify any revenue sources to which the municipality is entitled, but which Atlantic Broadband did not include in calculating "gross revenues".
- Ensure that all eligible revenues recorded in Atlantic Broadband's financial records are accurately included in the franchise fee payments in accordance with the City's franchise agreement.
- Determine whether non-subscriber revenues, such as advertising and home shopping commissions, which are typically recorded on a regional rather than a local basis, have been properly calculated and properly apportioned to each municipality.

- Review certain special revenue sources, such as “trouble call” fees, video tier downgrade fees, broadcast retransmission fees, regional sports fees, franchise fee-on-franchise fees, and others, to determine proper inclusion in the determination of franchise fees for the time period under review.
- Ensure that “bundled service” revenues (i.e. revenues applied to cable, internet, and phone services) have been accurately apportioned to cable service, which is the only service that may legally be subject to the franchise fee.
- Obtain a “homes passed list” from Atlantic Broadband to determine with specificity whether Atlantic Broadband is properly coding all cable customers to the City as opposed to adjacent municipalities. This includes asking the City to compare the homes passed database against their resident databases (e.g. property or wage tax, water customer or other databases) for possible errors.
- Re-perform a select number of Atlantic Broadband calculations determining franchise fee revenues for the period under review. These calculations include, but are not limited to, figures underlying the amounts reported for revenue sources and calculations on the specific items comprising general franchise fee categories such as “miscellaneous revenues” and “installation revenues” (which include, for example, installation, disconnection, reconnection, relocation and change-in-service fees).
- Ascertain trends of major revenue categories to spot discrepancies and/or inconsistencies in the reporting of revenues over time and making inquiries with Atlantic Broadband to explain such discrepancies and/or inconsistencies.
- Report trends in the number of Atlantic Broadband subscribers in each municipality for the period under review.
- Determine whether there are franchise fee underpayments to the City for the period under review, the amount of any underpayment, and whether any penalties and/or interest apply in accordance with each municipality’s franchise agreement.

Typically, our investigation includes several follow-up questions, requests for further information, and discussions with the cable operator. As the City’s current franchise agreement does not specify an amount of time that is subject to a franchise fee audit, CLG proposes that such audit period be 5 years which is consistent with the majority of the franchise fee audits that CLG conducts absent language in a given municipality’s franchise agreement contemplating a shorter look-back period. Once the audit is completed, we will prepare a written report that summarizes

the results of the franchise fee audit, describes the procedural history and areas of inquiry of the audit, and includes charts showing key subscriber and revenue trends.

**C. Drafting of Proposed Agreement**

Upon completion of the franchise fee audit, our attorneys will draft a proposed franchise agreement with Atlantic Broadband that provides the City with all of the benefits and legal protections to which it is entitled under current law and current technology. The agreement will include the results of the setting of priorities stage above, as well as our judgment as to the legal provisions that would advance the City's interests and meet its future cable-related needs. We will then submit the agreement to the City for informal review and comment before presenting it to representatives of Atlantic Broadband.

**D. Negotiation with Cable Operator**

The most important stage in the process is negotiating a franchise renewal agreement with representatives of Atlantic Broadband. CLG has negotiated franchise agreements with Atlantic Broadband on behalf of Pennsylvania municipalities. We know Atlantic Broadband's negotiator assigned to the City. We also know the company's policies as well as their negotiating tactics.

The working document for these negotiations will be the franchise agreement drafted by CLG and informally approved by the City. We will preserve the City's legal rights under the formal process, but proceed to negotiate with Atlantic Broadband under the informal process outlined in the federal Cable Act. The negotiation typically consists of numerous conference call negotiations with representatives of Atlantic Broadband, status conferences with the City, multiple revisions of the proposed franchise agreement, redrafting specific franchise agreement provisions, and editing the final draft of the cable franchise agreement.

### **E. Consideration by City Council**

After tentative agreement with Atlantic Broadband has been reached on a franchise agreement, CLG will report to the City on the substantive provisions of the deal. Specifically, we will present the City with its final cable franchise agreement and associated items negotiated by the parties and recommended by CLG and, to the extent applicable, a franchise fee audit report showing the methodology and findings of such franchise fee audit. We will also draft an executive summary of the major provisions of the final agreement. Finally, we will draft a recommended short-form ordinance authorizing approval of the agreement for consideration by City Council.

## **IV. PROFESSIONAL BACKGROUND**

CLG specializes in representing municipalities in cable, wireless, and broadband matters. Collectively, our attorneys have worked on cable franchise issues on behalf of municipalities for over 60 years. CLG has represented over 450 local governments in six states in negotiations with cable companies. Our firm has negotiated with major national companies as well as smaller regional companies. We have negotiated numerous agreements with Atlantic Broadband for Pennsylvania municipalities. CLG's full array of legal services includes the following:

- Drafting cable franchise agreements
- Review of current and proposed franchise agreements/ordinances
- Cable franchise renewal negotiations with cable companies
- Franchise fee audits
- Transfer or sale of cable company ownership or control
- Cable compliance reviews
- Evaluation of public, education and governmental ("PEG") channels
- Development of wireless facilities ordinances
- Negotiation with cellular tower and antenna companies
- Wireless facility litigation
- Drafting of right-of-way ordinances and development of right-of-way fees
- Right-of-way management and enforcement
- Drafting pole attachment agreements
- Pole attachment negotiations with cable and telephone companies

- Broadband feasibility studies

As an active member of the National Association of Telecommunications Officers and Advisors (NATOA) and other professional organizations, CLG stays current with frequent changes in cable, wireless, and broadband law. In 2017, Dan Cohen was elected to the NATOA Board of Directors. CLG attorneys have written articles on cable and wireless matters that have been published in various municipal publications. They are also frequent speakers at municipal conferences.

In addition to providing professional counsel to municipalities on cable and telecommunications matters, Mr. Cohen served as an elected municipal official for 12 years on the Pittsburgh City Council. He has firsthand knowledge of the challenges and opportunities confronting municipal governments. Mr. Cohen served as Chair of City Council's Cable Television Committee for ten years and also served on the Mayor's Telecommunications Committee. Mr. Cohen led Pittsburgh's efforts to regulate cable rates, which resulted in a refund ordered by the FCC for all City of Pittsburgh cable customers. Mr. Cohen graduated from Yale University and Stanford Law School.

Attorney Phil Fraga served as assistant general counsel to a major cable company and was general counsel for two telecommunications companies prior to joining the firm in 2006. His industry experience and his understanding of the operations of cable and providers have proven invaluable for our clients as they negotiate with these providers. Mr. Fraga has negotiated hundreds of cable franchise agreements with cable providers. Mr. Fraga has undergraduate degrees from Bethany College (finance) and Carlow College (accounting), an MBA from the University of Steubenville, and a law degree from the Duquesne University School of Law.

Attorney Stacy Browdie has many years of experience working with municipalities in cable and telecommunications matters. Ms. Browdie concentrates primarily in cable franchise agreements, franchise fee audits, right-of-way management, and PEG channels. Ms. Browdie also oversees the business management of the firm. Ms. Browdie graduated from the University of Pennsylvania and from the University of Pittsburgh Law School.

Attorney Mike Roberts concentrates his work on cable franchise renewals, franchise fee audits, and wireless facilities regulation. Mr. Roberts graduated from the University of Pittsburgh and the University of Pittsburgh Law School, where he was Features Editor for JURIST, a legal news and research service.

Attorney Joel Winston focuses on cable franchise negotiations and FCC regulatory matters in his work for CLG. He also has significant litigation experience. Prior to joining CLG, Mr. Winston worked as an attorney in the Office of the Attorney General for the State of New Jersey. He graduated from the University of Michigan and Seton Hall Law School. He has authored numerous published articles on law and technology issues.

## **V. COST OF SERVICES**

The following represents CLG's cost of services to perform a franchise fee audit and franchise renewal negotiations with Atlantic Broadband. We propose to perform these services on a flat fee basis, because our significant experience in performing these projects lends predictability to our efforts on behalf of the City. In addition, a flat fee provides "price certainty." Our flat fees for these projects is as follows noting that the following can be selected individually or collectively:

Flat Fee for Franchise Fee Audit of Atlantic Broadband: \$5,900

Flat Fee for Franchise Renewal with Atlantic Broadband: \$8,900

The total flat fee for both projects is \$14,800; however, if the City engages our firm for both projects, we will apply a 10% discount such that **the total flat fee for both projects would be \$13,320**. The flat fee does not include expenses, such as postage and copying expenses, which are kept to a minimum. We do not charge for mileage.

The flat fee amounts above do not include the unlikely possibility of extraordinary services requested by the client outside the scope of services contained in this proposal or any significant unforeseeable developments. In the event of such extraordinary or unforeseeable developments, CLG will contact the City to discuss such developments prior to rendering services related to such developments. If such services are authorized, CLG would charge a fee of \$250 per hour. Our normal billing policy is to bill one-third of the fee for each project at the commencement of the project, one-third at the middle of each project, and one-third at the conclusion of each project. Thank you for the opportunity to submit this proposal.



CITY OF JOHNSTOWN, PENNSYLVANIA

RESOLUTION NO. 10214

A RESOLUTION OF CITY COUNCIL OF THE CITY OF JOHNSTOWN, PENNSYLVANIA AUTHORIZING THE CITY MANAGER TO SIGN ALL DOCUMENTS NECESSARY TO APPLY FOR A GRANT THROUGH PA WALKWORKS TO PREPARE A COMPLETE STREETS POLICY FOR THE CITY OF JOHNSTOWN IN THE AMOUNT OF \$5,000.00.

Be it RESOLVED, that the City of Johnstown of Cambria County hereby requests funding of \$5,000.00 from PA WalkWorks to be used to prepare a Complete Streets Policy for the City of Johnstown that will enhance the built environment and expand opportunities for physical activity in the City.

Be it FURTHER RESOLVED, that the City of Johnstown of Cambria County hereby commits to carrying out the project if the funds are awarded.

Be it FURTHER RESOLVED, that the Applicant does hereby designate the City Manager as the official to execute all documents and agreements between the City of Johnstown and PA WalkWorks to facilitate and assist in obtaining the requested grant.

I, Nancy J. Cushing, duly qualified Secretary of the City of Johnstown, Cambria County, Pennsylvania, hereby certify that the forgoing is a true and correct copy of a Resolution duly adopted by a majority vote of the City Council at a regular meeting held September 11, 2019 and said Resolution has been recorded in the Minutes of the City of Johnstown and remains in effect as of this date.

IN WITNESS THEREOF, I affix my hand and attach the seal of the City of Johnstown, this 11<sup>th</sup> day of September, 2019.

ADOPTED:

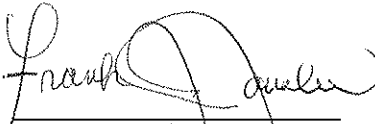
September 11, 2019

By the following vote:

Yeas: Mayor Janakovic, Mrs. Mock, Mr. Vitovich, Mr. Britt. (4)

Nays: Rev. King, Mrs. Stanton. (2)

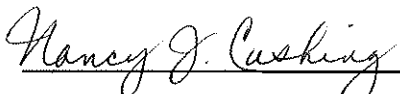
Not Present: Mr. Williams. (1)



Frank J. Janakovic, Mayor  
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10214** as the same adopted by the City Council of the City of Johnstown, Pennsylvania.



Nancy J. Cushing, City Clerk



CITY OF  
JOHNSTOWN  
*"A Home Rule Municipality"*

OFFICE OF THE CITY MANAGER

CITY HALL  
401 MAIN STREET  
JOHNSTOWN, PA 15901

(814) 533 - 2001  
FAX (814) 533 - 2111

August 28, 2019

***CITY OF JOHNSTOWN***

***WALKWORKS APPLICATION - COMPLETE STREETS POLICY***

***RE: LETTER OF SUPPORT FOR THE APPLICATION AND COMMITMENT TO CARRY OUT THE PROJECT***

Dear Application Review Committee Members,

The City of Johnstown is applying for \$5,000 in funding through the WalkWorks Program to prepare a Complete Street Policy. Please accept this letter as providing the City's full support for submitting this application and as providing our full commitment to carry out the project. The City of Johnstown is committing \$12,500 of our own funds towards this Project.

The City of Johnstown is located in Cambria County. Cambria County remains mired near the bottom in the latest County Health Rankings report. In fact, the county ranked 65th out of 67 Pennsylvania counties for health outcomes in the 2019 report, released by the Robert Wood Johnson Foundation and the University of Wisconsin Population Health Institute. Cambria's ranking has continued to drop over the past five years. In 2015, Cambria was at 60th, dropping to 63rd in 2016 and 2017 rankings. Last year the county was 64th. These low rankings document the health disparities in the City and throughout the County. And they overwhelmingly point to the need for effective health improvement efforts and efforts that will address threats to our community's health. A Complete Streets Policy for the City will directly address these needs.

Although the City of Johnstown is an Act 47 distressed community, we are working diligently to improve our community's health and to revitalize ourselves as a regionally significant recreation, transportation and visually spectacular hub. There is currently no guidance policy that the City can provide to project planners and designers that will educate them on the vision, goals, priorities and expectations of our transportation system and that will illustrate and describe what kinds of transportation and mobility features are needed in our City and where/how they should be located.

For the above reasons, and other justifications made in the Application, a Complete Street Policy is very much needed for the City of Johnstown. We ask that strong consideration be given to our Application.

*City of Johnstown*

George Hayfield, City Manager

***WORKING TO MAKE JOHNSTOWN FRIENDLY, SAFE AND CLEAN***

CITY OF JOHNSTOWN, PENNSYLVANIA

RESOLUTION NO. 10215

A RESOLUTION OF CITY COUNCIL OF THE CITY OF JOHNSTOWN, PENNSYLVANIA AUTHORIZING THE CITY MANAGER TO SIGN ALL DOCUMENTS NECESSARY TO EXECUTE TASK ORDER NO. 47 TO THE EADS GROUP, INC. FOR THE DESIGN, BIDDING, CONSTRUCTION ADMINISTRATION, PREPARATION OF PERMIT APPLICATIONS, AND ADMINISTRATION OF FUNDING OF THE DOWNTOWN SIDEWALK PROJECT.

WHEREAS, City Council of the City of Johnstown has entered into an agreement with the EADS Group, Inc. for professional services dated April 10, 2012; and

WHEREAS, City Council of the City of Johnstown has been awarded a grant through HUD as well as the Keystone Communities Program through the Commonwealth Financing Authority, and

WHEREAS, City Council of the City of Johnstown desires to provide upgrades to the sidewalks located in the Central Business District and Old Conemaugh Borough; and

WHEREAS, the Downtown Sidewalk Project, is a recommended capital improvement project for 2019-2020; and

WHEREAS, it is the judgement of City Council that The EADS Group, Inc. be authorized to pursue the design, bidding, construction administration, preparation of permit applications, and administration of funding services of the Downtown Sidewalk Project, for a total estimate of compensation for services of \$25,000.

NOW THEREFORE BE IT RESOLVED, CITY COUNCIL OF THE CITY OF JOHNSTOWN, PENNSYLVANIA AUTHORIZES THE CITY MANAGER TO SIGN ALL DOCUMENTS NECESSARY FOR THE EXECUTION OF TASK ORDER NO. 47 TO THE EADS GROUP, INC. FOR ENGINEERING SERVICES RELATED TO THE DESIGN, BIDDING, CONSTRUCTION ADMINISTRATION, PREPARATION OF PERMIT APPLICATIONS, AND ADMINISTRATION OF FUNDING SERVICES FOR THE DOWNTOWN SIDEWALK PROJECT.

ADOPTED:

September 11, 2019

By the following vote:

Yeas: Mrs. Mock, Mr. Vitovich, Mr. Britt, Mayor Janakovic. (4)

Nays: Rev. King, Mrs. Stanton. (2)

Not Present: Mr. Williams. (1)



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Frank J. Janakovic, Mayor

Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10215** as the same adopted by the City Council of the City of Johnstown, Pennsylvania.



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Nancy J. Cushing, City Clerk

## Task Order No. 47

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In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated April 10, 2012 ("Agreement"), Owner and Architect agree as follows:

1. Specific Project Data
  - A. Title: Downtown Sidewalk Project
  
  - B. Description: Provide engineering services to design and bid the installation of approximately 1,000 LF of curb and sidewalk in the Central Business District and Old Conemaugh Borough neighborhoods. Tasks included in this are as follows: obtain necessary permits, provide plan view drawings, produce a bidding specification, obtain bids, and project administration.
  
2. Owner's Responsibilities
  - A. Owner shall have those responsibilities set forth in Article 2 and in Exhibit B.
  
3. Times for Rendering Services:
  - A. Services to be provided during the year 2019-2020.
  
4. Payments to Engineer
  - A. Owner shall pay Engineer for services rendered as follows:

<i>Category of Services</i>	<i>Compensation Method</i>	<i>Estimate of Compensation for Services</i>
Basic Services	Lump Sum	\$12,000
Additional Services (Estimated Hourly)	Direct Labor Costs Times a Factor (Factor: 2.95; not to exceed standard hourly rates in Agreement)	
-Permits (HOP) -Permit Fees by Owner		\$6,000
-Project Bidding		\$4,000
-Project Administration		\$3,000
	Total Estimated Compensation for Engineering Services	\$25,000

B. The terms of payment are set forth in Article 4 of the Agreement and in Exhibit C.

5. Terms and Conditions: Execution of this Task Order by Owner and Architect shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Architect is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is \_\_\_\_\_, \_\_\_\_\_.

OWNER:

By: \_\_\_\_\_  
Name: George Hayfield  
Title: City Manager

ENGINEER:

By: \_\_\_\_\_  
Name: Stephen M. Sewalk, P.E.  
Title: Vice President  
Engineer License or Firm's  
Certificate No. PE-054223-E  
State of: Pennsylvania

DESIGNATED REPRESENTATIVE FOR  
TASK ORDER:

Name: George Hayfield  
Title: City of Johnstown  
Address: 401 Main Street,  
Johnstown, PA 15901  
E-Mail  
Address: ghayfield@cojtw.com  
Phone: 814-533-2001  
Fax: 814-533-2111

DESIGNATED REPRESENTATIVE FOR TASK  
ORDER:

Name: Stephen M. Sewalk, P.E.  
Title: Vice President  
Address: 227 Franklin Street, Suite 300,  
Johnstown, PA 15901  
E-Mail  
Address: ssewalk@eadsgroup.com  
Phone: 814-535-5388  
Fax: 814-535-7654



CITY OF JOHNSTOWN, PENNSYLVANIA

RESOLUTION NO. 10216

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSTOWN, PENNSYLVANIA, AUTHORIZING AND DIRECTING THE CITY MANAGER TO SIGN ALL AGREEMENTS, MORTGAGES, GUARANTEES AND ALL OTHER LOAN CLOSING DOCUMENTS FOR DNJ Investment Properties, LLC.

WHEREAS, the City of Johnstown received a loan application from DNJ Investment Properties, LLC for the request of \$172,000.00 to be used for building construction at the property located at 338 Walnut Street Johnstown, PA 15901; and

WHEREAS, the city of Johnstown's Loan Committee met and approved the loan application during a public meeting held on August 21, 2019; and

NOW, THEREFORE, BE IT RESOLVED, that upon satisfactory review and approval of all loan closing documents by Beard Legal Group, Inc. the City Manager be authorized and directed to sign all Agreements, Mortgages, Guarantees and all other loan closing documents for DNJ Investment Properties, LLC.

ADOPTED:

September 11, 2019

By the following vote:

Yeas: Mrs. Mock, Mr. Vitovich, Mr. Britt, Mayor Janakovic, Rev. King. (5)

Nays: None (0)

Abstain: Mrs. Stanton. (1)

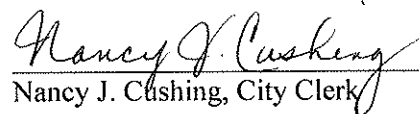
Not Present: Mr. Williams. (1)



Frank J. Janakovic, Mayor  
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify the forgoing is true and correct copy of Resolution No. **10216** as the same adopted by City Council of the City of Johnstown, Pennsylvania.



Nancy J. Cushing, City Clerk

CITY OF JOHNSTOWN  
CAMBRIA COUNTY , PENNSYLVANIA  
RESOLUTION NO. 10217

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA AUTHORIZING THE CITY MANAGER TO INITIATE THE TRANSFER OF FUNDS FROM DEPARTMENT TO DEPARTMENT WITHIN THE RECREATION FUND TO ELIMINATE THE RESPECTIVE 2019 CITY OF JOHNSTOWN OPERATING BUDGET DEFICIT BALANCES, AND MORE SPECIFICALLY, BUDGET EXHIBIT AS DETAILED HEREIN:

<u>FUND DEPARTMENT</u>	<u>TR. TO LINE ITEM</u>	<u>TR FROM LINE ITEM</u>	<u>AMOUNT</u>	<u>ADJ. BALANCE</u>
REC Recreation	22.450.36.080.00	22.457.19.003.00	5000.00	732.28

ADOPTED:

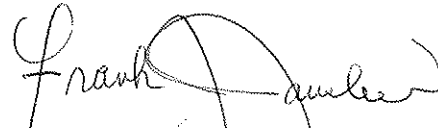
September 11, 2019

By the following vote~

Yeas: Mrs. Stanton, Mr. Vitovich, Mr. Britt, Mayor Janakovic, Rev. King, Mrs. Mock. (6)

Nays: None (0)

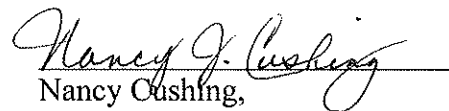
Not Present: Mr. Williams. (1)



Frank J. Janakovic, Mayor  
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10217** as the same was adopted by the City Council of the City of Johnstown, Pennsylvania.



Nancy Cushing,  
City Clerk

**A RESOLUTION OF THE CITY OF JOHNSTOWN  
CAMBRIA COUNTY, PENNSYLVANIA  
RESOLUTION NO. 10218**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA ACKNOWLEDGING THE EFFECTIVE DATE OF THE SECURITY AND EXCHANGE COMMISSION RULES REGARDING MUNICIPAL ADVISOR REGISTRATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACTUAL ENGAGEMENT TO WORK WITH BOENNING & SCATTERGOOD, INC. SERVING AS MANAGING UNDERWRITER FOR THE STRUCTURING, MARKETING, APPROVING AND ISSUING OF BONDS FOR THE CURRENT REFUNDING OF THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS, SERIES OF 2013.

WHEREAS, Section 975 of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended Section 15B of the Securities Exchange Act of 1934 to require municipal advisors to register with the Securities and Exchange Commission ("Commission" or "SEC"), effective October 1, 2010;

WHEREAS, on September 20, 2013, the Commission adopted final rules (the "Final Rules") for municipal advisor registration with the stated purpose of balancing the goals of enhancing the quality of municipal securities advice and protecting investors and municipalities in the municipal securities market;

WHEREAS, the Final Rules were effective on January 13, 2014, however, the Commission stayed the Final Rules until July 1, 2014 (the "Effective Date");

WHEREAS, after the Effective Date, municipal advisors must comply with the requirement to register described in the Final Rules, unless an exclusion or exemption described in the Final Rules is applicable;

WHEREAS, the Final Rules include an exclusion (the "Underwriter Exclusion") that allows a broker-dealer to serve as an underwriter on a particular issuance of municipal securities if there has been a contractual engagement of said broker-dealer through a writing or other acknowledgment of engagement from a duly authorized official of the issuer responsible for municipal finance;

WHEREAS, the City of Johnstown (the "City") desires to engage Boenning & Scattergood, Inc., as managing underwriter, to serve in connection with the structuring, marketing, approving and issuing of bonds (the "Bonds") for projects consisting of (i) the current refunding of the City's outstanding General Obligation Bonds, Series of 2013; and

WHEREAS, the City further desires to authorize the City Manager or his designee (each a "Finance Official") to execute engagement letters with Boenning & Scattergood, Inc. to serve as underwriter to the City in connection with the Bonds pursuant to the Underwriter Exclusion described in the Final Rules.

NOW, THEREFORE, be it resolved by the City of Johnstown that:

RESOLVED. The City Council of the City of Johnstown does hereby (i) acknowledge the effective date of the Final Rules, (ii) authorize its Finance Officials to work with Boenning & Scattergood, Inc., as managing underwriter, in conjunction with the structuring, marketing, approving and issuing of the Bonds pursuant to the "underwriter exclusion" under the Final Rules, (iii) authorize its Finance Officials to execute engagement letters or written acknowledgments of the relationship between the City and Boenning & Scattergood, Inc., in connection with the structuring, marketing, approving and issuing of the Bonds, provided that, the terms and conditions of the sale of the Bonds are subject to the final approval of the City Council pursuant to a duly enacted debt ordinance and (iv) determine that said appointments shall be effective until amended or terminated by similar action of the City Council. This official action supersedes and replaces any previous appointment of an underwriter in connection with the City's Bonds.


Adopted: September 11, 2019

By the following vote~

Yeas: Mr. Vitovich, Mr. Britt, Mayor Janakovic, Rev. King, Mrs. Mock (5)

Nays: Mrs. Stanton. (1)

Not Present: Mr. Williams. (1)



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Frank J. Janakovic, Mayor  
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10218** as the same was adopted by the City Council of the City of Johnstown, Pennsylvania.



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Nancy J. Cushing, City Clerk