

CITY OF JOHNSTOWN,
CAMBRIA COUNTY, PENNSYLVANIA
RESOLUTION NO. 10316

A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA AUTHORIZING AND APPROVING A ROAD MAINTENANCE AGREEMENT WITH THE JOHNSTOWN REDEVELOPMENT AUTHORITY AND FURTHER AUTHORIZING THE INTERIM CITY MANAGER AND ANY OF HIS DESIGNEES TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE SAME.

WHEREAS, the JRA is the recipient of a Grant of Multimodal Funds awarded by the Pennsylvania Department of Transportation ("PennDOT") to be utilized for the design and construction of a new access road within the Johnstown Urban Industrial Park estimated to comprise approximately 1,200 feet at the following location: Iron Street near Hinkston Run only; and

WHEREAS, the JRA's receipt and use of the Multimodal Grant Funds is conditioned on confirmation that PennDOT will not hold any financial responsibility to manage and/or maintain the road following its construction; and

WHEREAS, the JRA has requested that the City's Public Works Department provide maintenance services to the access road and for its management to occur as part of the City's current street system, and is willing to compensate the City appropriately for said road maintenance activities; and

WHEREAS, further detail regarding the terms and conditions of the proposed project and agreement are outlined within the attached proposed agreement to be entered between the City and JRA as discussed therein, including, but not limited to a base rate of compensation to the City in the amount of \$430.00 per year, with additional costs to be billed on a time and materials basis;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Johnstown, Cambria County, Pennsylvania that the attached proposed Road Maintenance between the City of Johnstown and the Johnstown Redevelopment Authority is hereby approved and the Interim City Manager and any of his designees are hereby authorized to take any and all actions necessary to enter into and effectuate same.

ADOPTED:

August 12, 2020

By the following Vote:

Yeas: Mr. Capriotti, Mayor Janakovic, Rev. King, Mrs. Mock, Mr. Vitovich, Mr. Arnone. (6)

Nays: None (0)

Absent: Mr. Britt. (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. 10316 as the same by the City Council of the City of Johnstown, Pennsylvania.



Nancy J. Cushing, City Clerk

Road Maintenance Agreement

This Agreement is made by and between the Redevelopment Authority of the City of Johnstown, a Pennsylvania Urban Redevelopment Authority, with a principal place of business at 416 Main Street, 2nd Floor, Johnstown, PA 15901 (hereinafter "JRA") and the City of Johnstown, with a principal place of business at City Hall, 401 Main Street, Johnstown, PA 15901 (hereinafter "City") as follows:

WITNESSETH:

WHEREAS, the JRA is the recipient of a Grant of Multimodal Funds awarded by the Pennsylvania Department of Transportation ("PennDOT") to be utilized for the design and construction of a new road within the Johnstown Urban Industrial Park estimated to comprise approximately 1,200 feet at the following location: Iron Street near Hinkston Run only; and

WHEREAS, the JRA's receipt and use of the Multimodal Grant Funds is conditioned on confirmation that PennDOT will not hold any financial responsibility to manage and/or maintain the road following its construction; and

WHEREAS, the JRA has requested that the City's Public Works Department provide maintenance services to the access road and for its management to occur as part of the City's current street system, and is willing to compensate the City appropriately, as further detailed herein, for said road maintenance activities;

NOW, THEREFORE, AND INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES AGREE AS FOLLOWS:

1. **Term.** This Agreement shall take effect upon execution by both parties and shall continue for a period of five (5) years from the latest date upon which a party executed said agreement. This agreement shall automatically renew on an annual basis unless either party provides notice of intention terminate at least sixty (60) days prior to the end of any calendar year.
 - a. **Date of Commencement of Services.** It is expressly understood and agreed that while the Agreement is made effective upon execution, any/all obligations for maintenance services to be provided, in exchange for compensation as discussed herein, shall not commence until the construction of the subject access road has been completed, which shall be verified upon written notice issued by the JRA to the City of Johnstown as to when the provision of services should commence.

2. **Agreement to provide Services.** The City agrees to and will accept responsibility for the maintenance services described herein for the new access road to be constructed within the City of Johnstown Urban Industrial Park by the JRA as proposed and specified under the terms and conditions of the Grant of Multimodal Funds awarded to JRA by PennDOT for such purposes. Said agreement shall be contingent upon the construction of the road being completed, and all other terms and conditions as outlined herein.

3. **Compensation and Services to be provided.** In consideration of the City's agreement to provide road maintenance services as further described herein, the JRA agrees to compensate the City of Johnstown for any/all of the above-referenced maintenance activities that are or may be required, including but not limited to, snow removal, drainage, road surface and sub-surface repairs, as well as other repairs or improvements that may become necessary over time, in accordance with the following terms:
 - a. The JRA agrees to pay an annual base amount of \$430.00 per year for maintenance on 1,200 feet of Iron Street for winter maintenance activities including removal of snow, deicing, salt spreading, plowing, and other winter maintenance activities necessary to maintain the road in satisfactory operating condition.

 - b. All other maintenance activities and services, including but not limited to removal of trees and debris, drainage, road surface and sub-surface repairs, as well as other repairs or improvements that may become necessary over time shall be billed on a time and materials basis, in accordance with the rates then applicable to the City Public Works Department, based upon a fixed hourly rate comprised of wages, overhead in general and administrative expenses and actual costs for materials including any handling and/or indirect costs allocated to direct materials provided.

 - c. Payment at the above-referenced rates shall be billed and invoiced monthly by the City to the JRA, with payment due within 30 days of the JRA's receipt of said invoice, with the exception of the annual base payment amount of \$430.00 for winter maintenance activities, which shall be invoiced in full and payable on or before no later than the second Monday of January in each year in which the agreement is operative.

- d. The parties further agree that the City will not undertake any maintenance activities, for which the total payment in any one month is estimated to exceed \$500.00 without prior authorization from the JRA, and excluding any maintenance services and/or activities that arise as an emergency.
4. **Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if failure to perform arises out of causes beyond the control and without the fault or negligence of the non-performing party, such causes may include but are not limited to acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions or freight embargoes. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits, delay and performance to that required by the event, and takes reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the non-performing party.
5. **Liability of the Parties.** The JRA shall pay for loss, liability, or expense which arises out of or relates to JRA's acts or omissions with respect to its obligations under this agreement which, for purposes of this provision are understood to include and encompass all activities undertaken for purposes of the construction of the above-referenced road, where a final determination of liability on the part of JRA is established by a court of law or where settlement has been agreed to by JRA. This provision shall not be construed to limit JRA's rights, claims, or defenses which arise as a matter of law or pursuant to this agreement. This provision shall not be construed to limit immunity or defense of the JRA under any applicable statute.

The City shall pay for loss, liability, or expense which arises out of or relates to the City's own acts or omissions with respect to its obligations under this agreement, where a final determination of liability on the part of the City is established by a court of law or where settlement has been agreed to by the City. This provision shall not be construed to limit the City's rights, claims, or defenses which arise as a matter of law or pursuant to this agreement. This provision shall not be construed to limit immunity or defense of the City, including those arising under the Political Subdivision Tort Claims Act, 42 Pa. C.S. § 8541-8564.

6. **Termination of Agreement.** This agreement shall continue in full force and effect for the term provided herein, unless terminated in accordance with this paragraph. The parties may cancel or terminate this agreement for convenience or other purposes, upon written notice submitted by the terminating party no less than 120

days in advance of the effective date of said termination. Termination of this agreement for any reason shall not release either party from any liability which, at the time of termination has already accrued to the other party or which is attributable to a period prior to termination, nor shall it preclude either party from pursuing any rights and remedies it may have with respect to any breach of this agreement.

7. **Amendments and Modifications.** No alterations or variations to this agreement shall be valid unless made in writing and signed by the parties. Amendments to this agreement shall be accomplished through a formal written document signed by the parties with the same formality as the original agreement.
8. **No Waiver.** Either party may elect not to enforce its rights and remedies under this agreement in the event of a breach by the other party of any term or condition of this agreement. In any event, the failure by either party to enforce its rights and remedies under this agreement shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this agreement.
9. **Implementation of Agreement.** The parties agree and commit to perform such additional acts and execute such additional documents as are reasonably necessary to effectuate or carry out this Agreement.
10. **Execution; Counterparts.** This Agreement may be executed in counterparts separately by each party, each of which counterpart shall be deemed an original, and all of which shall constitute one (1) in the same instrument.
11. **Compliance with applicable law.** All activities performed by any party hereunder shall be performed in accordance with all applicable statutes and ordinances.
12. **Complete Agreement.** This Agreement constitutes the full and complete understanding and agreement among the parties. No provision of this Agreement shall be construed to create any rights in anyone who is not a party to this Agreement. This Agreement may be amended or revised in writing signed by all of the parties hereto.
13. **Jurisdiction.** This Agreement shall be interpreted and construed in accordance with the laws of the Commonwealth of Pennsylvania. The resolution of any conflicts or disputes arising hereunder shall be under the jurisdiction and venue of the Cambria County Court of Common Pleas.

This Agreement has been duly authorized, executed and delivered by the parties hereto and constitutes a legal, valid, and binding obligation of such parties, enforceable in accordance with its terms. Each individual's signature hereto represents warrants that the signatory is duly authorized to execute this Agreement on behalf of the party indicated.

IN WITNESS WHEREOF, the undersigned parties, have caused this Agreement to be executed by their duly authorized signatures.

WITNESSED:

Nancy J. Cushing (seal)
Secretary of the Board

City of Johnstown

By: [Signature]
Authorized Signatory

Title: Interim City Manager

August 18, 2020
Date

ATTEST:

Johnstown Redevelopment Authority
By: _____
Authorized Signatory

Title: _____

_____(Seal)
Secretary

Date

CITY OF JOHNSTOWN, PENNSYLVANIA
RESOLUTION NO. 10317

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSTOWN, PENNSYLVANIA
APPROVING MEMBER REAPPOINTMENTS TO THE LOAN REVIEW COMMITTEE AS
RECOMMENDED BY THE INTERIM CITY MANAGER.

WHEREAS, the terms of Kenneth Szczur and Melissa Komar expired on June 13, 2020; and

WHEREAS, both members have expressed their desire to remain on the committee; and

WHEREAS, the Interim City Manager recommends that they be reappointed to serve on the Loan Review
Committee:

Kenneth Szczur	For a three-year term commencing August 12, 2020 through August 11, 2023
Melissa Komar	For a three-year term commencing August 12, 2020 through August 11, 2023

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Johnstown, hereby
confirms and approves the recommended Loan Review Committee members as submitted by the Interim
City Manager to City Council on August 12, 2020 for terms commencing August 12, 2020 through
August 11, 2023.

ADOPTED: August 12, 2020

By the following vote:

Yeas: Mayor Janakovic, Rev. King, Mrs. Mock, Mr. Vitovich, Mr. Arnone, Mr. Capriotti. (6)
Nays: None (0)
Absent: Mr. Britt. (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. 10317 as the same
adopted by the City Council of the City of Johnstown, PA.



Nancy J. Cushing, City Clerk

**CITY OF JOHNSTOWN, PENNSYLVANIA
RESOLUTION NO. 10318**

A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA, AUTHORIZING THE TERMINATION OF THE AGREEMENT WITH GIBSON-THOMAS ENGINEERING CO., INC. (“GIBSON-THOMAS”) FOR ENGINEERING SERVICES, WHICH WAS EFFECTIVE ON FEBRUARY 12, 2020 AND AUTHORIZED BY RESOLUTION NO. 10266; AUTHORIZING THE EXECUTION OF AN ENGINEERING SERVICES AGREEMENT WITH GIBSON- THOMAS EFFECTIVE AS OF THE CLOSING DATE OF THE SALE OF THE CITY’S SEWER ASSETS; AUTHORIZING PAYMENT TO EADS AND GIBSON THOMAS; AND AUTHORIZING THE INTERIM CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME.

WHEREAS, the City executed with EADS Group Inc. (“EADS”), a Professional Engineering Service Agreement-Task Order Edition, effective April 10, 2012 through April 10, 2017 as amended by Agreement to Extend Contract Term effective on April 10, 2017 through January 2, 2018 and as more specifically detailed in Task Orders, appended thereto (“EADS Contract”); and

WHEREAS, the City retained and executed an agreement effective February 12, 2020 with Gibson-Thomas Engineering Co., Inc. (“Gibson-Thomas) to provide contract administration and construction management/oversight services with respect to the City’s sewer collection system construction projects (“GT Oversight Agreement”); and

WHEREAS, the GT Oversight Agreement was approved by Council by Resolution No. 10266 on February 12, 2020; and

WHEREAS, on June 10, 2020 the City Council passed Ordinance No. 5290, authorizing the sale of its sanitary sewer collection system assets (“Sewer Assets”) to the Greater Johnstown Water Authority (“GJWA”); and

WHEREAS, the City anticipates closing on the sale of its Sewer Assets (“Closing”) on or about August 24, 2020; and

WHEREAS, as part of the sale of its Sewer Assets the City will assign all of its rights and the GJWA will assume all of the City’s obligations under the EADS Contract, including without limitation those certain Task Orders of the EADS Contract, related to the sanitary sewer collection system projects, as detailed in Exhibit A, hereto (which may change, as work dictates, prior to the closing of the sale of the Sewer Assets to GJWA) other than as are retained by the City (described in the Recital immediately below); and

WHEREAS, as part of the sale of its Sewer Assets, the City will retain its rights and obligations to that portion of and those Task Orders under the EADS Contract that do not relate to the Sewer Assets, as detailed in Exhibit B, hereto (which may change, as work dictates, prior to the closing of the sale of the Sewer Assets to GJWA); and

WHEREAS, after the sale of its Sewer Assets, the City's requirements for engineering services will change from Sewer Asset projects to stormwater system projects and other City capital projects; and

WHEREAS, the City believes it is in its best interest to clarify how the City's engineering service requirements will be met after the Closing of the sale of its Sewer Assets; and

WHEREAS, the City wishes to compensate EADS for services provided prior to and as of the date of Closing for those Task orders shown on Exhibit B and

WHEREAS, the City wishes to terminate its GT Oversight Agreement effective as of the Closing of the sale of its Sewer Assets to GJWA because the services included in the GT Oversight Agreement will no longer be needed after the Sewer Assets are sold; and

WHEREAS, the City wishes to execute an engineering agreement with Gibson-Thomas ("GT Engineering Agreement") effective as of the Closing date for engineering services required by the City, including but not limited to the services detailed in the Task Orders shown in Exhibit B hereto; inspection of customer sanitary sewer service laterals; oversight of the separation of the combined sanitary sewer and storm sewer system; engineering services related to the City's separate storm sewer system, all as reflected in and in accordance with the GT Engineering Agreement attached to this Resolution as Exhibit B; and

WHEREAS, the City believes it is in its best interest to continue to prepare a Special Study in conjunction with the Pennsylvania Department of Environmental Protection under Act 537 (defined in the resolution below).

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Johnstown, that the Interim City Manager is hereby authorized and directed to execute, on behalf of the City of Johnstown the attached GT Engineering Agreement for Gibson-Thomas Engineering Co., Inc. to serve as the City's Consulting Engineer through December 31, 2020; with payments related thereto to be charged to Account 01.405.31.000.00, Non-Departmental Professional Services; and

BE IT FURTHER RESOLVED, that the City continue with its preparation of a Special Study (in such form determined in conjunction with the Pennsylvania Department of Environmental Protection (the "Department")) under Section 5 of the Act of January 24, 1966, P.L. 1535, No. 537, known as the "Pennsylvania Sewage Facilities Act," as amended, and the Rules and Regulations of the Department adopted thereunder, Chapter 71 of Title 25 of the Pennsylvania Code "Act 537"); and

BE IT FURTHER RESOLVED that the Interim City Manager is authorized to take any and all actions necessary to compensate Gibson-Thomas for services rendered to and through the Closing of the sale of its Sewer Assets in accordance with the terms of the GT Oversight Agreement effective on February 12, 2020 under which such services were or will be rendered; and

BE IT FURTHER RESOLVED that the Interim City Manager is authorized to take any and all actions necessary to compensate EADS for services rendered to and through the Closing of the sale of its Sewer Assets in accordance with the terms of the EADS Contract and Task Orders shown in Exhibit B, hereto under which such services were or will be rendered; and

BE IT FURTHER RESOLVED that any/all prior agreements and/or resolutions addressing the City's relationship with Gibson-Thomas and EADS are hereby repealed to the extent that they are inconsistent with this Resolution and attached GT Engineering Agreement; and

BE IT FURTHER RESOLVED that the Interim City Manager is hereby authorized to take such additional action or execute such additional documents as are necessary to carry out the intent of this Resolution.

ADOPTED:


August 12, 2020

By the following vote:

Yeas: Rev. King, Mrs. Mock, Mr. Vitovich, Mr. Arnone, Mr. Capriotti,
Mayor Janakovic. (6)

Nays: None (0)

Absent: Mr. Britt. (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. **10318** as the same was adopted by the City Council of the City of Johnstown, Pennsylvania.



Nancy J. Cushing, City Clerk

EXHIBIT A

TASK ORDERS OF THE EADS CONTRACT TO BE ASSIGNED

(See attached.)

Task Orders To Be Assumed By GJWA

Task Order Number	Task Order Name	Effective Date	Times for Rendering
19	Old Conemaugh Sewer Repl.	6/27/2014	2015-2018
19	Amendment to Task Order #19	2/8/2017	2016-2020
21	Public Education and Assistance	6/27/2014	2014-2022
34	Kernville San./ Storm Sewer Separation Project	8/1/2016	2016-2020
35	Ohio St San./Storm Sewer Separation Project	6/8/2016	2016-2018
35A	Central Business Dist. San./Storm Sewer Project	10/12/2016	2016-2020
38	Fairfield Ave San./Storm Sewer Separation Project	3/8/2017	2017-2020
40	Central Business Dist. (Task Order #35A)	5/24/2017	2016-2020

EXHIBIT B

TASK ORDERS OF THE EADS CONTRACT TO BE RETAINED

(See attached.)

EADS Task Orders To Be Retained by City

Task Order Number	Task Order Name	Effective Date	Times for Rendering
3	Miscellaneous Technical Assistance	6/20/2012	As Requested
43	Roxbury Park Upgrade Phase I	2/14/2018	2018-2019
47	Downtown Sidewalk Project	4/11/2019	2019-2020
48	Complete Streets Policy	3/11/2020	2020

EXHIBIT C

GT ENGINEERING AGREEMENT

(See attached.)

ENGINEERING AGREEMENT

CITY OF JOHNSTOWN

CITY CONSULTING ENGINEER

THIS AGREEMENT made with an effective date of this ____ day of _____ 2020, by and between the City of Johnstown, a municipal corporation having as its principal address 401 Main Street, Johnstown, PA 15901, (hereafter "CITY"),

AND

GIBSON-THOMAS ENGINEERING CO., INC., a Pennsylvania corporation, having as its principal address, 1004 Ligonier Street, Latrobe, PA, 15650, (hereafter "ENGINEER").

WHEREAS CITY desires to employ the ENGINEER for the purposes and the considerations set forth below, and the ENGINEER desires to accept such employment on said terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound hereby, CITY and ENGINEER do hereby agree as follows:

I. SURVEY, PLANNING, PERMITTING, PRELIMINARY DESIGN AND FINAL DESIGN

ENGINEER shall perform the professional services hereinafter set forth for CITY, same to include the normal civil, and mechanical engineering services applicable to all that certain work of CITY, as further described and referred to below, (hereafter "SERVICES").

1.01 ENGINEER shall perform all permitting, mapping, costing/estimating and design and prepare final drawings to show the character and scope of the work, (hereafter "DESIGN") for the SERVICES, said DESIGN to be prepared for projects at an amount agreed upon using a percentage of estimated construction from the Pennsylvania Society of Professional Engineers fee curve, attached, as a guide to the agreed upon percentage. For SERVICES performed for CITY, separate from construction projects, further described and referred to below but not limited to these items ENGINEER shall use the costs listed in the current fee schedule (attached):

1.01.a ENGINEER shall perform, in addition to the above prepare or modify bid packages for construction projects, including road improvement projects and stormwater projects, as assigned by the CITY.

1.01.b ENGINEER shall assist in sidewalk and trail development, as assigned by the CITY.

1.01.c ENGINEER shall prepare engineering reviews and approvals for soil and erosion control applications, stormwater management applications, grading applications, rights of way and easements, environmental and pollution control issues, utility infrastructure, and related tasks, as assigned by the CITY.

1.01.d ENGINEER shall make and maintain all records, reports, and documents in designated areas; track records both in hardcopy and electronically.

- 1.01.e ENGINEER shall provide technical and staff review assistance to the City Council and Planning Commission.
- 1.01.f ENGINEER shall assist with required documentation, inspections, and permitting for stormwater management requirements including the City MS4 permit.
- 1.01.g ENGINEER shall present professional recommendations to Interim City Manager and City Council.

- 1.02 ENGINEER will begin work on each aspect of the SERVICE upon written notice to proceed from CITY. Any necessary work done prior to the notice to proceed will be at the risk of the ENGINEER but will be reimbursable after receipt of the written notice to proceed in order to expedite the SERVICE schedule.

- 1.03 The DESIGN will be prepared for the items listed above, either as a whole or separately, as the budget for SERVICES AND ENGINEER'S judgment shall determine to be practical in order to expedite the construction with minimal disruption of the operations of CITY.

- 1.04 The ENGINEER shall assist in the preparation of and furnish to CITY all such documents and prepare all design data and documents as are required in order that CITY may obtain approval from those governmental authorities which have jurisdiction over the design criteria applicable to SERVICES and furnish copies of all the above documents to and review same with CITY.

- 1.06 The ENGINEER shall advise CITY of proposed adjustments to ENGINEER'S latest estimate of probable SERVICES cost, upward or downward, which may be caused by changes in scope, design requirements or construction costs and furnish a revised estimate of the probable SERVICES cost to CITY, based on DESIGN.

II. INSPECTION / CONSTRUCTION MANAGEMENT

ENGINEER shall provide contract administration, resident construction inspection, and start-up services during the construction phase of the SERVICES.

- 2.01 The ENGINEER will render to the CITY for such services, an itemized bill, once each month, for compensation for such services performed hereunder during such period. The cost of these services will not exceed the estimated amount in Section V. In the event the scope of services are less or greater than anticipated, the parties shall by written agreement as set forth in Section 6.05 alter the anticipated services and corresponding remuneration. The resident construction inspectors shall maintain a daily diary to record all activities related to the SERVICES including but not limited to observing the contractors work, weather, work progress and problems or potential problems, to be reported to the ENGINEER.

III. GENERAL

ENGINEER shall obtain from others ("Special Consultants"), additional services as required and preapproved by CITY to complete SERVICES. These additional services would not be part of the contract and would be paid for per written agreement of the parties.

- 3.01 All services resulting from significant changes in the general scope of SERVICES or its design, whether more or less, including but not limited to, changes in size, complexity, CONTRACTORS' schedules, character of construction and the revision of previously accepted studies, reports, design documents or the CONTRACT DOCUMENTS that are due to causes beyond ENGINEER'S reasonable control shall be considered in determining remuneration due ENGINEER.
- 3.02 For the services of Special Consultants. ENGINEER shall be reimbursed without markup for those services which are provided by Special Consultants. CITY agrees to reimburse ENGINEER for the services of Special Consultants based on the invoices submitted by the Special Consultants to ENGINEER and itemize separately on ENGINEER'S invoice to CITY.
- 3.03 For additional services in the general scope of SERVICES or DESIGN, including but not limited to the following items are performed for the CITY by the ENGINEER, separate from construction projects, further described and referred to below but not limited to these items ENGINEER shall use the costs listed in the current fee schedule (attached):
 - 3.03.a The ENGINEER shall prepare special studies and reports.
 - 3.03.b The ENGINEER shall assist in the preparation of annual reports and budgets for capital improvement projects planned by the City.
 - 3.03.b The ENGINEER shall review subdivision or new development projects for compliance with the City zoning and relevant ordinances.
 - 3.03.d The ENGINEER shall provide specialized services such as traffic engineering, structural and environmental engineering and other duties as assigned by the City.
 - 3.03.e The ENGINEER shall provide Oversight of the Separation of the Sanitary Sewer and Stormsewer for impacts upon the City's Stormwater System.

IV. CITY'S RESPONSIBILITIES

- 4.01 CITY shall provide ENGINEER with full information as to its requirements for SERVICES that it has in its possession.
- 4.02 Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER, obtain the advice of legal counsel, insurance counselor and such other consultants as it deems appropriate for such examination and render any decisions which are required by it and pertaining thereto, in writing, to ENGINEER, all within a reasonable time.

- 4.03 Give prompt written notice to ENGINEER if CITY observes or otherwise becomes aware of any defect in the work being done on projects.
- 4.04 Be responsible for all costs incidental to compliance by CITY with the requirements of this Section.

V. COMPENSATION OF ENGINEER

- 5.01 CITY shall pay ENGINEER for services rendered to comply with Section 1 above as services are completed.
- 5.02 In no event shall the total compensation paid ENGINEER for its services rendered in Section 1 exceed the agreed upon maximum sum without the express, written approval of the CITY. Fees for permits shall be billed separately as reimbursables.
- 5.03 CITY shall pay ENGINEER for services rendered to comply with Section 1 DESIGN services above as services are completed and billed at the percentage completed.
- 5.04 CITY shall pay ENGINEER for services rendered to comply with Section 2, above as services are completed and billed at the percentage completed.
- 5.05 In no event shall the total compensation paid ENGINEER for its services rendered in Section 2 exceed the agreed upon maximum sum without the express, written approval of the CITY.
- 5.06 Payment for the services of ENGINEER and Inspectors shall be made to ENGINEER following periodic and partial invoicing by ENGINEER to CITY, which invoices shall be based on the attached rate schedule, using the rates relative to the category used to supply services.

VI. GENERAL CONDITIONS

6.01 Non-Discrimination

ENGINEER shall not discriminate against any employee, agent, or other person in its performance of this Agreement because of race, color, sex, religious creed, ancestry, age or national origin and CITY shall have the right to terminate this Agreement upon receipt of evidence of such discrimination.

6.02 Insurance

ENGINEER shall maintain all such policies of insurance as are necessary and as approved by CITY to protect CITY from any claims under the Workers' Compensation Act, Occupational Disease Act as well as all claims for property damage, bodily injury and/or death made by any third persons, any of which may arise as a result of its performance

under this Agreement, and to furnish proof of such insurance to CITY upon request. The CITY shall be named as an additional insured on ENGINEER'S policies of insurance.

6.03 Arbitration

In the event of any dispute between ENGINEER and CITY arising out of this Agreement, the scope of services, the type of work, the compensation due or any other issue hereunder, such dispute shall be arbitrated in accordance with the Pennsylvania Uniform Arbitration Act Subchapter B. The locale of any hearing shall be in Greensburg, Pennsylvania.

6.04 Termination of Engineer for Cause

Should the ENGINEER fail to fulfill its obligations under this Agreement in a timely and proper manner or should it violate any of the covenants, terms, conditions or stipulations of this Agreement, CITY shall have the right to terminate this Agreement by giving ENGINEER 10 days written notice of such termination prior to its effective date. In the event of such termination, all finished or unfinished documents, data, studies, reports and all other material prepared by ENGINEER under this AGREEMENT shall be delivered to CITY and become its property, ENGINEER to be entitled to receive fair and equitable compensation for its work in creating same.

6.05 Changes

ENGINEER and CITY may, from time to time, request changes in the scope of the services of ENGINEER which are to be performed under this Agreement. Such changes, including increases or decreases in the amount of ENGINEER's compensation shall, following the mutual agreement of CITY and ENGINEER, be reduced to writing and incorporated, by amendment, into and made part of this Agreement.

6.06 Compliance with Applicable Laws

ENGINEER shall comply with all applicable laws, ordinances and the codes of the Federal, state and local governments and shall commit no trespass on any public or private property in performance of any of its work required under this Agreement.

6.07 It is understood and agreed that ENGINEER is an independent contractor and it shall not, under any circumstances, be considered as an agent or employee of CITY and shall have no power or CITY to bind the CITY except to the extent expressly stated herein.

VII. ADDITIONAL SERVICES AS NEEDED – NOT APPLICABLE TO THIS CONTRACT

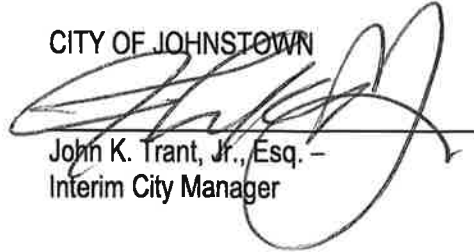
VIII. TERM

8.01 The Term of this Agreement shall be through and including December 31, 2020

IN WITNESS WHEREOF, and intended to be legally bound hereby, the parties hereto have executed this Agreement, each as of the date set forth opposite their respective signatures.

(SEAL)

CITY OF JOHNSTOWN



John K. Trant, Jr., Esq. -
Interim City Manager

8-17-20
Date

ATTEST:



8-17-20
Date

(SEAL)

GIBSON-THOMAS ENGINEERING CO., INC.

Edward F. Schmitt - Partner

Date

ATTEST:

Date



2020 - FEES AND SCHEDULE OF CHARGES

1. **Design Work** - Billed on a lump sum, percentage of construction costs where applicable; or in the case of United States Environmental Protection Agency projects, Pennsylvania Department of Transportation, Pennsylvania Turnpike Commission, or other federal or state projects, work is billed on a fixed fee based on the estimated manhours for work multiplied by a multiplier for overhead and profit.

2. **Lump-Sum Per Diem Rates & Miscellaneous Work** - Billed for actual time expended based on personnel used.

	<u>Billing Rate Per Hour</u>
A. Principal Engineer	\$ 130.00
B. Project Manager	\$ 98.00 - \$120.00
C. Senior Project Engineer	\$ 88.00 - \$100.00
D. Project Engineer	\$ 62.00 - \$ 90.00
E. Environmental Scientist	\$ 98.00
F. Environmental Technician	\$ 62.00 - \$ 82.00
G. Senior Designer	\$ 88.00
H. Project Coordinator	\$ 62.00 - \$ 82.00
I. Designer I	\$ 77.00
J. Designer II	\$ 72.00
K. Designer III	\$ 62.00
L. GIS	\$ 88.00
M. Construction Manager	\$ 90.00
N. Inspector I	\$ 77.00
O. Inspector II	\$ 57.00 - \$ 77.00
P. Inspector III	\$ 52.00 - \$ 62.00
Q. Inspector IV	\$ 46.00 - \$ 52.00
R. 2-Man Survey Crew	\$ 121.00
S. 3-Man Survey Crew	\$ 155.00
T. Contract Administrator	\$ 88.00
U. Secretary / Clerical	\$ 50.00
V. 3 rd Party Stormwater Review	\$ 103.00 - \$140.00
W. 3 rd Party Road Bonding	\$ 103.00 - \$140.00

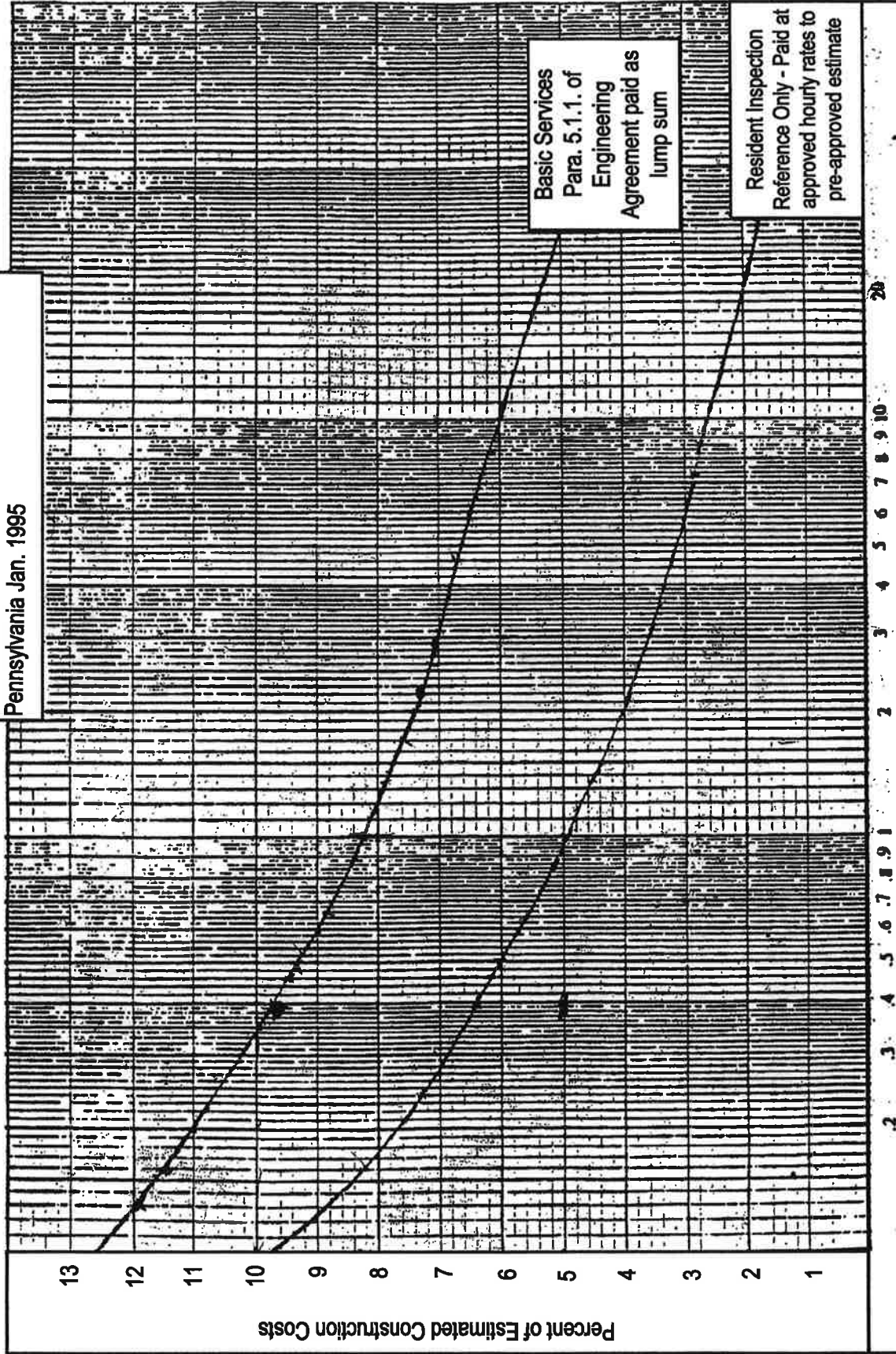
3. **Associate Work, No Charge** - Work done is invoiced to Gibson-Thomas Engineering Co., Inc. Client is billed invoiced amount. Examples are specialized consultants, geological borings, art renderings, etc.

4. **Mileage** – Mileage is to be charged at the presently published IRS standard rate.

Please note: All work is subject to written authorization prior to initiation.

ENGINEERING FEE GUIDELINE

Pennsylvania Jan. 1995



Basic Services
Para. 5.1.1. of
Engineering
Agreement paid as
lump sum

Resident Inspection
Reference Only - Paid at
approved hourly rates to
pre-approved estimate

Total Construction Estimate in Millions - No Contingency