

2. Sanitary to Storm Sewer Conversion Mapping

- a. The City has approximately 200,000 linear feet of converted sanitary lines
- b. EADS will update the Storm System mapping to include all converted sanitary lines

Lump Sum Fee: \$10,000

ASSUMPTIONS AND STIPULATIONS


- A. This proposal includes only the work outlined above and does not include any work excluded from the above scope of engineering services.
- B. Survey, design, and permit applications are excluded from this proposal.
- C. This proposal excludes any implementation services associated with the above tasks
- D. This proposal excludes the preparation of the NDPES MS4 Permit renewal application
- E. This proposal excludes field verification of the City's storm sewer system components.
- F. The City is aware that the completion of these tasks does not fully bring them into compliance with their NPDES MS4 permit, and other items will be completed as funding allows.
- G. Fees associated with permit applications and/or renewal applications are excluded from this agreement.

We offer to provide the aforementioned scope of engineering work for a lump sum fee of **\$23,000**. These services are to be invoiced on a monthly basis, for the percentage of work completed. If additional services are requested by the Owner, these will be performed in accordance with the attached rate schedule (Appendix A). This proposal consists of this letter and the attached Standard Terms and Conditions. If it is satisfactory to the Owner, please execute in the space below. If you have any questions or require any additional information for your review, please contact me at 814-535-5388. We look forward to working with you and the City on this project.

Respectfully,
The EADS Group, Inc.

By: Brandon Palmer, PE

Authorized by:



Brandon Palmer, Project Manager

Accepted by:



Name/Title:

4/8/20

Date



STANDARD CONTRACT TERMS AND CONDITIONS

Where used, the term "Client" shall mean City of Johnstown, Cambria County, Pennsylvania. The term "Engineer" shall mean The EADS Group, Inc., 227 Franklin Street, Suite 300, Johnstown, PA 15901. The term "Project" shall mean both the services rendered or to be rendered by the Engineer and the undertaking to be performed as a result of the Engineer's services.

1. Client agrees to assist the Engineer by placing at the Engineer's disposal, all available pertinent information including previous reports, surveys and all other data relative to rendering design services. Engineer is entitled to rely on the accuracy of information provided by the Client.
2. Client will arrange for access to and make all provisions for Engineer to enter upon public and private property, as required for Engineer to perform design services.
3. Client shall be responsible for such legal services as Client may require or Engineer may reasonably request with regard to legal issues pertaining to the Project.
4. All documents of any kind prepared by Engineer and the Engineer's consultants in performing services on this Project are instruments of service and therefore remain the property of Engineer and may not be used by Client or anyone else, except on this project, without the prior written consent of Engineer. Any use other than that specifically called for in their preparation shall be without liability on the part of the Engineer.
5. In any dispute involving the accuracy of surveying services, Engineer will have no liability to anyone if reference points set by Engineer have not been preserved. Engineer's field notes shall govern in the resolution of any dispute regarding surveying services.
6. Engineer and the Engineer's consultants will strive to perform services under this Agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise.
7. Client understands that Engineer cannot, and does not, assure favorable or timely action by any governmental entity.
8. Engineer will not furnish copies of the Engineer's design including project reports, specifications or drawings to third parties without permission of the Client, unless ordered to do so by a Court of competent jurisdiction.
9. Client agrees that if additional services are requested from Engineer by Client, fees for such services will be incurred on the basis of time and material unless the parties mutually agree upon other terms.
10. Invoices will be rendered monthly and are due and payable in full upon receipt. If Client fails to make any payment due Engineer for services, expenses and charges within thirty (30) days after receipt of Engineer's invoice, the amounts due will be increased at the rate of 1% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and, in addition, after giving seven (7) days' written notice to Client, Engineer may suspend services under this Contract without obligation or liability to the Client until Engineer has been paid in full all amounts due for services, expenses and charges. Payments will be credited first to interest and then to principal. The Client shall have twenty (20) days from the date of the invoice to advise the Engineer of any portions of the invoice disputed by the Client. After twenty days, the invoice will be deemed acceptable by the Client. In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment and the undisputed portion shall be paid in accordance with the terms of this paragraph.
11. Client and Engineer each may, at their own option, terminate this contract with no less than 10 working days written notice. Client agrees to pay fees earned for all services, expenses and charges, billed or unbilled, provided by Engineer up to the date of receipt of termination notice.

12. Suspension of work on the Project by the Client for more than thirty (30) calendar days in the aggregate, shall cause Engineer to sustain unexpected costs to resume work. Client agrees that additional equitable compensation to accommodate resulting demobilization and remobilization costs shall be paid to Engineer before such work resumes. In addition, the Engineer shall be entitled to an equitable adjustment in the Project Schedule based upon the delay caused by the suspension of work. The fee for uncompleted portions of the work shall be subject to renegotiation after a Client initiated suspension period of 120 days or longer.
13. Engineer has procured and will maintain insurance for its protection from claims under workers' compensation, commercial general liability, automobile liability, and professional liability. Certificates of insurance will be provided if requested by the Client.
14. The Client hereby warrants that if he or she suspects that hazardous materials may exist at the project site, he or she will so inform Engineer. In the event the presence of hazardous materials is known, assumed or suspected to exist at the site, Client shall retain the appropriate entity or consultant to address the situation and Engineer shall have no responsibility for injuries, damages, fines or other costs associated with presence, destruction or removal of hazardous materials. Client shall indemnify Engineer from and against any claims or damages, including claims of negligence, that result from the presence or release of hazardous materials, waste or substances or injuries or damages that result from hazardous materials, waste or substances at the Project site.
15. Client agrees to make no claims against the Engineer as a result of any and all liabilities, claims, delay claims, costs, and expenses which relate in any way to the presence of any hazardous or toxic materials, waste or substances including, but not limited to, asbestos and PCB's on the Project.
16. Client agrees to give prompt written notice to Engineer when Client observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of Engineer's services, or any defect or nonconformance in Engineer's services.
17. Issuance of a purchase order or other contracting document implicitly acknowledges acceptance of these Standard Contract Terms and Conditions. The standard terms contained on such purchase order shall not modify these terms without express written consent by the Engineer that such standard terms will apply.
18. Nothing under this contract or performance thereunder shall be construed to give any rights or benefits to any third party. No third party is intended to be a third party beneficiary of this contract. This contract or rights hereunder shall not be assigned without the express written consent of the other party.
19. Client acknowledges that any taxes or fees enacted by local, state or federal government, subsequent to the date of this contract and based on gross receipts or revenues, will be added to amounts due under this contract in accordance with any such fees or taxes.
20. The Client shall pay all application and similar fees necessary to obtain necessary permits and approvals.
21. The Engineer shall not be responsible for defects in the work of any contractor on the Project, and shall not be responsible for the means, methods, sequences, safety precautions or safety programs of any contractor on the Project.
22. Non-binding mediation will be the preferred means of resolving any disputes arising between the Client and Engineer. If not successful, dispute resolution shall be decided by the Court of Common Pleas of Cambria County.
23. Any element of this Agreement later held to violate a law or regulation, or whose insurability cannot be confirmed by the Engineer shall be deemed void and all remaining provisions shall continue in force. However, Client and Engineer will in good faith attempt to replace any such voided element with one that is enforceable and/or insurable, and which comes as close as possible to expressing the intent of the original provision.
24. To the maximum extent permitted by law, the Client agrees to limit the Engineer's, its officers', employees', consultants', agents and insurance policies' liability for the Client's damages to the sum of \$25,000.00 or the Engineer's fee, whichever is greater. This limitation shall apply regardless of the cause of action or legal theory pleaded or asserted, including claims of breach of contract, breach of warranty, negligence or other tort, or otherwise.

25. Notwithstanding any other provision of this Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Client or the Engineer, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.
26. The services of outside consultants, specialists or testing agencies shall be invoiced at cost to Engineer plus ten (10) percent.
27. This contract is governed by the laws of the Commonwealth of Pennsylvania.
28. The individual(s) executing this contract, if acting on behalf of a sole proprietorship, partnership, municipality, municipal authority, corporation, or funding agency, represent that they have the authority to do so.
29. Evaluation of the Client's budget for the Project, the preliminary estimate of the Cost of Work and the updated estimates of the Cost of the Work prepared by the Engineer represent the Engineer's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Engineer nor the Client has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Engineer cannot and does not warrant or represent that bids or negotiated prices will not vary from the Client's budget for the Project, or from any estimate of the Cost of the Work evaluation prepared or agreed to by the Engineer.
30. Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Engineer's services are substantially completed.
31. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
32. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Client, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.