



November 20, 2023

Local Law No. 2, 2023

Council Member Hayner presented the following Resolution and moved its adoption.

**ADOPT LOCAL LAW #2 TO INCREASE THE MAXIMUM INCOME
ELIGIBILITY LEVEL FOR THE SENIOR CITIZEN PROPERTY TAX EXEMPTION**

WHEREAS, Senior Citizen Property Tax Exemption will change to increase the maximum income eligibility level for computing the real property tax exemption available to persons 65 years of age or older with owner-occupied residential property within the City of Johnstown, in accordance with the following schedule of exemptions:

ANNUAL INCOME		EXEMPTION %
OLD LIMIT	NEW LIMIT	
\$14,300.00 and under	\$24,300.00 and under	50
\$14,300.01 - \$15,299.99	\$24,300.01 - \$25,299.99	45
\$15,300.00 - \$16,299.99	\$25,300.00 - \$26,299.99	40
\$16,300.00 - \$17,299.99	\$26,300.00 - \$27,299.99	35
\$17,300.00 - \$18,199.99	\$27,300.00 - \$28,199.99	30
\$18,200.00 - \$19,099.99	\$28,200.00 - \$29,099.99	25
\$19,100.00 - \$19,999.99	\$29,100.00 - \$29,999.99	20

; and

WHEREAS, a Public Hearing was held for all interested parties to be heard.

NOW, THEREFORE, BE IT

ADOPTED, by the Common Council, Local Law No. 2 of 2023; and be it further

RESOLVED, this act shall take for the 2024 Assessment Roll and shall apply to assessment rolls on the basis of taxable status dates occurring on or after such date.

RESOLVED, that the City Attorney is hereby directed to file said Local Law with the New York State Department of State.

Seconded by Council Member _____

Adopted by the following vote:

	YES	NO	ABSTAIN	ABSENT
Ward 1 – Council Member Hayner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 2 – Council Member Miller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 3 – Council Member Parker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 4 – Council Member Spritzer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member-at-Large Jeffers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS				
RESULT	Passed / Failed			

Adopted by the Common Council on November 20, 2023

Local Law # 2 , 2023 is hereby approved

Carrie M. Allen, City Clerk

Amy Praught, Mayor



November 20, 2023

Resolution No. 1, 2023

Council Member Miller presented the following Resolution and moved its adoption:

ADOPT THE CITY OF JOHNSTOWN BUDGET – FISCAL YEAR 2024

BE IT RESOLVED, that the Mayor's budget for the City of Johnstown's 2024 fiscal year, as presented by the Common Council attached hereto as Schedule "A", and which budget is on file in the City Clerk's office, be and the same, is hereby adopted.

Seconded by Council Member _____

Adopted by the following vote:

	YES	NO	ABSTAIN	ABSENT
Ward 1 – Council Member Hayner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 2 – Council Member Miller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 3 – Council Member Parker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 4 – Council Member Spritzer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member-at-Large Jeffers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS				
RESULT	Passed / Failed			

Adopted by the Common Council on November 20, 2023

Resolution # _____, 2023 is hereby approved

Carrie M. Allen, City Clerk

Amy Praught, Mayor

Legal Notice

PLEASE TAKE NOTICE, that the Common Council of the City of Johnstown will hold a Public Hearing on the 2024 Tentative Budget November 20, 2023 at 6:00 p.m. in the Common Council Chambers, City Hall, 33-41 East Main Street, Johnstown, New York 12095. Copies of the Tentative Budget are available from the City Clerk, City of Johnstown Facebook Page or cityofjohnstown.ny.gov

City of Johnstown - 2024 Tentative Budget	
Revenue	
Real Property Taxes	6,695,225.00
Other Revenue	11,656,871.00
Tax Reserve	-
Fund Balance used (added)	162,333.00
TOTAL:	18,514,429.00
Expenditures	
Common Council	24,100.00
Mayor	51,500.00
City Treasurer	211,281.00
City Clerk	89,229.00
City Assessor	49,854.00
Elections	24,362.00
Public Health	5,000.00
Historian	3,290.00
City Attorney	146,500.00
Public Works	4,512,993.00
Internal Control Officer	-
Water Dept. Bldg.	3,000.00
Water Dept. Administration	135,000.00
Water Dept. Source/Supply/Purification	631,795.00
Water Dept. Transmission/Distribution	952,290.00
Fire Department	2,356,487.00
Police Department	2,782,076.00
Traffic Control	19,000.00
Animal Control	40,250.00
Program for Aging	187,052.00
Human Resource	47,972.00
Unallocated Expenditures	1,012,800.00
Debt	340,196.00
Employee Benefits	4,888,402.00
TOTAL:	18,514,429.00
Property Tax Rate - 2024	\$14.19



November 20, 2023

Resolution No. 2, 2023

Council Member Parker presented the following Resolution and moved for its adoption:

EXECUTE A 5 (FIVE) YEAR RENEWAL AGREEMENT FOR THE UTILIZATION OF THE
FULTON COUNTY TRANSFER STATION

BE IT

RESOLVED, that the Mayor is hereby authorized to execute a contract renewal, a copy of which is annexed hereto as Schedule 'A', with the Fulton County Department of Solid Waste for the utilization of the transfer station, for a five (5) year term commencing January 1, 2024 through December 31, 2028.

Seconded by Council Member _____

Adopted by the following vote:

	YES	NO	ABSTAIN	ABSENT
Ward 1 – Council Member Hayner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 2 – Council Member Miller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 3 – Council Member Parker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 4 – Council Member Spritzer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member-at-Large Jeffers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS				
RESULT	PASSED / FAILED			

Adopted by the Common Council on November 20, 2023

Resolution # _____, 2023 is hereby approved

Carrie M. Allen, City Clerk

Amy Praught, Mayor

TRANSFER STATION UTILIZATION

AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of January, 2024, by and between the County of Fulton, NY (the COUNTY) and the City of Johnstown, (the MUNICIPALITY). This agreement supersedes previous agreements.

WITNESSETH:

WHEREAS, the COUNTY wishes to continue a County-wide Solid Waste Transfer System; and

WHEREAS, the MUNICIPALITY wishes to utilize the COUNTY transfer station, commonly referred to as the Fulton County Sanitary Landfill, Route 67 and Mud Road, Johnstown; and

WHEREAS, both parties wish to operate a transfer area for the purpose of receiving recyclables and compacting solid waste prior to ultimate disposal;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual agreement hereinafter set forth to be kept and performed, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS

For the purposes of this Agreement:

A. **ACCEPTABLE WASTE** shall mean any solid waste which can be safely deposited at the transfer area. Acceptable waste does not include any hazardous material as herein defined. No industrial waste, commercial waste, infectious waste or construction and demolition debris shall be accepted, unless previously specifically approved in writing by both the New York State Department of Environmental Conservation (NYSDEC) and the COUNTY. Asbestos waste shall not be considered an acceptable waste at the facility, regardless of how it is packaged.

B. **DESIGNATED LICENSEE** shall mean any person permitted to deposit acceptable waste at the transfer area. Designated Licensees shall include the residents of the MUNICIPALITY designated by the MUNICIPALITY and subject to approval by the COUNTY, possessing a validated permit from the MUNICIPALITY.

C. **DISPOSAL SITE** shall mean any solid waste disposal facility designated by the COUNTY to receive municipal refuse.

D. **HAZARDOUS MATERIAL** means any hazardous or toxic substance, material or waste

which is or becomes regulated by any local governmental authority, the State of New York or the United States Government. The term "hazardous material" includes, without limitation, any material or substance that is:

- (i) defined as a "hazardous substance" under applicable State law provisions;
- (ii) petroleum;
- (iii) asbestos;
- (iv) designated as a "hazardous substance", pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321);
- (v) defined as a "hazardous waste", pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq. (42 U.S.C. 6903);
- (vi) defined as a "hazardous substance", pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (42 U.S.C. 9601); or
- (vii) defined as a "regulated substance", pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. 6991 et seq.

E. **TRANSFER AREA** shall mean all transfer equipment, control module, retaining wall, concrete pad, roads, parking area and other appurtenances.

F. **TRANSFER VEHICLE** shall mean the truck and tilt frame provided and operated by the COUNTY, which shall be used to haul loaded containers of acceptable waste to the disposal site.

2. LENGTH OF AGREEMENT

A. This Agreement shall become effective January 1, 2024, and shall expire on December 31, 2028.

B. The Agreement may be terminated by either the COUNTY or MUNICIPALITY for just and reasonable cause and upon thirty (30) days' written notice.

C. The compensation portion of this Agreement is subject to annual tipping fee adjustments by the COUNTY, effective January 1 of each year.

3. OWNERSHIP OF FACILITY

The COUNTY is the owner of the transfer area.

4. COUNTY'S PERSONNEL

The COUNTY shall be solely responsible for engaging, providing and paying for such management, supervisory, administrative staffing and regular and special employees as shall be required to discharge its duties under this Agreement.

The MUNICIPALITY shall not interfere with any arrangements between the COUNTY and its employees.

5. DUTIES OF THE COUNTY (ADMINISTRATIVE)

The administrative duties of the COUNTY shall include:

- A. Securing all necessary permits from the NYSDEC to operate the facility;
- B. Drafting and submitting all annual reports required to be submitted to the NYSDEC;
- C. Generation of a monthly bill for services rendered by the COUNTY and submitting said bill promptly to the attention of the MUNICIPALITY's clerk for payment.

6. DUTIES OF THE COUNTY (TRANSFER AREA OPERATION)

The COUNTY shall be responsible for the safe and sanitary operations of the transfer area. The COUNTY's duties shall include:

- A. Determining the hours of operation;
- B. Determining whether the deliverer is a Designated Licensee;
- C. Determining whether the delivered materials are Acceptable Wastes;
- D. Directing traffic and guiding the disposal of Acceptable Wastes into the proper containers;
- E. Operating the hydraulic unit which powers the stationary compactor, (if applicable);
- F. Maintaining the transfer area in a clean and litter-free condition;
- G. Properly closing and securing the facility at the end of each day of operation;
- H. Keeping records of the number of vehicles using the facility and container loads per day and of equipment performance and maintenance;
- I. Providing all necessary signage to direct traffic to guide the deposit of Acceptable Materials and to display operating hours;
- J. Provide a transfer station attendant on duty at all times when transfer area is open;

K. Maintain a spare parts inventory of all short-life parts and components for that Transfer Area that may be reasonably expected to require replacement under normal operating conditions;

L. Maintain the transfer area in good operating order and condition and to make replacements, repairs, alterations and additions thereto, including machinery, equipment, roadway repairs and other items of improvement necessary or appropriate to ensure that the facility is able, to the extent possible, to continuously receive and compact Acceptable Wastes during operating hours;

M. Determine the acceptability of wastes pursuant to this Agreement.

7. DUTIES OF COUNTY (HAUL OF MATERIALS)

The duties of the COUNTY shall include:

A. Maintain and operate the Transfer Vehicle;

B. Provide for the haul of materials collected on an as-needed basis.

8. DUTIES OF THE COUNTY (DISPOSAL OF SOLID WASTE)

A. All solid waste passing through the transfer station must be ultimately treated or disposed of at a disposal site or recycling processing facility authorized by the NYSDEC to accept said waste. The COUNTY will be responsible for determining if the disposal site is authorized to accept solid waste;

B. All putrescible solid waste and recyclables must be removed by the COUNTY from the transfer area whenever transfer containers are full.

9. DUTIES OF THE MUNICIPALITY

The MUNICIPALITY's duties shall include:

A. Development, implementation and enforcement of a permit system to assist the COUNTY in determining if the deliverer is a Designated Licensee. This shall include, but not be limited to, distribution of permit stickers and maintenance of an up to date list of persons who obtain a permit sticker along with identifying information including name, mailing address, phone number, vehicle make and model and vehicle license plate number. This list shall be made available to the Department of Solid Waste upon request;

B. Payment of invoices sent by the COUNTY to the MUNICIPALITY within 30 days.

10. ACCESS TO THE FACILITIES

Use of the Transfer Area shall be limited to identifiable Designated Licensees, who shall include the residents of the MUNICIPALITY designated by the MUNICIPALITY and subject to approval by the COUNTY.

Visitors, with prior permission from the COUNTY, and representatives of the COUNTY or the governmental regulatory agencies having applicable jurisdiction, shall have the right to visit or inspect the facilities at any reasonable time.

The COUNTY and MUNICIPALITY agree that each must always have access to the other's roads and byways, as is necessary for ingress and egress to the facility.

11. SALE OF RECOVERED PRODUCTS

All sales of recovered products shall be undertaken pursuant to marketing arrangements through the COUNTY. The COUNTY shall be responsible for settling all returns, discounts and allowances in respect to arrangements for the sale of products recovered at the transfer area and receive all proceeds from the sale of recovered products. Under no circumstances is scavenging allowed at the transfer station by individuals.

12. TAXES AND UTILITY CHARGES

The COUNTY shall pay, when due, all governmental and utility charges of any kind whatsoever that may, at any time, be lawfully assessed or levied against or with respect to the transfer area. This shall include, without limitations, all utility, telephone and other charges incurred in the operation, use and occupancy of the facilities.

13. ASSIGNMENT AND LEASING

The MUNICIPALITY may not assign or lease its rights or interests hereunder without the prior written consent of the COUNTY.

14. INSURANCE

The COUNTY shall keep the facility continuously insured from the effective date of this Agreement and during the life of this Agreement. As part of, or as a supplement to, the statutorily mandated insurance coverage, the COUNTY shall obtain and maintain insurance coverage in the following areas: worker's compensation insurance, general liability insurance, disability benefits and automobile liability insurance. In lieu of separate insurance policies, such insurance may be in the form of a blanket insurance policy.

15. COMPENSATION

A. The MUNICIPALITY will be assessed the total cost per ton for services provided based on the COUNTY rate schedule for services.

B. In the absence of a scale or scale data, the MUNICIPALITY agrees that the COUNTY will estimate container tonnage.

C. The COUNTY will invoice the MUNICIPALITY monthly. The MUNICIPALITY shall provide payment to the COUNTY within 30 days of receipt of an invoice from the COUNTY.

16. DAMAGE, DESTRUCTION AND CONDEMNATION

If the facilities shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole, or any part, of the facility shall be taken or condemned by a competent authority, there shall be no suspension of the obligation of the COUNTY to accept Acceptable Materials to the extent feasible at the facility or otherwise at an appropriate disposal site.

17. INDEMNIFICATION PROVISION

The MUNICIPALITY warrants, covenants and represents that it shall not transport or cause to be transported any toxic or hazardous materials to the transfer area. In the event of breach of the aforementioned warranty, covenant and representation, the MUNICIPALITY shall defend, indemnify and hold harmless the COUNTY, its directors, officers, employees, agents, contractors, sub-contractors, licensees, invitees, successors and assigns, from any and all claims, demands, judgments, damages, actions, causes of action, injuries, administrative orders, consent agreements and orders, liabilities, penalties, fines, costs, losses (including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees), and expenses of any kind whatsoever, including claims arising out of loss of life, injury to persons, property or business or damage to natural resources, caused by such breach.

This indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material present in the soil or groundwater on or under the transfer area or any disposal site. Without limiting the foregoing, if the presence of any hazardous material on the transfer area or disposal area caused by the MUNICIPALITY results in any contamination of the transfer area or disposal site, the MUNICIPALITY shall promptly take all actions, at its sole expense, as are necessary to return the transfer area and disposal site to the condition existing prior to the introduction of any such hazardous material to the transfer area or disposal site; provided that the COUNTY's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld, so long as such actions would not potentially have any material adverse short-term or long-term effect on the transfer area or disposal site.

18. APPLICABLE RULES

Both parties shall comply with all federal, New York State and local laws, rules, regulations, codes and ordinances relating to all matters contained in the Agreement.

19. GOVERNING LAW: SEVERABILITY

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

20. FORCE MAJEURE

If the performance of this Agreement by either party is delayed, interrupted or prevented by reason of causes beyond its reasonable control, such as any act of God, strike, accident, fire, explosion, flood, war, riot or any act, order or delay of any government other than the parties hereto, act of a public enemy, inability to secure or delay in securing machinery, equipment, materials, supplies, cars, fuel or power;

1. said party shall be excused from the performance of this Agreement while and to the extent that is so delayed, interrupted or prevented;
2. the performance of this Agreement shall be resumed as soon as is practical, but no later than seven (7) days after such disability is removed.

Said party shall give the other party written notice within ten (10) days after the occurrence of such cause and, insofar as is known, the probable extent to which it will be unable to perform or be delayed in performing its obligations hereunder.

21. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement between the parties hereto, with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. This Agreement may not be released, discharged, abandoned, changed or modified in any manner, except by an instrument in writing signed by the duly authorized officers or representatives of each of the parties hereto.

IN WITNESS WHEREOF, each of the parties hereto has duly signed this Agreement in triplicate.

FULTON COUNTY

CITY OF JOHNSTOWN

Chairman, Fulton County
Board of Supervisors

City of Johnstown Mayor

County Attorney

City of Johnstown Attorney

E-304

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Department Head Initials _____



November 20, 2023

Resolution No. 3, 2023

Council Member Spritzer presented the following Resolution and moved for its adoption:

AUTHORIZE THE MAYOR TO EXECUTE A WATER SUPPLY AGREEMENT, WITH THE TOWN OF JOHNSTOWN, TO SUPPLY WATER TO THE ASPEN HILLS WATER DISTRICT

WHEREAS, the Town of Johnstown (Town) established the Aspen Hills Water District located on the south side of NYS Route 67, west of the City of Johnstown, and

WHEREAS, the City of Johnstown (City) owns a water supply and distribution system which meets all pertinent standards, rules, regulations and other requirements of the New York State Department of Health; and

WHEREAS, pursuant to the Johnstown City Charter §6.5, the Johnstown Common Council has the authority to sell municipal water outside the city; and

WHEREAS, the Town owns and operates the Aspen Hills Water District and intends to supply properties with water service within said district, under the terms of the Supply Agreement, a copy of which is annexed hereto,,; and

WHEREAS, it is now desired by both the City and the Town to enter into an Inter-Municipal Agreement, pursuant to the provisions of General Municipal Law Article 5-C and General City Law §19 of the State of New York, to effect the proposals described herein.

NOW, THEREFORE, BE IT

RESOLVED, that the Mayor is hereby authorized to execute a Supply Agreement to provide water to the Aspen Hills Water District, with the Town of Johnstown, for a period of five (5) years beginning December 1, 2023 through November 30, 2028.

Seconded by Council Member _____

Adopted by the following vote:

	YES	NO	ABSTAIN	ABSENT
Ward 1 – Council Member Hayner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 2 – Council Member Miller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 3 – Council Member Parker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ward 4 – Council Member Spritzer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member-at-Large Jeffers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS				
RESULT	PASSED / FAILED			

Adopted by the Common Council on November 20, 2023	Resolution # _____, 2023 is hereby approved
_____ Carrie M. Allen, City Clerk	_____ Amy Praught, Mayor

ASPEN HILLS WATER DISTRICT

SUPPLY AGREEMENT

THIS AGREEMENT, made this ____ day of _____ 2023 by and between the City of Johnstown, having its principal offices at 33-41 East Main Street, Johnstown, New York 12095, hereinafter referred to as the "City" and the Town of Johnstown, a municipal corporation, having its principal offices at 2753 St. Hwy. 29, Johnstown, New York 12095, hereinafter referred to as the "Town".

WHEREAS, the Town heretofore has established Aspen Hills Water District pursuant to Law, which is located on the south side of New York State Route 67, west of the City of Johnstown, and

WHEREAS, the City owns a water supply and distribution system designed and built to meet all pertinent standards, rules, regulations and other requirements of the New York State Department of Health; and

WHEREAS, the City is authorized under New York State General Municipal Law Article 5-C, to enter into a contract for the sale of water to the Town; and

WHEREAS, pursuant to the Johnstown City Charter § 6.5, the Johnstown Common Council has the authority to sell municipal water outside the City; and

WHEREAS, the Town owns and operates the Aspen Hills Water District and intends to supply properties with water service within said district under the terms of this agreement; and

WHEREAS, it is now desired by both the City and the Town to enter into an Inter-Municipal Agreement, pursuant to the provisions of General Municipal Law Article 5-C and General City Law §19 of the State of New York, to effect the proposals described herein.

NOW, THEREFORE, it is hereby mutually agreed by and between the City and the Town as follows:

I. CITY'S RESPONSIBILITIES

A. GENERAL

The City agrees that, upon the request of the Town (Phase I), shall supply water to and maintain water meters, and other appurtenant equipment associated with metering and billing which are a part of Aspen Hills Water District, as set forth below in Section 2A. Private, service lines and other pipes and equipment not owned by the Town are excluded and not covered by this Agreement.

B. SALE OF WATER

The City hereby agrees to sell water to the Town for the supply of water service to customers located within the Aspen Hills Water District. Said Water District is more fully described as contained in NYS DEC approved Water District documents.

C. LIMITATION ON AMOUNT OF WATER TO BE SUPPLIED

1. The City shall supply water to the Town (Aspen Hills Water District), in an amount not to exceed 46,000 (forty-six thousand) gallons per day or 322,000 (three hundred, twenty-two thousand) gallons per week, except under emergency circumstances and conditions. For purposes of this agreement, emergency circumstances and conditions shall be defined as any circumstances or conditions outside the control of the City, such as an act of God and/or

acts of third parties.

2. If the City is unable to furnish such quantity of water because of conditions or limitations beyond its reasonable control, the City shall furnish said quantity of water as it is able. The City shall have no responsibility or liability to the Town or Aspen Hills Water District or to any entities/customers receiving water as a result of any limitation on the quantity of water supplied as a result of emergency circumstances or conditions and not resulting from the willful negligence of the City.
3. In the case of a water shortage emergency, limitations by the City of water to the Aspen Hills Water District shall permit the City to ban the following activities: sprinkling of lawns and gardens, washing of cars, filling swimming pools and other outside uses of water which the City deems excessive and inappropriate in a water shortage emergency.
4. If the City is unable to supply the quantity of water as herein provided, the City will endeavor to give the Town at least ten (10) days notice of its intention to limit the supply of water.

II. TOWN'S RESPONSIBILITIES

A. MAINTENANCE AND REPAIR

The Town of Johnstown will ensure that all maintenance and repair services within the Aspen Hills Water District shall be completed and performed in accordance with the New York State Department of Health.

B. TESTING

The Town shall perform water sampling and testing within the Aspen Hills Water District which shall include but not limited to Chlorine residuals, bacteria sampling and disinfection byproducts.

C. PREPARE WRITTEN REPORTS TO SUBMIT TO NYSDOH

The Town of Johnstown will complete, record, and submit to New York State Department of Health, all testing reports (daily, monthly, quarterly, semi-annually or annually) required with copies provided to the City of Johnstown.

D. INSPECTIONS

The records of the Town shall be open for inspection by officers and representatives of the City during regular business hours and upon reasonable notice to Town and/or Water District officials. City officers or their representatives may inspect any and all service and connections in the Water District in order to verify the nature and extent of the use of the water provided. All costs associated with inspections shall be the responsibility of the City.

E. NO RESALE OF WATER

The Town and/or Aspen Hills Water District may provide water to any development within said district under the confines set forth in this agreement such that the maximum allotment of water (46,000 (forty-six thousand) gallons per day or 322,000 (three hundred, twenty-two thousand) gallons per week, except under emergency circumstances and conditions) is not exceeded. The Town also agrees that it will notify the City of any such development requesting water service. Should there be any further development of the Aspen Hills Water District that may require an increase in allotment of water from the City, the Town will notify the City of such potential need and the requested change in allotment in writing. Both the Town and the City shall meet to review the potential change in allotment and any change in allotment will need to be mutually agreed to by

the City and the Town. The Town and/or Aspen Hills Water District may not sell water outside of the Aspen Hills Water District without the express written consent of the City of Johnstown Common Council.

F. MAINTENANCE OF INFRASTRUCTURE

All infrastructure included within the Water District boundaries, shall be owned entirely by the Town.

G. INDEMNIFICATION

The Town will indemnify and hold the City harmless for all causes of action, lawsuits, judgments, claims or damages arising from the use of the water to be supplied under this agreement. Furthermore, the City shall have no liability to the Town of Johnstown, Aspen Hills Water District or any customers receiving water in the district for any loss or damage caused by the failure of the City's water supply system and/or the use of the water to be supplied under this agreement.

III. METER READING AND BILLING (TOWN AND CITY)

A. The Town shall pay a charge of \$4.30 per meter per billing period for the City's meter reading and billing services for each customer in the District. The charge shall increase \$.10 per year during the contract period

1. Reading: 59 meters @ \$4.30/each x 2's/yr. = \$507.40

B. The Town shall be responsible for billing its customers and collecting payment for water and sewer charges. The City agrees to prepare a combined water and sewer bill for the Town's Aspen Hill customers. It shall be the responsibility of the Town to pick up and mail the bills.

C. The City shall bill the Town semi-annually for the water and sewer charges billed to the Town's customers. The Town shall pay the City for said charges within thirty (30) days of receipt of the bill. If any questions arise as to the accuracy of the computation of the sums due from the Town to the City, said sums shall nevertheless be paid when due and an immediate attempt thereafter made by all parties to settle same.

D. Late Payments:

1. Any late payments from the Town to the City shall be subject to the same interest and penalty provisions as City customers.

2. Failure of the Town to make payments may, at the discretion of the City, result in the termination of this Agreement and of service to Aspen Hills Water District (Phase I).

E. The billing cycle for water shall be determined by, and in accordance with, the general practices of the City. The rate and cost of the water shall be two (2) times the current rate charged to the City's residential customers and the rate shall be subject to review and change at the sole discretion of the Common Council. Water bills shall be sent out on a semi-annual basis by the Town. Should the Town default on payment of the water bill, water service is subject to shut-off in accordance with the policies and practices of the Johnstown Water Department.

IV. TERM

The term of this agreement shall be five (5) years. This agreement shall be effective as of _____ and terminate on _____. Either party has the right to commence renegotiation regarding fees, charges or other terms of this Agreement upon six (6) months written notice, personally delivered or sent by certified mail, return receipt requested, to the City or Town, as the case may be.

V. COMPLETE AGREEMENT

This Agreement represents the total understanding of the parties and may not be altered except by a writing subscribed by the parties hereto. In the event of continued development within the Aspen Hills Water District whereas changes in the existing language within this agreement may be required, good faith negotiations shall take place between the City and the Town.

VI. INVALIDITY

The invalidity or unenforceability of any part or provision of the Agreement shall not affect the other provisions hereof.

VII. NON-WAIVER

The failure of either party to strictly enforce any provision of this Agreement shall not be deemed a waiver of that provision.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

The City represents that its Mayor was authorized to execute this Agreement by Resolution No. ____, adopted _____, 2023, and

The Town represents that its Supervisor was authorized to execute this Agreement by Resolution No. ____, adopted _____, 2023.

CITY OF JOHNSTOWN

TOWN OF JOHNSTOWN

Amy Praught, Mayor

Jack Wilson, Town Supervisor

Approved as to Form:

Michael M. Albanese, City Attorney

Leah Everhart, Town Attorney