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**SHARED SERVICES AGREEMENT**

*by and between the*

**COUNTY OF PASSAIC**

*and*

**CITY OF PASSAIC**

*for*

*The Replacement of Passaic Avenue Culvert No. 1600-092 over McDonald Brook*

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**PREPARED BY:**

The Office of the Passaic County Counsel  
401 Grand Street, Room 214  
Paterson, New Jersey 07505  
Phone: (973) 881-4466  
Fax: (973) 881-4072

THIS SHARED SERVICES AGREEMENT (hereafter "Agreement"), dated this 15<sup>th</sup> day of February, 2023, by and between the COUNTY OF PASSAIC, a body politic and corporate of the State of New Jersey (hereafter "County"), with its principal offices located at 401 Grand Street, Room 205, Paterson, New Jersey 07505 and the CITY OF PASSAIC, a body politic and corporate of the State of New Jersey (hereafter the "City"), with its principal offices located at 330 Passaic Street, Passaic, New Jersey 07055 (the "County," and together with the City, the "Parties").

#### RECITALS

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., allows for any local unit to enter into an agreement with any other local unit or unites provide or receive any services that each participating in the agreement is empowered to provide or receive within its own jurisdiction, as set forth in N.J.S.A. 40A:65-7; and

WHEREAS, the County will use funding from the NJDOT Local Bridge Grant Program to replace the Passaic Avenue Culvert No. 1600-092 over McDonald Brook in the City; and

WHEREAS, sanitary utility relocation is not reimbursable under the NJDOT Local Bridge Grant Program, and the City has agreed to assist the County by taking full responsibility for the costs of constructing a temporary bypass and permanent relocation of the City's sanitary pipe and manhole necessary for the construction of the Culvert Replacement; and

WHEREAS, to effectuate the plan, the County and the City seek to enter into a shared services agreement that will allow the County to have the bypass and sanitary relocation work included in the County's bid proposals seeking a Culvert Replacement contractor; and

WHEREAS, pursuant to N.J.S.A. 40A:65-5, the County and City each adopted resolutions authorizing entry into this Agreement, copies of which are annexed hereto and made part of this Agreement; and

NOW, THEREFORE, BE IT AGREED, in consideration of the promises and of the covenants, terms, and conditions hereinafter set forth, the County and the City agree to perform in accordance with the provisions, terms, and conditions set forth in this Agreement as follows:

#### **I. Scope of Service.**

- a. The County will use the NJDOT Local Bridge Grant Funds to replace the Passaic Avenue Culvert located in Passaic, New Jersey. The NJDOT Local Bridge Grant Fund excludes funding for sanitary utility relocation related to the construction of the Passaic Culvert replacement. The sanitary relocation involves the installation of a temporary bypass and the permanent relocation of the City's sanitary pipe and manhole.

**II. Incorporation of Recitals.**

The recitals set forth above are incorporated herein by reference.

**III. Requirements of the County.**

a. The County hereby acknowledges and accepts the following requirements:

- i. The County agrees, at the City's request, to incorporate the relocation of the City's six-inch sanitary line into the design of the Replacement of Passaic Avenue Culvert No. 1600-092. The County will include the details and specifications that are provided by the City in the project's bid documents.
- ii. The County will submit to the City the final set of plans and specifications for final written approval of the proposed sanitary temporary bypass, new sanitary line, and manhole work prior to the County advertising the construction project.
- iii. The County will advertise and receives bids for the construction of the Culvert Replacement, including as a separate Alternate Bid #1 for the temporary sanitary bypass, new sanitary line, and manhole pay items.
- iv. The County or the County's Contractor will submit the shop drawings for the temporary sanitary bypass, the new sanitary line, and the manhole to the City Engineering department for its review and approval.
- v. The County will not be responsible for the construction inspection of any of the sanitary work, which includes but is not limited to the temporary bypass, new sanitary line, manhole, and various connections.
- vi. The County or the County's Contractor will notify the City 24 hours in advance of any proposed sanitary line work by the Contractor that requires City inspection.
- vii. After the project is completed, the County Engineer will certify the total cost of the temporary bypass line, new sanitary line, and manhole. The total cost will be determined based on the bid prices in accordance with the Local Public Contracts Law.
- viii. The County will require the Contractor to include the City's name as an additional insured with regard to the sanitary work.
- ix. The Contractor's maintenance bond with the County will be for a two-year period starting at the completion of the project, and the bond will include the sanitary work performed during this project.

**IV. Requirements of the City.**

a. The City hereby acknowledges and accepts the following requirements:

- ix. The City will be responsible to determine if the temporary bypass, new sanitary line, and manhole installation are acceptable.
- x. The City will take ownership and maintenance on the City's final inspection and acceptance of the new sanitary line.
- xi. The City agrees to reimburse the County for costs associated with the sanitary line installation within thirty (30) days after the conclusion of the project.
- xii. The City agrees to waive any claims against the County for any damages which may occur to its sanitary line.

**V. Limitation of Delegation of Authority.**

- a. To the extent this Agreement constitutes a delegation of authority by the County, this Agreement shall not be construed to delegate any authority other than the authority to provide the services described herein, consistent with the terms and provisions of this Agreement.
- b. Neither the City nor County intend by this Agreement to create any agency relationship other than that which may be specifically required by this Agreement for the limited purpose of the provision of services provided by the City pursuant to this Agreement.

**VI. Compliance with Laws and Regulations.**

The City and the County agree that each Party will at its own costs and expense promptly comply with, or cause to be complied with, all state and federal laws, rules, regulations, and other governmental requirements which may be applicable to its performance of the services described in this Agreement. If a court of competent jurisdiction finds that any legal requirements have not been met, either party may exercise their right of rescission by forwarding the formal written notice to the other party.

**VII. Insurance.**

At all times during the term of this Agreement, the City shall maintain all necessary and appropriate insurance policies with respect to the services to be performed pursuant to this Agreement; and shall cause the County to be named as an additional insured and will deliver to the County a certificate of insurance prior to the commencement of services. The County shall further maintain appropriate insurance as to its own actions relative to this Agreement.

**VIII. Dispute Resolution.**

- a. Mandatory Mediation. In the event of a dispute, whether technical or otherwise, the objecting Party must request Non-Binding Mediation and the non-objecting party must participate in the mediation. The costs of such Non-Binding Mediation shall be borne equally by both Parties.

- b. Procedure. The Mediator shall be a retired Judge of the Superior Court of New Jersey or other professional mutually acceptable to the Parties and who has no current or ongoing relationship with either Party. The Mediator shall have full discretion as to the conduct of the mediation. Each party shall participate in the Mediator's program to resolve the dispute until and unless the Parties reach an agreement with respect to the disputed matter or one party determines in its sole discretion that its interests are not being served by the mediation.
- c. Non-Binding Effect. Mediation is intended to assist the Parties in resolving disputes over the correct interpretation of this Agreement. No Mediator shall be empowered to render a binding decision.
- d. Judicial Proceedings. Upon the conclusion of Mediation, either party may commence judicial legal proceedings in the appropriate division of the Superior Court of New Jersey venue in Passaic County.
- e. Temporary Injunctive Relief. Notwithstanding the foregoing, nothing herein shall prevent a party from seeking temporary injunctive relief to prevent irreparable harm in the appropriate division of the Superior Court of New Jersey venue in Passaic County.

**IX. Severability/Waiver.**

- a. All agreements and covenants contained herein are severable, and in the event any of them shall be held to be invalid by any competent court, this Agreement shall be interpreted as if such invalid agreements or covenants were not contained herein.
- b. Should one or more covenants or conditions be waived by either party, such waiver shall not be deemed to waive or render unnecessary the consent or approval of the waiving party to or of any subsequent similar act by the other party.
- c. If any provision contained in this Agreement is breached by either party and thereafter such breach is waived by the non-breaching party, such waiver will be limited to the particular breach so waived and shall not constitute a waiver of any breach hereunder.

**X. Indemnification.**

To the fullest extent allowable by the law, each party, their successors, and assigns shall hold harmless, indemnify, defend, and release the other party and their members, directors, officers, employees, agents, and contractors, successors and assigns from and against all suits, liabilities, penalties, costs, losses, damages, expenses or claims, including, without limitation, reasonable attorney's fees arising from or in any way connected with the other party's performance, attempted performance, or failure to perform in connection with this Agreement or other activities as described in the Agreement, including, but not limited to, any injury to or the death of any person or any damage to any property resulting from any act, omission, condition, or other manner related to this Agreement, regardless of cause, unless due to the negligence of any of the indemnified parties.

**XI. Governing Law.**

This Agreement is being executed and is intended to be performed in the State of New Jersey and shall be governed in all respects by the laws of the State of New Jersey.

**XII. Notice.**

All notices, reports, statements, requests, or authorizations required to be given hereunder shall be personally delivered or sent by first-class mail to the Parties at the following addresses unless a party has been notified of a change of address:

To: County of Passaic  
Office of the County Administrator  
401 Grand Street, Room 205  
Paterson, NJ 07505

To: City of Passaic  
330 Passaic Street  
Passaic, New Jersey 07055

**XIII. Entire Agreement.**

This Agreement contains all of the terms and conditions agreed upon by the Parties and supersedes all other negotiations, representations, and understandings of the Parties, oral or otherwise, regarding the subject matter.

**XIV. Headings.**

The Article and Section headings in this Agreement are included herein for convenience of reference only and are not intended to define or limit any scope of any provision of this Agreement.

**XV. Force Majeure.**

If either parties' performance of any of the provisions of this Agreement become impossible due to Force Majeure, that Party will be excused from performing such obligations until such time as the Force Majeure event has ended and all facilities and operations have been repaired and/or restored.

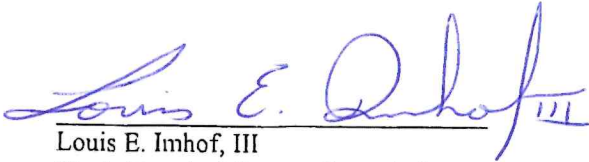
**XVI. Amendments and Modifications.**

This Agreement may be amended only by an instrument in writing signed by the Parties and effective as of the date stipulated therein. Moreover, for the amendment to be valid and binding on the Parties, it must be accompanied by a resolution authorizing same.

IN WITNESS of the foregoing provisions, the Parties have executed and delivered this Agreement as of the date set forth below:

Attest:

COUNTY OF PASSAIC



Louis E. Imhof, III  
Clerk, Board of County Commissioners



Pat Lepore  
Director, Board of County Commissioners

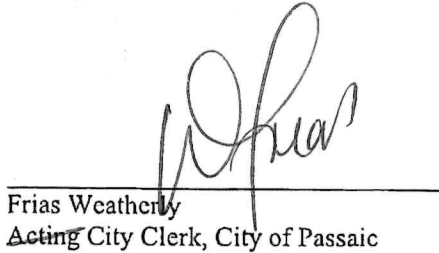
As to form and legality:



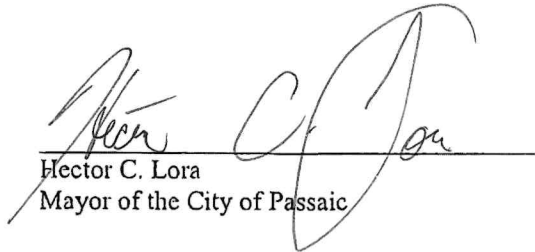
Nadege D. Allwaters, Esq.  
Passaic County Counsel

Attest:

CITY OF PASSAIC



Frias Weatherly  
Acting City Clerk, City of Passaic



Hector C. Lora  
Mayor of the City of Passaic





# County of Passaic

401 Grand Street  
Paterson, New Jersey 07505  
Tel: 973-881-4402  
Fax: 973-742-3746

## Legislation Details (With Text)

**File #:** 23-0434  
**Type:** Resolution **Status:** Passed  
**File created:** 4/20/2023 **In control:** Public Works  
**On agenda:** 4/25/2023 **Final action:** 4/25/2023  
**Enactment date:** 4/25/2023 **Enactment #:** R-23-0409

**Title:** RESOLUTION AUTHORIZING A SHARED SERVICES AGREEMENT BETWEEN THE COUNTY OF PASSAIC AND THE CITY OF PASSAIC FOR THE COUNTY TO REPLACE THE PASSAIC AVENUE CUVLERT AND THE CITY TO REIMBURSE THE COUNTY FOR THE RELOCATING OF THE CITY'S SANITARY LINE AND MANHOLE, PURSUANT TO N.J.S.A. 40:20-1

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Cover Page, 2. Shared Services Agreement re Cty v. City of Passaic

Date	Ver.	Action By	Action	Result
4/25/2023	1	Board of County Commissioners Regular Meeting	Adopted	Pass

**RESOLUTION AUTHORIZING A SHARED SERVICES AGREEMENT BETWEEN THE COUNTY OF PASSAIC AND THE CITY OF PASSAIC FOR THE COUNTY TO REPLACE THE PASSAIC AVENUE CUVLERT AND THE CITY TO REIMBURSE THE COUNTY FOR THE RELOCATING OF THE CITY'S SANITARY LINE AND MANHOLE, PURSUANT TO N.J.S.A. 40:20-1**

**WHEREAS**, the County of Passaic (the "County") is a government body incorporated pursuant to N.J.S.A. 40:18-1, et seq.; and

**WHEREAS**, pursuant to N.J.S.A. 40:20-1, the Passaic Board of County Commissioners (the "Board") is vested with the powers to make all decisions on behalf of the County; and

**WHEREAS**, the Passaic County Engineering Department is responsible for protecting and enhancing the quality of life of County residents through various infrastructure projects, including bridges, culverts, drainage systems, and road/traffic operations; and

**WHEREAS**, the County Engineer is recommending that the County enter into a shared service agreement with the City of Passaic ("City") for the County to replace the Passaic Avenue Culvert in Passaic and the City to reimburse the County for the costs of relocating the City's sanitary line and manhole, which is necessary for the relocation of the culvert; and

**WHEREAS**, on its completion, City will accept ownership and all maintenance responsibilities of the sanitary lines in compliance with the terms of the shared service agreement; and

**WHEREAS**, this matter was discussed at the April 12, 2023, Public Works Committee meeting and is



being recommended to the Board for approval; and

**NOW, THEREFORE, LET IT BE RESOLVED**, pursuant to N.J.S.A. 40A:65-1, et seq., the Board of County Commissioners of the County of Passaic hereby authorizes the shared service agreement between the County and City of Passaic for the County to replace the Passaic Avenue Culvert in Passaic, and the City of Passaic to reimburse the County for the costs associated with the construction of the City's sanitary pipe and manhole in accordance with the terms of the shared service agreement.

**LET IT BE FURTHER RESOLVED**, a copy of the maintenance agreement shall be filed, for informational purposes, with the Division of Local Government Services.

**LET IT BE FURTHER RESOLVED**, that the Clerk to the Board, County Counsel, and Director of the Board are authorized to take any other action necessary to carry out the purposes of this Resolution.

PCR

April 25, 2023

330 PASSAIC STREET  
PASSAIC, NEW JERSEY 07055



TEL: (973) 365-5584  
FAX: (973) 365-0115  
WFRIAS@CITYOFPASSAICNJ.GOV

## CITY OF PASSAIC, NEW JERSEY

*Office of*

**WEATHERLY FRIAS, RMC, QPA, CMR  
CITY CLERK**

September 29 2023

Nadège D. Allwaters, Esq  
County Counsel  
401 Grand Street, Room 214  
Paterson NJ 07505

Dear Ms Allwaters,

Enclosed please find a certified copy of the following resolution adopted by the City Council of the City of Passaic on September 7, 2023.

**23-09-263 RESOLUTION AUTHORIZING A SHARED SERVICES AGREEMENT BY AND BETWEEN THE CITY OF PASSAIC AND THE COUNTY OF PASSAIC FOR THE REPLACEMENT OF PASSAIC AVENUE CULVERT NO. 1600-092 OVER MACDONALD BROOK**

It is being forwarded for your information and records.

Sincerely,

Weatherly Frias, CMR, QPA, RMC  
City Clerk

SSA-23-0057

**CITY OF PASSAIC  
RESOLUTION NO. 23-09-263**

**RESOLUTION AUTHORIZING A SHARED SERVICES AGREEMENT BY AND BETWEEN THE CITY OF PASSAIC AND THE COUNTY OF PASSAIC FOR THE REPLACEMENT OF PASSAIC AVENUE CULVERT NO. 1600-092 OVER MACDONALD BROOK**

WHEREAS, pursuant to the New Jersey Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq. (hereinafter referred to as the "Act"), a local unit may enter into an Agreement for shared services with another local unit to provide and/or receive any service that the units participating in the Agreement are empowered to provide and/or receive within their own jurisdiction;

WHEREAS, the Agreement for shared services must comply with the requirements of N.J.S.A. 40A:65-7 and specify the services to be performed under the Agreement, the procedures for payment of said services and the assignment and allocation of responsibilities for meeting the standards between and among the parties for said services; and

WHEREAS, the City of Passaic desires to enter into a Shared Service Agreement (the "Agreement") with the County of Passaic for the replacement of Passaic Avenue Culvert No. 1600-092 over McDonald Brook in the form presented to the Mayor via letter dated May 5, 2023.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Passaic that the City of Passaic is hereby authorized to enter into the Agreement with the County of Passaic, subject to the terms and conditions set forth therein; and

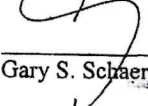
BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the Agreement and any other documents required for same to further the purpose of this Resolution.

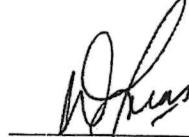
INTRODUCED BY COUNCILPERSON: Daniel Schwartz

SECONDED BY COUNCILPERSON: Council President Gary Schaer

Record of Council Vote on Final Passage	Aye	Nay	Abstain	Absent
GARCIA, J.	x			
LOVE, T				x
MELO, T				x
COLON-MONTANEZ, M.	x			
MUNK, C.	x			
SCHAER, G.	x			
SCHWARTZ, D.	x			


ADOPTED ON: September 7, 2023

  
\_\_\_\_\_  
Gary S. Schaer, Council President

  
\_\_\_\_\_  
Weatherly Frias, City Clerk

9/11/2023

RECEIVED  
SEP 29 11:31  
CITY CLERK'S OFFICE

Weatherly Frias RMC, CPA, CMR  
City Clerk  


I hereby certify that the foregoing is a true and correct copy of the original now on file in the Office of the City Clerk of Passaic, NJ. Dated: September 29, 2023 Passaic, NJ