

MEMORANDUM OF AGREEMENT
AMONG
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
THE NEW JERSEY STATE HISTORIC PRESERVATION OFFICE, AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
THE PASSAIC VALLEY WATER COMMISSION'S
STANLEY M. LEVINE RESERVOIR WATER STORAGE IMPROVEMENT PROJECT
IN THE CITY OF PATERSON, PASSAIC COUNTY, NEW JERSEY

WHEREAS, the Drinking Water State Revolving Fund (DWSRF) program, created by the 1996 Amendments to the Safe Drinking Water Act (SDWA), is a federal-state partnership to help ensure safe drinking water by providing financial support to water systems and to state safe drinking water programs; and

WHEREAS, the provision of financial support by the US Environmental Protection Agency (USEPA) through the DWSRF program is a federal action that makes such projects undertakings subject to review by USEPA under Section 106 (54 U.S.C. § 306108) of the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.) and its implementing regulations, "Protection of Historic Properties" (36 C.F.R. Part 800); and

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) intends to provide financial support through the DWSRF for the Passaic Valley Water Commission's (PVWC's) Water Storage Improvement Project (Project) to be constructed at the Stanley M. Levine Reservoir (Levine Reservoir), located in the City of Paterson, Passaic County, New Jersey; and

WHEREAS, the Levine Reservoir Water Storage Improvement Project is being implemented pursuant to a March 2009 Administrative Consent Order between the NJDEP and PVWC, a July 2013 Amended Administrative Consent Order between the NJDEP and PVWC, a July 2015 Second Amended Administrative Consent Order between the NJDEP and the PVWC, and a May 2019 Third Amended Administrative Consent Order between the NJDEP and PVWC, all of which are incorporated herein by reference; and

WHEREAS, on August 1, 2018, the NJDEP issued the Final Environmental Decision Document for the "Water Storage Improvements Phase I-Levine Storage Tanks" project, to bring the Levine Reservoir into compliance with the federal "Long-Term Enhanced Surface Water Treatment Rule," which prohibits the use of open finished-water reservoirs such as the Levine Reservoir; and

WHEREAS, USEPA believes that the NJDEP has undertaken a comprehensive environmental review in selecting the preferred alternative, by considering a number of alternatives in both location and process, and that by selecting this proposed alternative, it will maintain the historic usage of the site as a distribution point for potable drinking water; and

WHEREAS, the selected alternative for this project and its undertaking is subject to the Section 106 review process, Appendix A.1 explains the entire project in detail, including the replacement of the existing Levine Reservoir with a pair of 2.5 million-gallon concrete tanks to be located within the same footprint as the existing Reservoir; and

WHEREAS, in correspondence dated November 24, 2010, the Office of the New Jersey State Historic Preservation Officer (NJSHPO) stated that the Stanley M. Levine Reservoir was a contributing element to the Great Falls of the Passaic/Society for Establishing Useful Manufacturer Historic District and a National Historic Landmark (NHL) District; and

WHEREAS, after determining that the proposed project will result in an adverse effect on historic properties, the USEPA has consulted with the NJSHPO and has developed this Memorandum of Agreement (MOA) pursuant to 36 C.F.R. § 800.6; and

WHEREAS, on June 29, 2017, the USEPA initiated consultation for this project with the NJSHPO, who is a Signatory to this MOA, copying all of the Consulting Parties previously identified by the NJDEP; and

WHEREAS, on August 24, 2017, the NJSHPO acknowledged that consultation had been satisfactorily initiated, and requested that the defined area of potential effect (APE) for the proposed undertaking be revised to adequately identify historic properties that may be affected; and

WHEREAS, on November 7, 2017, the USEPA, in continuing consultation with the NJSHPO, provided a letter responding to all comments received on USEPA's June 29, 2017 submission, including revising the APE for the proposed undertaking, as well as updating its Identification of Historic Properties Affected; and

WHEREAS, in consultation with the NJSHPO, the USEPA delineated and then revised the APE based on its November 7, 2017 letter to the NJSHPO, which is discussed in detail in Appendix A.2 of this MOA; and

WHEREAS, in consultation with the NJSHPO and Consulting Parties, USEPA required appropriate steps to identify historic properties that may be affected by the undertaking as noted in the November 7, 2017 letter to NJSHPO, which is discussed in detail in Appendix A.3 of this MOA; and

WHEREAS, on January 12, 2018, the NJSHPO concurred that Identification of Historic Properties was complete, and that an Assessment of Adverse Effects should be developed; and

WHEREAS, on April 3, 2018, an Assessment of Adverse Effects was transmitted to the NJSHPO and all Consulting Parties for their review and comment; and

WHEREAS, on May 1, 2018, the NJSHPO responded, concurring with the findings of the Assessment of Adverse Effects Document, which is in Appendix A.4 of this MOA; and

WHEREAS, USEPA acknowledges that pursuant to Section 110(f) of the NHPA (54 U.S.C §306107) and 36 C.F.R. § 800.10, due to the direct adverse effect of the undertaking on a NHL District, USEPA is responsible, to the maximum extent possible, for undertaking such planning and actions as it may be necessary to minimize harm to such landmark; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), USEPA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii), making it a Signatory to this MOA; and

WHEREAS, pursuant to 36 C.F.R. § 800.10(c), USEPA has contacted the National Park Service (NPS), Interior Region 1, North Atlantic-Appalachian and invited it to consult regarding adverse effects to an NHL; contacted the Paterson Great Falls National Historical Park as it is adjacent to Levine Reservoir and manages the NPS land that includes components of the NHL District; and has invited the NPS to be an Invited Signatory to this MOA since it intends to assist in development and review of plans associated with the resolution of adverse effects as set forth in the MOA; and

WHEREAS, in the Stipulations, the term Signatory will refer to both Signatories and Invited Signatories pursuant to 36 C.F.R. § 800.6(c)(i); and

WHEREAS, since the NJDEP has responsibilities with respect to the oversight of this project, the USEPA has invited it to sign the MOA as an Invited Signatory; and

WHEREAS, because the PVWC has responsibilities under this MOA, the USEPA has invited it to sign as an Invited Signatory; and

WHEREAS, USEPA has invited the City of Paterson to be an Invited Signatory on this MOA due to its responsibilities regarding management of the raceway system and its intention to assist in development and review of plans associated with the resolution of adverse effects as set forth in the MOA; and

WHEREAS, the USEPA with ACHP, NJDEP, and PVWC have also consulted with the NPS, City of Paterson, the Paterson Historic Preservation Commission, the Passaic County Clerk, the Hamilton Partnership for Paterson, the Passaic County Historian, the Passaic County Parks and Recreation Department, Preservation New Jersey, the National Parks Conservation Association, the Passaic County Historical Society, the Paterson Friends of Great Falls, the New Jersey Community Development Corporation, the New Jersey Conservation Foundation, the Society for Industrial Archeology-Roebling Division, the National Trust for Historic Preservation, the New Jersey Environmental Infrastructure Trust, the Passaic County Cultural and Heritage Council, Chris Battiato, Dorothy Canter, and Francis Blesso, P.E., (collectively the “Consulting Parties”) on the effects of the undertaking on historic properties and invited them to concur with this MOA; and

WHEREAS, on June 5, 2018, a Consulting Party meeting was held to discuss a Draft Resolution of Adverse Effects document, identifying proposed measures to minimize and mitigate the previously identified impacts to historic properties; and

WHEREAS, since the Levine Reservoir, in addition to being within the National Historic Landmark District of the Great Falls of the Passaic/Society of Useful Manufactures (“S.U.M.”), is also listed on the New Jersey State Register of Historic Places (“NJ Register”), PVWC was required to file an Application for Project Authorization pursuant to the NJ Register of Historic Places Act (NJRHPA); and

WHEREAS, as required by the NJRHPA process, the PVWC presented the matter at a hearing before the New Jersey Historic Sites Council (“Sites Council”) in September 2018; and

WHEREAS, in November 2018, the NJDEP, after a full review of the entire record, issued a conditional approval of the Project based on its findings, pursuant to N.J.S.A. 13:1B-15.131 and its implementing regulations, specifically N.J.A.C. 7:4-7.2(e)(9)ii, which approval was accepted, with clarifications, by PVWC in January 2019; and

WHEREAS, the conditions of the NJDEP approval included a number of measures to avoid, minimize, or mitigate adverse effects from the Project; and

WHEREAS, on July 23, 2019, USEPA submitted a Resolution of Adverse Effects document to the NJSHPO and all of the Consulting Parties for review and comment; and

WHEREAS, this MOA memorializes the July 19, 2019 Resolution of Adverse Effects which was preceded by the NJDEP's November 16, 2018 conditional approval of the PVWC's application for project authorization for its Water Storage Improvement Project – Levine Reservoir, both of which are incorporated herein by reference; and

WHEREAS, by letters dated August 13 and August 27, 2019, respectively, the NJSHPO and the NPS have concurred that the proposed mitigation outlined in the Resolution of Adverse Effects document is acceptable; and

WHEREAS, USEPA has determined that the implementation of the measures set forth in the stipulations below constitutes a reasonable resolution of adverse effects associated with the implementation of the Project, balancing the public health and safety goals and objectives of the undertaking with the intent of Section 110(f) of NHPA, considering the magnitude of the harm to the NHL District, the public's interest in the NHL and the goals of the undertaking, and the effects the mitigation actions will have on meeting the goals and objectives of the undertaking; and

WHEREAS, the timelines specified in this MOA are calendar days, unless otherwise noted in business days; and

WHEREAS, all notifications and submittals made pursuant to this MOA shall be submitted by certified postal mail or its equivalent (or US Postal Mail) to the appropriate parties' addresses as identified in the Mailing List, and on that same day, or simultaneously, electronically submitted by e-mail to the appropriate parties' e-mail accounts as identified in the Mailing List. The Mailing List is included with the transmittal cover letter accompanying the MOA. USEPA shall be copied on all e-mail notifications and submittals pursuant to this MOA. Any associated deadlines begin to run on the business day immediately following the date that the e-mail was sent;

NOW, THEREFORE, the USEPA, NJSHPO, and ACHP agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The USEPA shall ensure that the following measures are carried out:

I. HAER RECORDATION OF THE LEVINE RESERVOIR

Prior to the removal, demolition, or alteration of any components of the Levine Reservoir, the PVWC, using the services of an Architectural Historian who meets the

Secretary of Interior's Historic Preservation Professional Qualifications Standards as described in Stipulation XV, shall record the existing conditions of the Levine Reservoir, to the standards of the Historic American Engineering Record (HAER). The PVWC shall contact the NPS to determine the appropriate HAER level of recordation for the property. The PVWC shall ensure that all documentation is completed and accepted by the NJSHPO prior to any demolition or alteration of the Levine Reservoir.

The PVWC shall provide one original copy of the recordation documentation to the NJSHPO and duplicate copies, with original photographs, shall be provided to appropriate repositories as identified in consultation with NJSHPO staff, including the NPS. This Stipulation was completed on February 4, 2020.

II. DEVELOPMENT OF INTERPRETIVE SIGNAGE AND A WEBPAGE DESCRIBING THE LEVINE RESERVOIR AND ITS RELATIONSHIP TO THE GREAT FALLS/ S.U.M. NHL DISTRICT

The PVWC shall develop a web page and install three (3) interpretive signs which detail the history of the Levine Reservoir and its relationship to the Great Falls/S.U.M. NHL District as well as the history and significance of the PVWC. The design, content, and location of the signs shall be determined in consultation with the NJSHPO, the Paterson Historic Preservation Commission (PHPC), the NPS, and the other Consulting Parties pursuant to Stipulation VIII. Mockups of the signage shall be submitted to these parties for review and comment prior to fabrication. Photographs of the installed signage shall be sent to the NJSHPO once it is completed. The web page shall be hosted by PVWC within their website <https://www.pvwc.com>. The design and content of the website shall also be developed in consultation with the above-mentioned parties.

III. MINIMIZATION OF VISUAL IMPACTS

A. SITING THE PROPOSED TANKS TO MINIMIZE VISUAL IMPACTS

The PVWC shall ensure that the proposed tanks are situated as distant from Grand Street as possible, and that the tanks are installed at the lowest point possible in the basin to reduce their height and visibility.

B. DEVELOPMENT OF SITE LANDSCAPING PLAN

The PVWC shall, using the services of a Historic Landscape Architect who meets, at minimum, the Secretary of Interior's Historic Preservation Professional Qualifications Standards as described in Stipulation XV, develop and implement a landscaping plan for the Levine Reservoir Site. The plan shall include an open water retention basin near the proposed storage tanks, a mixture of native plantings, and any additional elements, all of which shall be developed in consultation with the NJSHPO, the PHPC, the NPS, and the other Consulting Parties pursuant to Stipulation VIII. The landscape architect shall be involved in the selection and placement of all of the plantings on the site. The goal of the plan shall be to screen the tanks from

view and to minimize the overall visual impacts from nearby areas within the Great Falls/S.U.M. NHL District and the Paterson Great Falls National Historical Park.

C. APPROPRIATE COLOR SCHEME FOR THE PROPOSED TANKS

The PVWC shall ensure that the final color of the proposed tanks is selected to blend into the surrounding vegetation to the maximum extent possible in order to further minimize any visual impacts created by their construction. The PVWC shall determine the final color of the proposed storage tanks in consultation with the NJSHPO, the PHPC, the NPS, and the other Consulting Parties pursuant to Stipulation VIII.

IV. PREPARATION OF AN ENGINEERING FEASIBILITY STUDY FOR WATER SHARING BETWEEN THE UPPER RACEWAY AND THE LEVINE RESERVOIR SITE

The PVWC shall fund and oversee the development of an independent engineering feasibility study to specifically investigate all aspects of water sharing between the Upper Raceway and the Levine Reservoir site and/or the new Levine Reservoir retention basin. The specific scope and content of the Feasibility Study has been developed by PVWC and submitted to the NJSHPO. The scope and content of the study shall include a schedule for the completion of the draft and final submittals for the study. The Feasibility Study shall be developed in consultation with the NJSHPO, the PHPC, the NPS, and the other Consulting Parties pursuant to Stipulation VIII. Once the scope has been reviewed and approved, PVWC shall issue a Request for Proposals (RFP), select a qualified consultant(s), and manage the study. Stipulation IV must be completed before implementing Stipulation VI.

V. ESTABLISHMENT OF A \$2 MILLION DOLLAR MITIGATION FUND FOR CAPITAL REHABILITATION PROJECTS ON THE RACEWAY SYSTEM

The PVWC shall deposit \$2 million into an escrow account no later than thirty (30) days after receiving all local, County, State, and Federal permits, approvals, and authorizations for the Project. A Memorandum of Understanding (MOU) shall be developed by the PVWC that will create an organizational partnership between the NJSHPO, PVWC, NPS, the City of Paterson, the Hamilton Partnership of Paterson, the New Jersey Community Development Corporation, and additional appropriate entities identified through consultation. The NPS will be the lead federal agency for future Section 106 consultations associated with the raceway system, if a project using this funding is determined to be an undertaking subject to Section 106. The draft MOU shall be submitted to the USEPA and NJSHPO for review and approval. Upon execution of the MOU, the funding shall be released from the escrow account and deposited into an account that shall be established by the partnership that will manage the funding. The funding shall be used solely for capital rehabilitation projects on the historic raceway system and/or as match for future grant applications for capital rehabilitation projects on the raceway system.

VI. DESIGN COORDINATION FOR RACEWAY WATER SHARING

The PVWC shall design and construct the Project in a manner that will allow the proposed reservoir/site retention basin to share water with the Upper Raceway, subject to the results of the feasibility study referenced in Stipulation IV, for any future undertaking that will restore water to Paterson's historic Upper Raceway.

The PVWC will make every effort to design and construct the necessary project elements in a manner that will minimize, to the extent possible, the requirement for removal or alteration of historic fabric from the historic district or historic raceway system. Stipulation IV must be completed before implementing Stipulation VI.

VII. IMPLEMENTATION OF THE FOLLOWING REHABILITATION PROJECTS WITHIN THE AREA OF POTENTIAL EFFECT

A. REHABILITATION OF CONCRETE FENCEPOSTS

The PVWC shall retain and repair the concrete obelisk-shaped fence posts surrounding the reservoir property, concrete cross buttresses, and concrete piers that flank the main entrance gate and incorporate them into the new perimeter fence. The chain-link portions of the fence may be removed and replaced. The final design of the fence shall be developed in consultation with the NJSHPO, the PHPC, the NPS, and the other Consulting Parties pursuant to Stipulation VIII. The PVWC shall ensure that the color, texture, finish, and appearance of any repaired sections of concrete match the existing material to the greatest extent possible in order to ensure compatibility with the character of the historic district.

B. REHABILITATION OF THE GRAND STREET RETAINING WALL

The PVWC shall repoint, repair, and rehabilitate the Grand Street retaining wall. The work shall be done in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties-Rehabilitation. The PVWC shall develop the plan for the rehabilitation of the wall in consultation with the NJSHPO, the PHPC, the NPS, and the other Consulting Parties pursuant to Stipulation VIII. During construction, the PVWC shall ensure that a test panel, no less than 4' by 4' in size, of the stone work and repointing is prepared for on-site review and approval by the above-mentioned parties, in order to ensure compatibility with the character and setting of the historic district. Stone texture, stone color, stone size, pattern of stones, mortar color, mortar texture, mortar joint profile, mortar joint width, and quality of workmanship will all be considered for approval. If the panel is rejected, a new panel shall be constructed, and so on, until approval is received.

C. REHABILITATION OF PVWC BUILDINGS IN MARY ELLEN KRAMER PARK

The PVWC shall develop plans for, and implement the rehabilitation of, the two buildings they own and operate in Mary Ellen Kramer Park, both located within the Great Falls National Historical Park and Great Falls/S.U.M. NHL District. These buildings are the Passaic Valley Water Company Falls Pumping Station and the Great Falls Development Corporation Building. The PVWC is already preparing preservation plans with conditions assessments for both buildings. The rehabilitation of both buildings shall be conducted in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties Rehabilitation. The plans for the rehabilitations shall be completed by a Historic Architect who meets the Secretary of the Interior's Professional Qualifications Standards, as specified in Stipulation XV. The PVWC shall also submit an Application for Project Authorization pursuant to the NJRHPA to the NJSHPO and the NPS for review and approval for the proposed rehabilitations.

VIII. REVIEW AND FINALIZATION OF DRAFT PLANS AND SPECIFICATIONS FOR MITIGATION MEASURES

- A. Within thirty (30) days after the execution of this MOA, the NJSHPO, USEPA, and PVWC shall develop and agree on a date for completion and submittal of a draft of the Feasibility Study for Water Sharing, referenced in Stipulation IV. If no agreement is reached after thirty (30) days, the USEPA will establish the date for draft submission in consultation with the NJSHPO.

PVWC shall submit a draft of the Feasibility Study to the USEPA, NJSHPO, and the other Consulting Parties by the draft submission date. Consulting parties will have thirty (30) days from receipt to review and submit any comments to both the USEPA and the NJSHPO. The USEPA and NJSHPO will take into account any timely comments prior to directing PVWC to revise and/or finalize the Feasibility Study. PVWC must complete and submit the final, approved Feasibility Study for Water Sharing to the USEPA, NJSHPO, and other Consulting Parties prior to initiation of construction bidding.

- B. Within thirty (30) days after the execution of this MOA, the NJSHPO, USEPA, and PVWC shall develop and agree on dates for completion and submittal of drafts of the plans and specifications for the mitigation measures referenced in Stipulations II, III.B, III.C, VI, VII.A, and VII.B. If no agreement is reached after thirty (30) days regarding the submission dates for any of these mitigation measures, the USEPA will establish the unresolved draft submission dates in consultation with the NJSHPO. The referenced mitigation measures include:
1. Interpretive Signage and Webpage described in Stipulation II;
 2. Site Landscaping Plan described in Stipulation III.B;
 3. Tank Color Scheme described in Stipulation III.C;
 4. Design for Raceway Water Sharing as described in Stipulation VI.

5. Concrete Fencepost Rehabilitation Plan described in Stipulation VII.A; and
6. Grand Street Retaining Wall Rehabilitation Plan described in Stipulation VII.B.

PVWC shall provide drafts of the of the plans and specifications for the mitigation measures referenced in Stipulations II, III.B, III.C, VI, VII.A, and VII.B to the USEPA, NJSHPO, and other Consulting Parties by the draft submission dates determined pursuant to the first paragraph of Stipulation VIII.B. Consulting parties will have thirty (30) days from receipt to review and submit any comments to both the USEPA and the NJSHPO. The USEPA and NJSHPO will take into account any timely comments prior to directing PVWC to revise and/or finalize the plans and specifications for the mitigation measures referenced in Stipulations II, III.B, III.C, VI, VII.A, and VII.B. PVWC must complete and submit the final, approved plans and specifications for the mitigation measures referenced in Stipulations II, III.B, III.C, VI, VII.A, and VII.B to the USEPA, NJSHPO, and other Consulting Parties prior to initiation of construction bidding.

IX. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of execution. Prior to such time, the USEPA may consult with the other Signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation XIII, “Amendments” noted below.

X. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the PVWC shall notify USEPA, NJSHPO, and the NPS within three (3) business days. The USEPA shall then consult with the NJSHPO and the NPS to determine if there may be additional adverse effects requiring additional consultation.

XI. MONITORING AND REPORTING

For every year following the execution of this MOA until it expires or is terminated, the PVWC, on behalf of the USEPA, shall provide all parties to the MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any proposed scheduling changes, any problems encountered, and any disputes and objections received in the PVWC’s efforts to carry out the terms of this MOA.

XII. DISPUTE RESOLUTION

Should any Signatory to this MOA object at any time to the manner in which the terms of this MOA are implemented, then that party shall advise all Signatories, which includes Invited Signatories, in writing of the objection (the “Objection Date”). The Objection Date, as defined herein, is the date of receipt of the letter. Within fifteen (15) days of the Objection Date, the USEPA shall consult with such party and other Signatories to resolve the objection. If the objection is not resolved within fifteen (15) days of the Objection Date, then the USEPA will:

- A. Forward all documentation relevant to the dispute, including the USEPA's proposed resolution, to the ACHP, copying all Signatories. The ACHP shall provide the USEPA with its advice on the resolution of the objection within thirty (30) days of the Objection Date; any such timely advice received from the ACHP or any Signatory shall be considered by the USEPA in reaching its final decision regarding the dispute. Prior to proceeding with its decision, the USEPA shall prepare a written response that takes into account any timely comments from the ACHP and other Signatories regarding the dispute and provide the written response to all Signatories. The USEPA may make a final decision on the dispute in the absence of any timely advice from the ACHP.
- B. The PVWC's responsibility to carry out all other actions that are not the subject of the dispute remains unchanged.
- C. If any Consulting Party has an objection regarding the actions proposed, or the manner in which the terms of this MOA are implemented, that Party may request that a Signatory submits its objection to the USEPA for consideration under this dispute resolution Stipulation.

XIII. AMENDMENTS

This MOA may be amended when such amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all of the Signatories is received and filed by the ACHP.

XIV. TERMINATION

- A. If any Signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatories to attempt to develop an amendment per Stipulation XIII above. If, within thirty (30) days an amendment cannot be agreed upon, any Signatory may terminate the MOA upon written notification to the other Signatories.
- B. Once the MOA is terminated, and prior to the continuation of work on the undertaking, the USEPA must either a) execute a MOA pursuant to 36 C.F.R. §800.6; or b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7.

XV. PROFESSIONAL QUALIFICATIONS STANDARDS

All actions prescribed by this MOA that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition of historic properties, and/or that involve reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons who meets, at a minimum, the Secretary of Interior's Historic Preservation Professional Qualifications Standards in the appropriate discipline as specified in the 1997 revised and updated

standards 62 FR 33708 (June 20, 1997). The PVWC will ensure that the work outlined in this MOA is conducted by individuals meeting these qualification standards.

XVI. COORDINATION WITH OTHER FEDERAL REVIEWS

In the event that another federal agency not initially a party to or subject to this MOA receives an application for funding/license/permit for the undertaking as described in this MOA, that agency may fulfill its Section 106 responsibilities by stating in writing it concurs with the terms of this MOA and notifying the USEPA, NJSHPO, and the ACHP that it intends to do so.

XVII. EXECUTION IN COUNTERPART

This MOA may be executed in counterparts, with a separate page for each Signatory. The USEPA will ensure that each party is provided with a copy of the fully executed MOA.

Execution of this MOA by the USEPA, NJSHPO, and ACHP and implementation of its terms is evidence that the USEPA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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STANLEY M. LEVINE RESERVOIR WATER STORAGE IMPROVEMENT PROJECT
IN THE CITY OF PATERSON, PASSAIC COUNTY, NEW JERSEY**

SIGNATORY:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Signed By: 

Date: 5/8/2020

Peter D. Lopez, Regional Administrator

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SIGNATORY:

NEW JERSEY HISTORIC PRESERVATION OFFICE

Signed By: Katherine J. Marcopul Date: 5/14/2020
Katherine J. Marcopul, Administrator & Deputy State Historic Preservation Officer

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SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Signed By:  Date: 7/2/20

John M. Fowler, Executive Director

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INVITED SIGNATORY:

**NATIONAL PARK SERVICE, INTERIOR REGION 1, NORTH ATLANTIC -
APPALACHIAN**

Signed By: Deborah L. Conway **Date:** 5/20/20

Debbie Conway, Deputy Regional Director

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AMONG

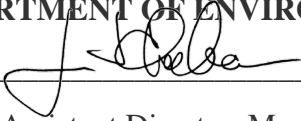
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INVITED SIGNATORY:

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Signed By:  _____ **Date:** May 14, 2020

Eugene J. Chebra, P.E., Assistant Director, Municipal Finance & Construction Element

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INVITED SIGNATORY:

CITY OF PATERSON

Signed By: _____

Honorable Andre' Sayegh, Mayor

Date: _____

6/25/20

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THE PASSAIC VALLEY WATER COMMISSION'S
STANLEY M. LEVINE RESERVOIR WATER STORAGE IMPROVEMENT PROJECT
IN THE CITY OF PATERSON, PASSAIC COUNTY, NEW JERSEY

INVITED SIGNATORY:

PASSAIC VALLEY WATER COMMISSION

Signed By: 

Date: June 19, 2020

Joseph A. Bella, Executive Director *

* As clarified by June 15, 2020 letter from David Kluesner, EPA to
Gregory J. Castano Jr. and Joseph Bella, PVWC, copy attached.

MEMORANDUM OF AGREEMENT

AMONG

**THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
THE NEW JERSEY STATE HISTORIC PRESERVATION OFFICE, AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

REGARDING

**THE PASSAIC VALLEY WATER COMMISSION'S
STANLEY M. LEVINE RESERVOIR WATER STORAGE IMPROVEMENT PROJECT
IN THE CITY OF PATERSON, PASSAIC COUNTY, NEW JERSEY**

CONCURRING CONSULTING PARTY:

Organization: _____

Signed By: _____ **Date:** _____

Print Name: _____ **Title:** _____

APPENDIX A

- 1. Selected Alternative (Preferred Alternative),**
- 2. Area of Potential Effects,**
- 3. Historic Properties That May Be Affected by Undertaking, and**
- 4. Identification of Potential Adverse Effects**

A.1. Selected Alternative

Construction of Onsite Storage Tanks at Levine Reservoir, with Retention Basin on Grand Street and Naturalized Landscaping.

PVWC's preferred alternative involves the construction of onsite storage tanks at the existing Levine Reservoir site, with a retention basin in the front of the reservoir and mitigating the site with naturalized landscaping and other strategies meant to reduce or avoid adverse visual effects.

As part of the mitigation efforts, two 2.5 MG pre-stressed concrete tanks will be constructed within the existing footprint of the Reservoir. At the rear (northern end) of the existing reservoir, a regraded basin shall remain as a stormwater detention basin, which shall help manage stormwater runoff. The front (southern end) of the reservoir facing Grand Street shall serve as a stormwater detention basin until such time as the Upper Raceway project has been completed by others and is able to provide a source of water to that basin, after which it may remain watered as a retention basin.

This plan will entail modifications to the bedrock surface of the reservoir at the north end to create the detention basin, as well as under the site of the tanks in order to create a stable, level surface of the appropriate grade on which to build the tanks. A reinforced concrete wall on the western side of the reservoir will be removed and the soil shall be regraded. At the south end of the existing Reservoir in sight of Grand Street, a retention basin shall be preserved in as natural a form as it now exists, so as to mitigate the visual effects of the tanks on the site. Native plantings shall be used in landscaping the site, which shall, in addition to the positive ecological effects, soften the landscape of the Reservoir site and the view of the tanks from the public right of way.

PVWC shall examine the feasibility of coordinating water sharing between the Upper Raceway and the Levine Reservoir site and/or the proposed retention basin on the southern end of the site.

Each new 2.5 MG tank will be approximately 160 feet in diameter. The height to the top of the domed roof of the tanks will be 28 feet above the existing water line. The tanks will be partially buried as the bottom of the foundation will be approximately eight feet below the existing water line. Hydraulic considerations as well as the presence of bedrock preclude dropping the tanks any lower. The tank vertical sidewall height will be approximately 15 feet above the finished grade of elevation 180. The tanks will have dome shaped roofs with a maximum height of about 8 feet above the sidewall. The overall height of the tanks from finished grade to top of roof will be 23 feet. The final color selection and/or finish coatings will be decided in consultation with the NJHPO, the NPS, and the PHPC.

During construction of the two tanks, a portion of the Levine Reservoir will be modified but will remain in operation and connected to the water distribution system, which will provide storage during construction. Once the new 2.5 MG tanks are constructed, the remainder of the reservoir will be disconnected from the main distribution system and the Levine Reservoir will no longer be used as a potable open-water reservoir.

A parking area and paved access driveway from Reservoir Street along the edge of the reservoir will be constructed to allow maintenance access, chemical deliveries, and access for emergency vehicles.

A brick utility building (46-feet long by 36-feet wide and 18-feet high) will be constructed near the existing building to the west of the tank and will house standby power, chemical feed, and water monitoring equipment. Both the existing outlet chamber and the inlet chamber will be removed, along with the associated below grade piping and any related facilities above ground.

The existing concrete fence posts that currently enclose the perimeter of the facility will be repaired; new security fencing will utilize the concrete posts as supports, but it requires a higher profile. Compatible auxiliary fencing will be installed where necessary.

A.2. Area of Potential Effects

Pursuant to 36 C.F.R. Part § 800.4, below are historic properties located within the project's Area of Potential Effects (APE), which is also shown on Figure 1:

- Great Falls of Paterson / Society for Useful Manufacturers (S.U.M.) Historic District. Listed on National Register of Historic Places (NR) on April 17, 1970; the New Jersey Register of Historic Places (SR) on May 27, 1971; and National Historic Landmark (NHL) on May 11, 1976.
- Great Falls of Paterson / Society for Useful Manufacturers (S.U.M.) Historic District Addendum. Listed on SR on October 15, 1974; on the NR on January 8, 1975; and with NHL on May 11, 1976.
- Both the original District and the subsequent Addendum were then combined and listed as the Great Falls of the Passaic / Society of Establishing Useful Manufactures National Historic Landmark District on May 11, 1976.
- Great Falls of Paterson / Society for Useful Manufacturers (S.U.M.) Historic District Addendum Extension (Grand Street Pumping Station). SHPO Opinion of Eligibility determined on August 24, 2017.
- Paterson Great Falls National Historic Park. Authorized by Congress on March 30, 2009 and formally established on November 7, 2011. The park was subsequently listed administratively on the National Register of Historic Places.
- Morris Canal. Listed on the NR on October 1, 1974 and on the SR on November 26, 1973. A short section of Morris Canal exists within the project area at the extreme southern end of the APE, behind the Grant Street Pumping Station property.
- Hinchliffe Stadium. Listed on NR on March 22, 2004 and NHL on March 11, 2013.

A.3. Historic Properties That may be Affected by Undertaking

As summarized in the November 7, 2017 letter, historic properties associated with the APE include all features and/or remnants of features such as buildings, raceways, sluices, gates and gatehouses, canals, locks, dams, machinery, penstock, walls, fences, natural features, water bodies and reservoirs mentioned in Great Falls/S.U.M. NHL District National Register of

Historic Places documentation relating to its listing, extension, and landmark designation. In addition, all features included in the official descriptions of the PGFNHP can be considered contributing features to both historic resources, as the PGFNHP is almost fully encompassed by the Great Falls/S.U.M. NHL District. Further, the Stanley M. Levine Reservoir and the Grand Street Pumping Station are contributing features to the Great Falls/S.U.M. NHL District, but not to the PGFNHP. Conversely, Hinchcliffe Stadium is considered a contributing feature to the PGFNHP, but not to the Great Falls/S.U.M. NHL District.

A.4. Identification of Adverse Effects

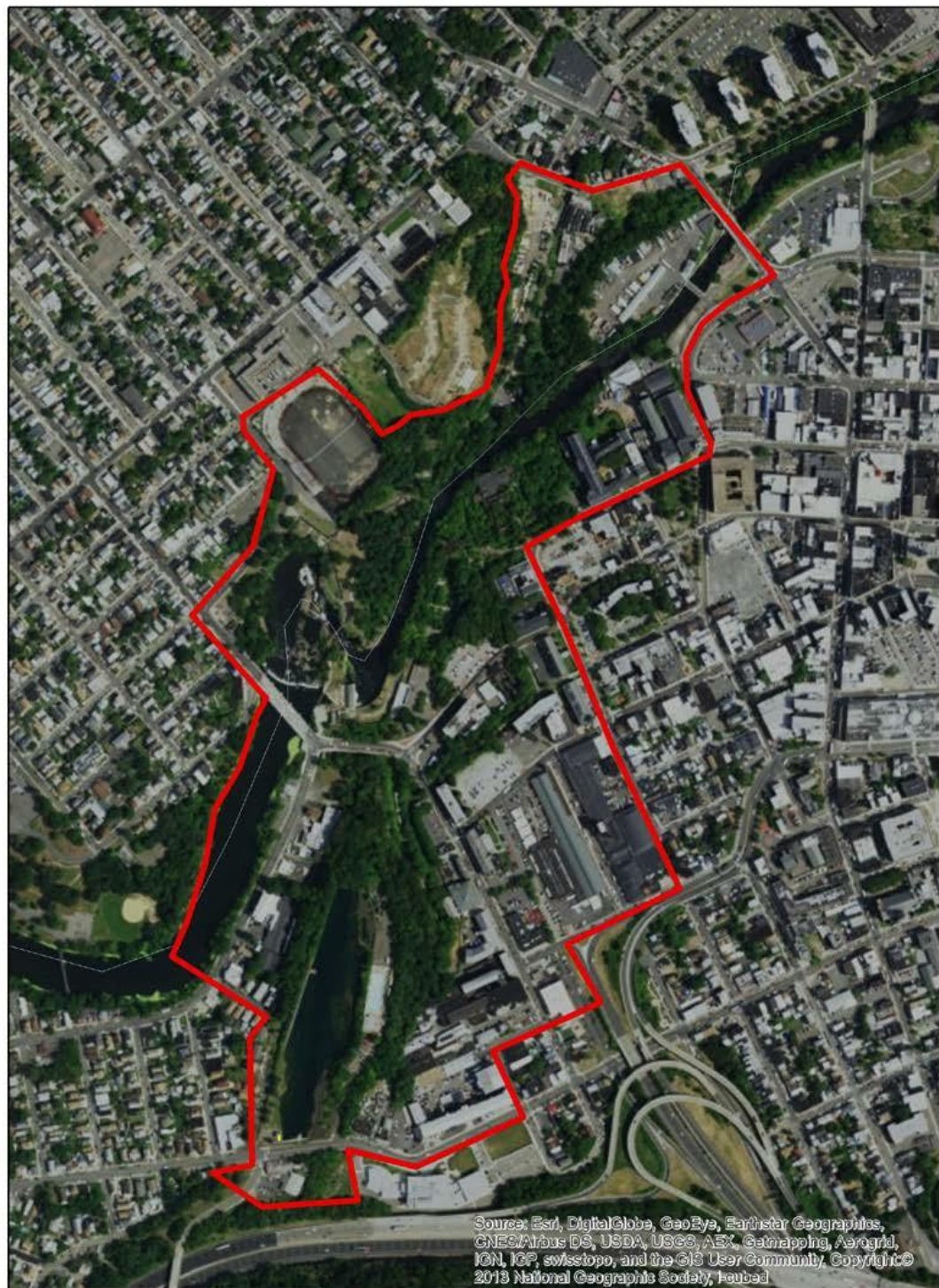
In a letter dated May 1, 2018, the SHPO found that the project would have an adverse effect on the following historic resources:

1. **Great Falls of the Passaic/S.U.M. Society for Establishing Useful Manufactures National Historic Landmark District:** The project will have an adverse effect on this resource because it “will result in the removal of the contributing Levine Reservoir, a significant alteration of the reservoir site to accommodate reservoir tanks, and the introduction of new buildings, structures, and other elements that are incompatible with the character of the historic district, resulting in the diminishment of the resource’s integrity of design, setting, feeling, and association.”
2. **Great Falls of Paterson / Society for Establishing Useful Manufactures Historic District Addendum (Grand Street Pumping Station).** Given the Pumping Station’s significant historical associations with the Reservoir, which will be removed by the proposed activity, the project will have an adverse effect in that it “will alter the characteristics of the Pumping Station that qualify it for National Register eligibility in a manner that would diminish its integrity of setting, feeling, and association.”
3. **Paterson Great Falls National Historical Park:** The project will have an adverse effect on the Paterson Great Falls National Historical Park in that it “will result in the introduction of new buildings, structures, and other elements directly adjacent to the Park Property, that are incompatible with the character of the National Historical Park, resulting in the diminishment of the resource’s integrity of design, setting, feeling, and association.”

The NJHPO found that the project would have **no adverse effects** on the following:

1. **Morris Canal:** As only a short section of the long, linear resource of the Morris Canal is in the project area and is behind the Grand Street Pumping Station, the proposed project will have no adverse effect on the Morris Canal.
2. **Hinchcliffe Stadium:** The NJHPO concurred with PVWC consultant that the proposed project would have no adverse effect on the Hinchcliffe Stadium.

Figure 1. Area of Potential Affect



0 205 410 820 1,230 1,640 Feet



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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June 15, 2020

Gregory J. Castano, Jr.
Castano and Quigley, LLC
155 Passaic Avenue, Suite 340
Fairfield, NJ 07004

Joseph Bella, Executive Director
Passaic Valley Water Commission
1525 Main Avenue
Clifton, NJ 07011

RE: Stanley M. Levine Water Storage Improvement Project, Paterson, Passaic County, NJ
Request for Interpretation of May 8, 2020 Memorandum of Agreement

Dear Mr. Castano and Mr. Bella:

This letter responds to your June 10, 2020 letter requesting the U.S. Environmental Protection Agency's (EPA) interpretation of the May 8, 2020 Memorandum of Agreement (MOA) with regard to the implementation timeframes of the tasks within Stipulations IV, VI and VIII. EPA hopes that this letter provides Passaic Valley Water Commission's (PVWC) Executive Director with the clarity needed to proceed with signing the MOA.

After reviewing the MOA language for each Stipulation noted above, we are in agreement with the New Jersey Department of Environmental Protection's interpretation. The construction of the Stanley M. Levine Water Storage Improvement Project by the PVWC can begin immediately upon the execution of the MOA because other provisions in the MOA require further review, for example paragraphs IV, VI and VIII (or elsewhere), would proceed concurrently with construction. The MOA does provide flexibility with regard to the order of submissions for draft documents, plans and/or specifications as long as PVWC, EPA and NJSHPO agree on the established submission dates. Further, Stipulations IV and VI can be completed independently during the construction of the Water Storage Improvements Project as long as the results from the Engineering Feasibility Study and Design Coordination for Raceway Water Sharing are fully integrated in the draft documents, plans and/or specifications under Stipulation VIII.B.

Going forward, we respectfully request that PVWC's Executive Director sign and date the MOA signature page and return it to our office **on or before June 19, 2020** in accordance with the instructions provided in EPA's May 21, 2020 transmittal letter.

We appreciate your continued assistance on this project. If you have any further questions , please contact EPA's Team Leader Mark Austin at (212) 637-3954, or by email at austin.mark@epa.gov and/or EPA's Historic Preservation Officer Nikolaus Wirth at (212) 637-3902, or by email at wirth.nikolaus@epa.gov.

Sincerely,

David W. Kluesner

David Kluesner, Director
Strategic Programs Office
Office of the Regional Administrator

CC (electronic):

J. Loichinger, Assistant Director, ACHP -
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J. Bella, Executive Director, PVWC
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S. Gordon, Clerk, City of Paterson