

**No. 2021-24
ORDINANCE**

***An Ordinance of County Council of Luzerne County Amending
Intergovernmental Agreement with Butler Township for the Repair and
Dedication of Roads in Accordance with the Pennsylvania Intergovernmental
Cooperation Law, Act 177 of 1996, previously adopted as Act 180 of 1972***

WHEREAS, Section 2304 of the Intergovernmental Cooperation Law (“PICL”) promulgates a municipality by act of its governing body may, or upon being required by initiative and referendum in the area affected shall, cooperate or agree in the exercise of any function, power or responsibility with or delegate or transfer any function, power or responsibility to one or more other local governments, the Federal Government or any other state or its government; and

WHEREAS, Section 2305 of the Intergovernmental Cooperation Law allows a local government may enter into intergovernmental cooperation with or delegate any functions, powers or responsibilities to another governmental unit or local government upon the passage of an ordinance by its governing body; and

WHEREAS, on May 12, 2020, Luzerne County Council enacted Ordinance 2020-06 authorizing Luzerne County and Butler Township seek to enter into an Intergovernmental Agreement for the sole purpose of Luzerne County (“the County”) repairing, at its expense, certain roads owned by the County that are located within Butler Township (“the Township”); and

WHEREAS, upon completion of such repairs by Luzerne County, the County will dedicate the specified roads to the Township for ownership and maintenance and the Township shall accept such dedication and responsibility of the roads; and

WHEREAS, the respective municipalities have acted and intend to act pursuant to Article M, Section 5, of the Pennsylvania Constitution and 53 Pa. C. S. § 2303, et seq., providing for intergovernmental cooperation; and

WHEREAS, Section 2307 of the Intergovernmental Cooperation Law states that the Ordinance adopted by the governing body of a local government entering into intergovernmental cooperation or delegating or transferring any functions, powers or responsibilities to another local government or to a council of governments, consortium or any other similar entity shall specify:

- (1) The conditions of agreement in the case of cooperation with or delegation to other local governments, the Commonwealth, other states or the Federal Government.
- (2) The duration of the term of the agreement.
- (3) The purpose and objectives of the agreement, including the powers and scope of authority delegated in the agreement.
- (4) The manner and extent of financing the agreement.
- (5) The organizational structure necessary to implement the agreement.
- (6) The manner in which real or personal property shall be acquired, managed, licensed or disposed of.
- (7) That the entity created under this section shall be empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for its employees, if applicable.

WHEREAS, Luzerne County wishes to amend the Intergovernmental Agreement with Butler Township in accordance with the PCIL as further set forth below.

NOW, THEREFORE, BE IT HEREBY ENACTED AND ORDAINED by the County Council of Luzerne County as follows:

SECTION ONE. Incorporation of Preamble.

The provisions set forth above in the preamble to this Ordinance are incorporated herein by reference in their entirety.

SECTION TWO. Conditions of Agreement

That Luzerne County and Butler Township enter into such Intergovernmental Agreement, attached hereto and incorporated herein by reference, in accordance with the terms therein and any other laws which apply.

SECTION THREE: Duration

The duration and term of the Agreement shall be the length of time required by Luzerne County to repair to specification the following roads located within Butler Township: West Foothills Drive (C-38), North and South Beisel's Road (C-39), East County Road (C-37), Police Grove Road (C-31), Hobby Mountain Road (C-31), Airport Road and Honey Hole Road (C-41). Upon completion of repair for each individual road, the County shall dedicate and the Township shall accept such dedication of each individual road.

In addition, upon completion of repairs on all of the aforementioned roads and dedication of same to the Township, Luzerne County shall lease in perpetuity for the annual nominal fee of \$1.00, the following property including the improvements thereon to the Township: Luzerne County District #5 Maintenance Garage, 177 West Foothills Drive, Drums, PA 18222, more specifically the maintenance garage and salt shed and surrounding property that is presently utilized by Luzerne County Road and Bridge Department. The promises made in this paragraph shall survive deeds of dedication and not merge into any deed.

Furthermore, as soon as practicably possible after the execution of this Agreement, the County agrees to deed and/or assign to the Township any rights it may have in the land and/or building located at 150 West Foothills Drive, Drums, PA 18222. The promises made in this paragraph shall survive deeds of dedication and not merge into any deed.

SECTION FOUR: Purpose

The purpose of the Agreement is for Luzerne County to transfer ownership of and responsibility for the aforesaid roads to Butler Township once said roads are in satisfactory condition per the terms of the Intergovernmental Agreement.

SECTION FIVE: Manner and Extent of Financing

That Luzerne County shall finance the cost of repairs, including but not limited to labor and materials to repair the subject roads, through the use grant and/or County budgeted funds.

SECTION SIX: Severability

The provisions of this Ordinance are severable and if any section, sentence, clause, or part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction such decision of the court shall not affect the remaining sections, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the County of Luzerne that such Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION SEVEN. Effective Date.

This Ordinance shall take effect on the fifteenth (15th) day following its enactment.

SECTION EIGHT. Repealer.

Any Resolution or Ordinance or parts thereof that conflict with or are inconsistent with this Ordinance are hereby repealed to the extent of the conflict or inconsistency with this Ordinance.

ENACTED by the County Council of the County of Luzerne this 28th day of September, 2021.

ROLL CALL VOTE (11-0)

YES: Griffith, Haas, Houck, McDermott, McGinley, Perry, Radle, Saidman, Schnee, SJ Urban and Vough

LUZERNE COUNTY COUNCIL

Attest: _____

Sharon Lawrence, Clerk of Council

By: Tim McGinley
Tim McGinley, Chair

By: Chris Perry
Chris Perry, Vice-Chair