

**INTERGOVERNMENTAL AGREEMENT FOR
SEAL COATING VARIOUS STREETS WITHIN THE CITY OF
OGLESBY AND PAYMENT FOR WORK PERFORMED ON
SAME**

THIS INTERGOVERNMENTAL AGREEMENT (*"the Agreement"*) is entered into by and between the County of LaSalle, a unit of local government of the State of Illinois (*"County"*) and the City of Oglesby, a unit of local government of the State of Illinois (*"City"*).

WITNESSETH:

WHEREAS, the Constitution of the State of Illinois of 1970, Article VII, Section 10 provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance and may use their credit, revenues, and other resources to pay costs related to intergovernmental activities; and

WHEREAS, LaSalle County and the City of Oglesby are units of local government within the meaning of Article VII, Section 1 of the Illinois Constitution of 1970 who are authorized to enter into intergovernmental agreements pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

WHEREAS, LaSalle County through its Highway Department has prepared plans and specifications for the 2022 Seal Coat Program, and

WHEREAS, the City of Oglesby has requested to have streets under their maintenance and jurisdiction included in the Program, and

WHEREAS, it is mutually beneficial for the City and County to enter into an Agreement for the performance of said work, and

WHEREAS, the City will appropriate funds to pay for their portion of the work performed and reimburse the County for engineering services provided.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereafter set forth, the parties agree as follows:

Section 1. The foregoing preambles are hereby incorporated into this Agreement as if fully restated in this Section 1.

Section 2. LaSalle County's responsibilities are as follows:

- a. Prepare all necessary bidding documents incorporating the City's respective portions of the improvements to be submitted to the Illinois Department of Transportation, District 3 for approval.
- b. Ensure that the Project complies with the rules and regulations directed by the Illinois Department of Transportation ("*IDOT*"), and all other applicable local ordinances, state and federal laws.
- c. Administer the public advertisement, letting and award of this contract in accordance with all competitive bidding and selection requirements necessary for completion of the Project pursuant to applicable state and federal laws.
- d. Following receipt of bids and bid opening for said project, the County shall promptly submit bid results to the City of Oglesby for their review.
- e. Prepare all necessary contract documents incorporating the City's respective portions of the improvements to be submitted to the Illinois Department of Transportation, District 3 for approval.
- f. Direct and supervise the construction work contemplated herein.
- g. Receive approval from an authorized agent of the City for any additional work on their respective portion of the project, which is outside of the scope of the original contract.
- h. Prepare all necessary paperwork to be submitted to the Illinois Department of Transportation, District 3 for project closeout except for the Maintenance Expenditure Statement required for MFT funded work.
- i. Upon receipt of Contractor pay requests, the County shall review said pay requests and recommend payment to the Contractor by the City for their respective costs.
- j. Upon completion of the contract, the County shall provide a statement indicating final quantities, engineering costs and construction costs to the City.

Section 3. The City's responsibilities are as follows:

- a. Provide the County with City Council minutes indicating "Council support" for the City's portion of the project.
- b. Pass a resolution appropriating an adequate amount of funds to be used for payment of City's portion of the contract. Funding shall not only cover the City's portion of construction costs, but also engineering expenses incurred by the County for the City's portion of the project at the following rates:

Preliminary Engineering – 3% of the awarded value of the City’s portion.
Construction Engineering – 3% of the final cost of the City’s portion.

The City’s costs are estimated as follows:

| | |
|--------------------------|----------------|
| Seal Coat Construction | \$1,196.00 |
| Preliminary Engineering | \$35.88 |
| Construction Engineering | <u>\$35.88</u> |
| Total | \$1,267.76 |

Actual costs will be computed by the County based on contract quantities and bid prices.

- c. Hereby agree to the implementation of the subject improvement by the County.
- d. If MFT funds are used, the City shall provide the Illinois Department of Transportation with copies of an Estimate of Cost for the City’s portion of the project, a Resolution Appropriating MFT funds, a signed copy of this Agreement and Maintenance Expenditure Statement.
- e. Upon receipt of a County reviewed pay request and recommendation of payment, the City shall approve payment for its portion of the costs to be paid directly to the Contractor at its following scheduled Council meeting.
- f. Upon receipt of a final statement from the County, the City shall reimburse the County for engineering costs associated with the City’s portion of the contract within 60 days.
- g. The City agrees to retain jurisdiction of the completed improvement.
- h. The City agrees to maintain, or cause to be maintained, the completed improvement.

Section 4. General Terms & Conditions:

- a. The failure of the City to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations with respect to this Agreement, shall constitute a Default by the City hereunder. Further, in the event the City shall fail to timely make a scheduled payment, which the City is required to perform under this Agreement, LaSalle County shall notify the City in writing and allow the City thirty (30) days from the date of receipt of the notice to cure the default. If the default is not cured within 30 days of receipt of such notice, LaSalle County will consider the City to be in Default under this Agreement. Upon the occurrence of a Default, LaSalle County may, by an action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to the specific performance of the agreement contained herein. The City further agrees

to reimburse LaSalle County for all attorneys' fees and costs incurred by LaSalle County related to LaSalle County's enforcement of this Agreement.

- b. This Agreement and the rights of the parties hereunder may not be assigned (except by operation of law), and the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities under or by reason of such agreements.
- c. All notices required or permitted hereunder shall be in writing and may be given by either (a) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid and certified with the return receipt requested, (b) delivering the same in person, or (c) telecopying the same with electronic confirmation of receipt.

If to LaSalle County: LaSalle County Engineer
 Highway Department, County of LaSalle
 P.O. Box 128
 Ottawa, Illinois 61350

with copy to: LaSalle County State's Attorney
 707 Etna Road
 Ottawa, Illinois 61350

If to City of Oglesby: The Honorable Dominic Rivara
 Mayor, City of Oglesby
 110 East Walnut Street
 Oglesby, Illinois 61321

Or such address or counsel as any party hereto shall specify in writing pursuant to this Section from time to time.

- d. This Agreement shall be interpreted and enforced under the laws of the State of Illinois. Any legal proceeding related to enforcement of this Agreement shall be brought in the Circuit Court of LaSalle County, Illinois, Thirteenth Judicial Circuit, State of Illinois. In case any provision of this Agreement shall be declared and/or found invalid, illegal or unenforceable by a court of competent jurisdiction, such provision shall, to the extent possible, be modified by the court in such manner as to be valid, legal and enforceable so as to most nearly retain the intent of the parties, and if such modification is not possible, such provision shall be severed from this Agreement, and in either case the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be impaired thereby.
- e. LaSalle County and the City of Oglesby agree that the waiver of, or failure to enforce, any breach of this Agreement by the remaining party shall not

be construed, or otherwise operate, as a waiver of any future breach of this Agreement. Further, the failure to enforce any particular breach shall not bar or prevent the remaining party from enforcing this Agreement with respect to a different breach.

- f. This Agreement may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Agreement.
- g. This Agreement represents the entire Agreement between the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged by both parties.
- h. Nothing contained in this Agreement, nor any act of LaSalle County or the City of Oglesby pursuant to this Agreement, shall be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving LaSalle County and the City of Oglesby.
- i. Neither party will be responsible to the other for damage, loss, injury, or interruption of work if the damage, loss, injury, or interruption of work is caused solely by conditions that are beyond the reasonable control of the parties, and without the intentional misconduct or negligence, of that party (hereinafter referred to as a "force majeure event"). To the extent not within the control of either party, such force majeure events include: acts of God, acts of any governmental authorities, fire, explosions or other casualties, vandalism, and riots or war. A party claiming a force majeure event ("the claiming party") shall promptly notify the other party in writing, describing the nature and estimated duration of the claiming party's inability to perform due to the force majeure event. The cause of such inability to perform will be remedied by the claiming party with all reasonable dispatch.
- j. Nothing in this Agreement shall be inferred to, or obligate, either party to have a duty to provide the other with insurance for the subject project or otherwise indemnify and hold harmless the other in connection with the use, enjoyment, ownership, maintenance, repair or replacement of the subject project.
- k. Nothing in the agreement shall be construed as to change the jurisdiction of either LaSalle County or the City of Oglesby in respect to their roadway improvements, and their ongoing jurisdictional duties in respect to the roadways themselves.
- l. LaSalle County and the City of Oglesby each hereby warrant and represent that their respective signatures set forth below have been, and are on the

date of this Agreement, duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the date(s) below.

City of Oglesby, a unit of local government, of the State of Illinois

County of LaSalle, a unit of local government, of the State of Illinois

By: Dominic Fiorano
Mayor

By: _____
Chairman, LaSalle County Board

Date: January 24, 2020

Date: _____

ATTEST:

ATTEST:

By: Amy Citrus
City Clerk

By: _____
County Clerk