

**INTERGOVERNMENTAL AGREEMENT FOR  
THE FUNDING OF TIMBER PILE REPAIRS ON  
STRUCTURE 062-4549 CARRING 1250N / E.6<sup>TH</sup> ROAD  
OVER SANDY CREEK NEAR WENONA, ILLINOIS**

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

**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 Marshall County 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**, Structure No. 062-4549 is a county line bridge near Wenona, Illinois that crosses Sandy Creek and is in need of repair (*"the Bridge"*). Marshall County's section number for the Bridge repair project is 16-03127-00-BR and LaSalle County's section number for the Bridge repair project is 16-25790-00-BR. Pursuant to 605 ILCS 5/5-502 or 605 ILCS 5/5-503, said Bridge is within the jurisdiction of both Marshall County and LaSalle county and as such, these government bodies may jointly fund and repair the bridge as they deem necessary; and

**WHEREAS**, Marshall County and LaSalle County have determined that the Bridge is currently in need of timber pile repairs, which the Counties desire to coordinate and fund in cooperation with each other and it has been determined that Marshall County shall handle all facets of the bidding and contracting process for the herein described project (the *"Project"*), for which LaSalle County shall reimburse Marshall County for fifty percent (50%) of the final Project costs; and

**WHEREAS**, the estimated Project costs are as follows:

Construction	\$74,000.00
Preliminary Engineering (7%)	\$5,180.00
Construction Engineering (7%)	<u>\$5,180.00</u>
	\$84,360.00

Preliminary Engineering will be computed based on 7% of the awarded cost; Construction Engineering will be computed based on 7% of the final contract cost; Construction contract costs will be computed based on contract quantities and bid prices.

**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.** Marshall County's responsibilities are as follows:

- a. Marshall County will prepare or cause to be prepared project plans, specifications and bid documents for the Bridge repairs and provide copies of same to LaSalle County for review and approval.
- b. Marshall County will advertise and award a contract for the necessary Bridge repairs and Marshall County will be responsible for supervising the completion of the Project by the contractor retained by them.
- c. Marshall County shall initially fund the Project costs for work on the subject Bridge, with the understanding that they will be reimbursed by LaSalle County for fifty percent (50%) of the final Project cost upon completion.
- d. Marshall County will ensure that the Project complies with the rules and regulations directed by the Illinois Department of Transportation ("IDOT"), Federal Highway Bridge Program and all other applicable local ordinances, state and federal laws.
- e. Marshall County will comply with all competitive bidding and selection requirements necessary for completion of the Project pursuant to applicable state and federal laws.
- f. Upon Project completion, Marshall County shall provide LaSalle County with an invoice for the total amount of final Project costs paid by Marshall County with a computation of fifty percent (50%) of final Project costs balance ("LaSalle County Project Costs") to be repaid by LaSalle County.
- g. Marshall County shall provide LaSalle County with the final project pay estimate, change in plans and lien waivers from the contractor, subcontractors and material suppliers.
- h. Marshall County shall release the completed project to Evans Township's jurisdiction and maintenance.

**Section 3.** LaSalle County agrees to the following:

- a. LaSalle County shall appropriate funds to pay for the LaSalle County Project Costs.
- b. LaSalle County will concur in the award of the Project to the qualified low bidder.
- c. LaSalle County agrees to the implementation of the Project by Marshall County.
- d. LaSalle County agrees to reimburse Marshall County the entire LaSalle County Project Costs after receipt of an invoice for same and approval for payment through routine processing by their Highway Committee at their next scheduled meeting following receipt.

**Section 4.** General Terms & Conditions:

- a. The failure of the LaSalle County to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations with respect to this Agreement, shall constitute a Default by LaSalle County hereunder. Further, in the event LaSalle County shall fail to timely make a scheduled payment, which LaSalle County is required to perform under this Agreement, Marshall County shall notify LaSalle County in writing and allow LaSalle County 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, Marshall County will consider LaSalle County to be in Default under this Agreement. Upon the occurrence of a Default, Marshall 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. LaSalle County further agrees to reimburse Marshall County for all attorneys' fees and costs incurred by Marshall County related to Marshall County's enforcement of this Agreement.
- b. The failure of the Marshall County to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations with respect to this Agreement, shall constitute a Default by Marshall County hereunder. Further, in the event Marshall County shall fail to timely make a scheduled payment, which Marshall County is required to perform under this Agreement, LaSalle County shall notify Marshall County in writing and allow Marshall County 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 Marshall County 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. Marshall County 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.

- c. 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.
- d. 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 Marshall County:* Marshall County Engineer  
Highway Department, County of Marshall  
552 State Route 26, P.O. Box 242  
Lacon, Illinois 61540

*with copy to:* Marshall County State's Attorney  
122 North Prairie Street, P.O. Box 328  
Lacon, Illinois 61540

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

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

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

- e. 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.

- f. LaSalle County and Marshall County 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. No endorsement or statement on any check or correspondence accompanying a check for payment shall be deemed as an accord and satisfaction and Marshall County may accept such payment without prejudice to its rights to recover the balance of LaSalle County Project Costs still owed.
- g. 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.
- h. 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.
- i. Nothing contained in this Agreement, nor any act of Marshall County or LaSalle County 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 Marshall County and LaSalle County.
- j. 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.
- k. 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 Bridge or

otherwise indemnify and hold harmless the other in connection with the use, enjoyment, ownership, maintenance, repair or replacement of the subject Bridge.

- l. Nothing in the agreement shall be construed as to change the jurisdiction of either Marshall County or LaSalle County in respect to their roadway and/or bridge improvements, and their ongoing jurisdictional duties in respect to the roadways and bridges themselves.
- m. The Term of Agreement shall commence as of the Agreement Date and shall expire upon final repayment of the LaSalle County Project Costs except as otherwise specified herein.
- n. Marshall County and LaSalle County 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.

County of Marshall, a unit of local  
Government, of the State of Illinois

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

By:   
Chair, Marshall County Board

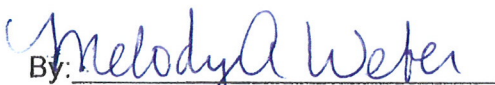
By: \_\_\_\_\_  
Chair, LaSalle County Board

Date: 3/10/16

Date: \_\_\_\_\_

ATTEST:

ATTEST:

By:   
Marshall County Clerk

By: \_\_\_\_\_  
LaSalle County Clerk