

AGREEMENT No. 2019-13

INTERGOVERNMENTAL JOINT DEFENSE AGREEMENT AND WAIVER OF CONFLICT

Section I. Parties:

This Agreement is entered into by the parties: Six Mile Township, hereinafter 'township', and The County of Franklin, hereinafter 'county'.

The township is a Franklin County Township located within the boundaries of Franklin County, Illinois.

The county is an Illinois county.

Section 2: Background:

The Union Pacific Railroad Company, hereinafter UP, has filed a complaint against certain parties before the Illinois Commerce Commission (ICC) in cause #T18-0089 in reference to a railroad crossing which was the subject of a Williamson County, Illinois judgment in cause #2013 L 113. The county is currently a party to said ICC action and the UP has filed a motion to add the township as a party to said action. The subject matter of the complaint involves, in part, issues of control and potential remediation for hazards for the railroad (RR) crossing that was declared public by the Williamson County, Illinois Court on September 13, 2017. Both the township and the county have been provided copies of the proposed amended complaint and are aware that the issues involved in the amended complaint may result in significant monetary costs to the county or the township. The county and the township have a shared interest in resolving this matter to protect the citizens of the township and the county from the hazards of the RR crossing and to resolve this matter in the most cost-effective manner for the benefit of the taxpayers.

Section 3: Authority:

That in accordance with Article VII Section 10 of the Illinois Constitution, the township and the county agree to have the Office of the Franklin County State's Attorney represent each of their interests before the Illinois Commerce Commission in cause T18-0089 or other matters that may arise concerning the control or remediation of the issues of the RR crossing in question pursuant to this intergovernmental joint defense agreement.

Section 4. Waiver:

The county and the township hereby consent to waive any conflict of interest associated with the representation by the Franklin County State's Attorney's Office with respect to the pending cause of action filed by UP before the ICC or matters relating to the RR crossing described herein. The township and the county further recognize and acknowledge that either may be exposed to financial liability with respect to the matters described herein and agree that they will bound to pay any portion of the costs of remediation of the hazards as determined by the ICC, unless the matter is compromised by settlement. Any settlement of the matter would require the

approval of the township board and the county board. If the boards cannot reach an agreement, the matter may be submitted to mediation or arbitration.

Section 5. Effective Date, Term and Termination:

- a) This agreement shall be in full force and effect when it is passed and approved and signed both township and the county and a separate copy may be filed with the clerks of each entity;
- b) This agreement shall be in full force and effect until the completion of all remediation for the subject RR crossing as determined by the ICC or upon termination by written agreement of the parties or until the township, county, or the Office of the Franklin County State's Attorney provides written notice of the termination of this agreement to the county, township and Office of the Franklin County State's Attorney. Upon receipt of notification from the township of the termination of this agreement, the Office of the Franklin County State's Attorney will withdraw as attorney for township and shall continue to exercise its statutory obligations to represent the county in this matter.

Section 6: Cost of Defense:

Each party shall share any costs of the defense of this matter as agreed from time to time. The Office of the Franklin County State's Attorney shall notify the parties of any expected expenses prior to said expense being incurred. The parties agree to pay their portion of any defense costs.

Entered into on this 7TH day of OCT, 2019.

SIX MILE TOWNSHIP:

Passed, approved, and agreed at the regular meeting of Six Mile Township on 10th day of Sept, 2019.

Tom J. Sellers
Township Supervisor of Six Mile Township

Spa...
Attest Township Clerk and Recorder

Passed, approved, and agreed at the regular meeting of the Franklin County Board on 7TH day of OCT, 2019.

COUNTY OF FRANKLIN:

Randall Crocker
Chairman Randall Crocker, Franklin County Board

Greg Woolard
Attest: Greg Woolard Franklin County Clerk

