

## INTERGOVERNMENTAL COOPERATION AGREEMENT

Sangamon County, Illinois ("County"), the City of Springfield ("City"), and the State of Illinois, acting by and through the Illinois Department of Transportation ("IDOT"), enter into this Intergovernmental Cooperation Agreement ("Agreement") effective December 2, 2009.

### RECITALS

A. IDOT submitted applications on October 2, 2009 for approximately \$4.5 billion in federal funds to double track the route currently used by the Union Pacific Railroad ("UP") for Amtrak service from Chicago to St. Louis to carry high speed rail ("HSR") trains.

B. IDOT's applications contemplated that the corridor to carry UP freight and HSR trains through Springfield would be the UP's existing track and right of way along Third Street in Springfield, Illinois. The UP's existing lines on Third Street, along with the lines required for the proposed double-track HSR operations, extending from 500 feet north of Sangamon Avenue on the north to 1,000 feet north of Stanford Avenue on the south, are referred to hereafter as the "Third Street Corridor."

C. The Norfolk Southern Railroad Company ("NS") operates its tracks along its lines on Tenth Street in Springfield. The Illinois & Midland Railroad ("I & M") operates its tracks along its line near 15<sup>th</sup> Street north of North Grand Avenue. The NS and the I & M existing lines, together with the right of way and tracks required to carry the UP's expanded freight operations and the HSR trains, extending from 500 feet north of Sangamon Avenue on the north to 1,000 feet north of Stanford Avenue on the south, are referred to hereafter as the "Tenth Street Corridor."

D. The third north-south oriented 19<sup>th</sup> Street Corridor in Springfield is comprised of the Canadian National Railroad ("CN") track adjacent to 19<sup>th</sup> Street, extending from the NS crossing at Starnes on the north to the Airline connection on the south. This segment of the CN track is referred to hereafter as the "Nineteenth Street Corridor."

E. It has been a long-term policy and initiative of both the County and the City to consolidate the freight and passenger traffic operating on the Third Street Corridor and the freight traffic operating on the Tenth and Nineteenth Street Corridors. The County and City recognize that due to funding and schedule constraints, consolidation likely will be accomplished in stages.

F. Although the applications that IDOT submitted to the Federal Railroad Administration ("FRA") contemplated that the proposed HSR rail corridor would be constructed on the UP's existing right of way on the Third Street Corridor, IDOT's applications also included a request for \$357.5 million in FY 2010 dollars for a rail line relocation/mitigation allowance in Springfield. The \$357.5 million in FY 2010 dollars was included in the applications because IDOT, the City and the County were discussing at the time the applications were submitted the possibility of an environmental impact statement being prepared to study consolidation of rail traffic on one corridor in Springfield, and IDOT wanted to make sure funds would be available to pay for that consolidation if warranted by the forthcoming environmental impact statement.

G. The City and the County firmly believe that both the UP's projected increased freight and the HSR trains can be more efficiently handled with fewer environmental impacts on the Tenth Street Corridor. The City and the County recognize, however, that further analysis is required before any final conclusions can be drawn concerning the environmental impact of rail consolidation in Springfield on any given corridor.

#### **AGREEMENT**

1. The foregoing Recitals are incorporated and restated as part of this Agreement.
2. The City and the County agree to support IDOT's pending application for HSR grant funds with appropriate letters, resolutions and stakeholder agreements, based upon IDOT's commitments set forth in this Agreement.

3. IDOT agrees to make available federal, state or private funds or some combination thereof in the total amount of up to \$4 million to the City for the purpose of developing and preparing a Tier 2 environmental document analyzing the potential consolidation of all or a portion of the aforementioned corridors through Springfield ("Consolidation EIS"). Ten percent of the funds shall be paid to the City immediately following full execution of the application agreement attached as Exhibit A. The remaining funds shall be payable to the City as the work progresses. Unless it proves unreasonable to do so, the Tenth Street Corridor shall be one of the alternatives evaluated in the Consolidation EIS. The funding agreement between IDOT and the City should be in the form of the agreement attached as Exhibit A.

4. The draft Consolidation EIS shall be completed and published with the approval of the FRA within 16 months after IDOT executes a grant with the FRA for funding of all or part of IDOT's pending Track 2 applications for funds made available pursuant to the American Recovery and Reinvestment Act. In the event a draft Consolidation EIS is not completed and published within the time requirements set forth in the preceding sentence, IDOT shall have no further obligations under the terms of this Agreement other than to reimburse the City or County for the prior services or expenses incurred in connection with the preparation of the draft Consolidation EIS.

5. IDOT agrees to condition any HSR grants to the UP, or any other party, upon a contractual requirement that no state or federal funds shall be spent for upgrades or improvements to the UP facilities between I-72 and Sangamon Avenue in Sangamon County unless with the specific consent of the City and the County until completion of the Consolidation EIS and issuance of a Record of Decision by the FRA. IDOT shall be relieved of this commitment in the event that the draft Consolidation EIS is not completed and published within the time limits specified in

paragraph 4 or the Consolidation EIS and the Record of Decision are not completed within 24 months of the execution of a grant with the FRA as described in paragraph 4.

6. In the event the preferred alternative chosen in the Consolidation EIS is the Tenth Street Corridor, IDOT and the IDOT Secretary agree to submit an amendment to any approved or then pending HSR federal grant application to shift the railroad traffic to the Tenth Street Corridor and to shift any design and construction funds then intended for the Third Street Corridor to the Tenth Street Corridor.

7. The County, the City and IDOT will cooperate to develop a Memorandum of Agreement with the affected railroads to consolidate their operations in the preferred alternative corridor selected in the Consolidation EIS. The County, the City and IDOT all agree to cooperate in utmost good faith to implement the preferred alternative corridor selected in the Consolidation EIS.

8. IDOT, the City and the County will work cooperatively to address any additional railroad issues addressed in the Consolidation EIS once it is final.

9. IDOT, the County and the City agree to work cooperatively in utmost good faith to draft and secure passage by the Illinois General Assembly and enactment into law legislation that grants all necessary and appropriate powers to effectuate consolidation of rail corridors in Springfield.

10. This Agreement shall be null and void and shall release the parties from any obligations hereunder, in the event that:

a. The FRA fails to agree to serve as the lead federal agency for the Consolidation EIS by December 15, 2009;

b. IDOT and the City, despite the exercise of ultimate good faith, are unable to enter into a grant agreement for an amount not to exceed \$4 million to fund the Consolidation EIS by December 15, 2009;

c. The FRA grants less than \$1 billion from IDOT's pending applications for the Chicago-St. Louis corridor funds;

d. The FRA fails to include in its approval of any of IDOT's pending grant applications the \$357.5 million for rail line relocation/mitigation allowance in Springfield requested in IDOT's pending grant application, and the City and the County reasonably conclude that there are insufficient federal and state funds available to pay for, at a minimum, shifting UP and Amtrak rail traffic onto the Tenth Street Corridor; or

e. An amendment is submitted to FRA pursuant to paragraph 6 of this agreement and the FRA fails to give their approval.

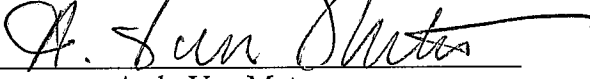
11. This Agreement is entered into by the parties hereto but is also intended to be binding upon their officers, directors, employees, successors and assigns.

12. This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois.

13. This Agreement shall become effective immediately upon execution by all parties.

14. This Agreement may be executed in counterparts.

**SANGAMON COUNTY, ILLINOIS**

By:   
Andy Van Meter  
Sangamon County Board Chairman

**ILLINOIS DEPARTMENT OF TRANSPORTATION**

By:   
Gary Hannig  
Secretary

**CITY OF SPRINGFIELD**

By:   
Tim Davlin  
Mayor

EXHIBIT A  
AGREEMENT

This agreement entered into this \_\_\_\_ day of \_\_\_\_\_, A.D.,2009, by and between the DEPARTMENT OF TRANSPORTATION hereinafter called the DEPARTMENT, and the City of Springfield, Sangamon County, of the State of Illinois, hereinafter called the CITY.

WITNESSETH:

WHEREAS, the CITY and DEPARTMENT are desirous of studying improvements to the flow of traffic by consolidating railways in the Springfield area.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. The CITY agrees to hire a consultant to proceed with the Preliminary Engineering study for the proposed relocation of railroads in the Springfield area to be reimbursed by the DEPARTMENT as herein stipulated. The CITY further agrees that the aforementioned consultant shall be subject to approval by the DEPARTMENT.
2. It is mutually agreed by and between the parties hereto that the estimated cost for the Preliminary Engineering study shall not exceed \$4,000,000.
3. The DEPARTMENT agrees to advance the CITY \$400,000 upon execution of this Agreement to be used to pay for the costs of the Preliminary Engineering Study incurred subsequent to execution of this Agreement.
4. The DEPARTMENT agrees to reimburse the CITY for the actual costs subsequently incurred for the Preliminary Engineering Study.
5. The CITY agrees to submit bills to the DEPARTMENT for reimbursement.

6. The CITY agrees to submit to the DEPARTMENT and the FEDERAL RAILROAD ADMINISTRATION for their review and approval the Preliminary Report generated by the aforementioned Preliminary Engineering Study.

7. The CITY shall maintain, for a minimum of 5 years after the completion of the Project, adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with this Agreement. All books, records, and supporting documents related to the Project shall be available for review and audit by the Auditor General and other State auditors and the CITY agrees to cooperate fully with an audit conducted by the Auditor General and other State Auditors and to provide full access to all relevant materials. Failure to maintain the books, records, and supporting documents required by this paragraph shall establish a presumption in favor of the DEPARTMENT for the recovery of any funds paid by the DEPARTMENT under this Agreement for which adequate books, records, and supporting documentation are not available to support their purported disbursement.

8. The CITY agrees to comply with all applicable Executive Orders and Federal Acts pursuant to the Equal Employment Opportunity and non-discrimination regulations required by the U.S. Department of Transportation.

9. The CITY, subrecipient or contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. The CITY shall carry out applicable requirements of 49 CFR part 26 in the award or administration of DOT-assisted contracts. Failure by the CITY to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as

deemed appropriate.

10. In the event any work is performed by other than CITY forces, the provisions of "an act regulating wages of laborers, mechanics and other workers employed in public works by the State, County City or any public body or any political subdivision or by one under contract for public works" (Illinois Compiled Statutes, 820 ILCS 130/1) shall apply.

11. At the time this Agreement was executed, there were funds available for the PROJECT; however, obligations assumed by the DEPARTMENT under this Agreement shall cease immediately, without penalty or payment, should the Illinois General Assembly fail to appropriate or otherwise make available funds for the PROJECT.

12. Covenants contained in any previous agreements or letters of understanding between the DEPARTMENT and the CITY will not be changed by this agreement.

13. Under the penalties of perjury, the CITY certifies that \_\_\_\_\_ is their correct Federal Taxpayer Identification Number and they are doing business as a governmental entity.

This agreement shall be binding upon and to the benefit of the parties hereto, their successors and assigns.

ATTEST:

\_\_\_\_\_  
Clerk

(SEAL)

STATE OF ILLINOIS  
DEPARTMENT OF TRANSPORTATION

By: [Signature]  
Its Secretary

Date: 12-9-09

CITY OF SPRINGFIELD

By: [Signature]  
Mayor

Date: 12-9-09

By: [Signature]  
Director of Finance and Administration

Date: 12/9/09

By: [Signature]  
Director of Highways

Date: 12/9/09

By: [Signature]  
Chief Counsel

Date: 12-9-09

**MUNICIPAL  
CERTIFICATE**

STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )        SS

I, Cecilia Tumulty, City Clerk, in and for the CITY of Springfield of the State of Illinois, hereby certify that Tim Davlin, Mayor of the City of Springfield, was duly authorized to execute the foregoing Agreement on behalf of the City Council of the City of Springfield, pursuant to an ordinance adopted by the City Council at a meeting on \_\_\_\_\_, AD 20\_\_.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this day of \_\_\_ AD 20\_\_.

\_\_\_\_\_  
CITY CLERK

(SEAL)