



THIS AGREEMENT, made this _____ day of _____, **2023**, by and between Norfolk Southern Railway Company, hereinafter called "Railway", and the **Lexington-Fayette Urban County Government, KY**, hereinafter called "Public Authority".

WITNESSETH:

WHEREAS, Railway agrees to collaborate with the Public Authority on the progression of the Project in accordance with the terms and conditions of this Agreement and any Federal Regulations, for a Quiet Zone in accordance with FRA 49 CFR Part 222 (Horn Rule) where the Public Authority's road intersects with the right of way and tracks of the Railway at the location(s) in **Exhibit A** attached hereto (the "**Quiet Zone Project**"); hereinafter "Quiet Zone Project" involving the Railway's S&E Engineering Department and/or representative; and

WHEREAS, in the interest of expediency, the parties hereto agreed to commence the quiet zone administrative work described in **Exhibit B** attached hereto (the "QZ Administrative Work") on the Quiet Zone Project by signature of the Norfolk Southern Project Initiation Form (NSPIF).

NOW, THEREFORE, in consideration of the premises and the covenants hereinafter contained, Railway and Public Authority hereby agree that Railway will continue the QZ administrative work for the Quiet Zone Project aforesaid upon execution and delivery of this agreement, subject to the following terms and conditions:

1. WHEREAS, Public Authority is proposing a Quiet Zone where roads within Public Authorities jurisdiction intersect with the right of way and tracks of the Railway identified as listed in Exhibit A. Railway, and/or its representatives, at Public Authority's sole costs and expense, agrees to perform (or shall cause a third-party consultant to perform on the Railway's behalf) the quiet zone engineering services work described on Exhibit B. Public Authority acknowledges and agrees that: (a) Railroad's review of any Project designs, plans and/or specifications, as part of the QZ work, is limited exclusively to potential impacts on existing and future Railroad facilities and operations; (b) Railroad makes no representations or warranties as to the validity, accuracy, legal compliance or completeness of the QZ Work; and (c) Public Authority's reliance on the QZ Work is at Public Authority's own risk.

2. Notwithstanding the Estimate, Public Authority agrees to reimburse Railway and / or Railroad's third party consultant, as applicable, for one hundred percent (100%) of all actual costs and expenses incurred for the QZ administrative work identified in Exhibit B. Railway has **estimated the total Reimbursable Expenses for the Quiet Zone Administrative Work to be \$17,500**. The allowable costs shall include, but not be limited to, normal contingency additives, travel expenses, consultants' and contractor's fees and other costs necessary to implement the QZ administrative work.

2.1 Upon execution and delivery of this Agreement by the Public Authority, Public Authority will deposit with Railway a sum equal to the estimated Reimbursable Expenses noted above. If Railway anticipates that it may incur Reimbursable Expenses in excess of the deposited amount, Railway will request an additional deposit equal to the then remaining Reimbursable Expenses which Railway estimates that it will incur. Railway shall request such additional deposit by delivery of invoices or a supplemental letter agreement to Public Authority. Public Authority shall make such additional deposit within thirty (30) days following delivery of such invoice or execution of the supplemental letter agreement to Public Authority.

2.2 Following completion of all QZ administrative work, Railway shall reconcile the total Reimbursable Expenses incurred by Railway against the total payments received from Public Authority and shall submit to Public Authority a final invoice if required. Public Authority shall pay to Railway the amount by which actual Reimbursable Expenses exceed total payments, as shown by the final invoice, within thirty (30) days following delivery to Agency

of the final invoice. Railway will provide a refund of any unused deposits if the deposit exceeds the incurred Reimbursable Expenses for the Project.

2.3 Public Authority's obligation hereunder to reimburse Railway (and/or its third party consultant, as applicable) for the QZ administrative work shall apply regardless if Public Authority declines to proceed with the Project or Railway elects not to approve the Project.

3. Public Authority acknowledges that while the approval of a Quiet Zone is determined by the Federal Railway Administration's determination on the Quiet Zone Projects adherence to the Horn Rule, the Railway may withhold implementation or raise objections to the Project due to noncompliance with federal regulations or impacts to Railway's safety, facilities or operations.

4. The records of Railway associated with the bill for the QZ administrative work, if billing is rendered pursuant to Article 2 hereof, shall be available for audit and inspection by authorized personnel of Public Authority during regular business hours and at a location specified by Railway for one (1) year after the date of the bill.

5. If Public Authority elects to move forward with the Quiet Zone Project and the plans include Railway work, the Railway shall prepare and provide the Public Authority a separate preliminary engineering agreement which involves the review and design of the proposed modifications to the crossing as well as a separate construction engineering agreement which involves the actual cost of installation of any railroad crossing signal or crossing surface related modifications needed to implement the QZ and will be borne at the Public Authorities cost.

THE AGREEMENT herein will remain in effect for the duration of the work described in Exhibit B.
IN WITNESS WHEREOF, the parties have executed this agreement, as of the day and year first above written.

As to Railway

Name: T _____

Title: _____

(for Public Authority)

Name: _____

Title: _____

As to Public Authority

Bill To:

Address

Address

Phone

Exhibit A

Project Description and Location

Project Description

Municipality of: Municipality of Lexington

State of: Kentucky, USA

Proposed Quiet Zone at the crossings referred to below:

Subdivision: CNO&TP North

At-grade crossing locations, if known. DOT #	Crossing Type	Milepost	Street Name
724528P	Public	83.230	Rosemont Garden
724527H	Public	82.460	Waller Ave.
724516V	Public	77.200	Greendale Rd.
724515N	Public	76.990	Spurr Rd.
724513A	Public	76.120	Kearney Rd.

Exhibit B

QZ Administrative Work for Quiet Zone Projects include but are not limited to the following:

- Project coordination meetings
- Diagnostic Team Meetings in the field
- Meeting minute review and comments
- Plan review
- Notice of Intent (NOI) review and comments
- Public Authority Application (PAA) review and comments
- Notice of Establishment (NOE) review and comments
- Implementation efforts
- Grade crossing inventory updates
- Travel expenses