



THIS AGREEMENT, made this 5<sup>th</sup> day of July, 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

# 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

<b>At-grade crossing locations, if known. DOT #</b>	<b>Crossing Type</b>	<b>Milepost</b>	<b>Street Name</b>
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.