

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE A REIMBURSEMENT AGREEMENT FOR PRELIMINARY ENGINEERING SERVICES WITH THE UNION PACIFIC RAILROAD COMPANY ("UPRR") RELATING TO THE MINGO ROAD QUIET ZONE PROJECT INCLUDING: 1) FRAME STREET, 2) WILLIS STREET, 3) PERTAIN STREET, 4) NOTTINGHAM DRIVE, 5) MOCKINGBIRD DRIVE, AND 6) RUDDELL STREET, IN THE CITY OF DENTON; AUTHORIZING THE EXPENDITURE OF FUNDS NOT-TO-EXCEED AMOUNT OF \$200,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton presently utilizes the Union Pacific Railroad Company's ("UPRR") property for existing at-grade public road crossings located adjacent to Mingo Road and intersecting with 1) Frame Street, DOT Number 795314S, Milepost 718.645; 2) Willis Street, DOT Number 795312D, Milepost 718.22; 3) Pertain Street, DOT Number 795311W, Milepost 717.92; 4) Nottingham Drive, DOT Number 748454T, Milepost 717.38; and 5) Mockingbird Drive, DOT Number 795309V, Milepost 716.89 and Ruddell Street in the City of Denton, Denton County, Texas; and

WHEREAS, the City desires to create a Quiet Zone corridor through along Mingo Road at each of the above crossings, the UPRR Mingo Road Quiet Zone Improvements Project (the "Project"); and

WHEREAS, on August 2, 2022, City Council approved a standard Reimbursement Agreement for Quiet Zone Services in the amount of \$60,000.00 (Ordinance 22-1473) for Project documentation supporting the actual project cost so that City could make an informed decision on moving forward with the actual design of the Project which includes work in the UPRR right of way; and

WHEREAS, the City desires to move forward with a new reimbursement agreement for the preliminary engineering services to develop final plans, specifications, drawings and preparation of material and force cost estimate for any work required to be performed by UPRR for the Project; and

WHEREAS, the City and UPRR mutually desire to enter into the Preliminary Engineering Agreement for the purpose of providing review and comments on preliminary engineering and design plans, specifications and drawings prepared by the City or their consultant on behalf of the City, as required by UPRR, a copy of which is attached hereto and made a part hereof as Exhibit "A" (the "Agreement"); and

WHEREAS, UPRR has estimated the cost for the new preliminary engineering services to be \$200,000; and

**WHEREAS**, the parties acknowledge the cost is an estimate and will be invoiced monthly as a pay-as-you-go; and

**WHEREAS**, if costs are expected to exceed the estimated amount of Two Hundred Thousand Dollars (\$200,000.00) UPRR will provide the City with documentation supporting the actual costs incurred and Capital Projects Department will seek appropriate City approval; and

**WHEREAS**, the City Council having considered the Reimbursement Agreement for Preliminary Engineering Services for the Mingo Road Quiet Zone Improvements Project, and considering the importance of the Project to the citizens of Denton, finds it in the public interest to approve the above referenced Agreement by and between the City and UPRR; and

**NOW, THEREFORE,**

**THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:**

**SECTION 1.** The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference as true and as if fully set forth in the body of this ordinance.

**SECTION 2.** The City Manager, or designee, is hereby authorized to execute on behalf of the City, the Reimbursement Agreement for Preliminary Engineering Services for the Mingo Road Quiet Zone Improvements Project, attached hereto as Exhibit "A" and made a part hereof for all purposes.

**SECTION 3.** The City Manager is hereby authorized to expend funds in an amount not to exceed TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00).

**SECTION 4.** The City Manager is further authorized to carry out all duties and agreements to be performed by the City under the Agreements.

**SECTION 5.** This ordinance shall become effective immediately upon its passage and approval.

*[Signatures to appear on the following page.]*

The motion to approve this ordinance was made by \_\_\_\_\_ and seconded by \_\_\_\_\_. The ordinance was passed and approved by the following vote [\_\_\_\_ - \_\_\_\_]:

|  | <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|--|------------|------------|----------------|---------------|
| Gerard Hudspeth, Mayor:                | _____      | _____      | _____          | _____         |
| Vicki Byrd, District 1:                | _____      | _____      | _____          | _____         |
| Brian Beck, District 2:                | _____      | _____      | _____          | _____         |
| _____, District 3:                     | _____      | _____      | _____          | _____         |
| Joe Holland, District 4:               | _____      | _____      | _____          | _____         |
| Brandon Chase McGee, At Large Place 5: | _____      | _____      | _____          | _____         |
| Jill Jester, At Large Place 6:         | _____      | _____      | _____          | _____         |

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
GERARD HUDSPETH, MAYOR

ATTEST:  
LAUREN THODEN, CITY SECRETARY

By: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

By: Benjamin N. Samples, II

**Exhibit A**  
**(Reimbursement Agreement for Preliminary Engineering Services)**

**REIMBURSEMENT AGREEMENT  
PRELIMINARY ENGINEERING SERVICES**

**Effective Date:**

**Estimate: \$200,000.00**

THIS REIMBURSEMENT AGREEMENT (**Agreement**) is made and entered into as of the **Effective Date**, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation (**Railroad**), and CITY OF DENTON, TEXAS (**Agency**).

**RECITALS**

A. Agency desires to initiate the project more particularly described on Exhibit A attached hereto (**Project**).

B. The Project will affect Railroad's track and right of way at or near the Project area more particularly described on Exhibit A.

C. Railroad agrees to collaborate with Agency on the conceptualization and development of the Project in accordance with the terms and conditions of this Agreement.

**AGREEMENT**

NOW THEREFORE, the parties hereto agree as follows:

1. Railroad, and/or its representatives, at Agency's sole cost and expense, agrees to perform (or shall cause a third-party consultant to perform on Railroad's behalf) the preliminary engineering services work described on Exhibit B attached hereto (**PE Work**). Agency acknowledges and agrees that: (a) Railroad's review of any Project designs, plans and/or specifications, as part of the PE 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 PE Work; and (c) Agency's reliance on the PE Work is at Agency's own risk.

2. Notwithstanding the Estimate (**Estimate**), Agency agrees to reimburse Railroad and/or Railroad's third-party consultant, as applicable, for one hundred percent (100%) of all actual costs and expenses incurred for the PE Work. During the performance of the PE Work, Railroad will provide (and/or will cause its third-party consultant to provide) progressive billing to Agency based on actual costs in connection with the PE Work. Within sixty (60) days after completion of the PE Work, Railroad will submit (and/or will cause its third-party consultant to submit) a final billing to Agency for any balance owed for the PE Work. Agency shall pay Railroad (and/or its third-party consultant, as applicable) within thirty (30) days after Agency's receipt of any progressive and final bills submitted for the PE Work. Bills will be submitted to the Agency using the contact information provided on Exhibit C. Agency's obligation hereunder to reimburse Railroad (and/or its third-party consultant, as applicable) for the PE Work shall apply regardless whether Agency declines to proceed with the Project or Railroad elects not to approve the Project.

3. Agency acknowledges and agrees that Railroad may withhold its approval for the Project for any reason in its sole discretion, including without limitation, impacts to Railroad's safety, facilities, or operations. If Railroad approves the Project, Railroad will continue to work with Agency to develop final plans and specifications, and prepare material and force cost estimates for any Project related work performed by Railroad.

4. If the Project is approved by Railroad, Railroad shall prepare and forward to Agency a Construction and Maintenance Agreement (**C&M Agreement**) which shall provide the terms and conditions for the construction and ongoing maintenance of the Project. Unless otherwise expressly set forth in the C&M Agreement, the construction and maintenance of the Project shall be at no cost to Railroad. No construction work on the Project affecting Railroad's property or operations shall commence until the C&M Agreement is finalized and executed by Agency and Railroad.

5. Neither party shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed.

6. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties.

7. This Agreement sets forth the entire agreement between the parties regarding the Project and PE Work. To the extent that any terms or provisions of this Agreement regarding the PE Work are inconsistent with the terms or provisions set forth in any existing agreement related to the Project, such terms and provisions shall be deemed superseded by this Agreement to the extent of such inconsistency.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

**CITY OF DENTON, TEXAS**

**UNION PACIFIC RAILROAD COMPANY,**  
a Delaware Corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Erik Lewis  
Printed Name

\_\_\_\_\_  
Title

Manager I, Industry & Public Projects  
Title

# Exhibit A

## Project Description and Location

### Project Description

The City of Denton, Texas, proposes (2) crossing closures in request for a new crossing, including a new grade crossing signal system with signal preemption.

### Location

Choctaw Subdivision

| <b>DOT</b> | <b>Crossing Type</b> | <b>Milepost</b> | <b>Street Name</b> |
|------------|----------------------|-----------------|--------------------|
| 748454T    | Public               | 717.38          | Nottingham Drive   |
| 795309V    | Public               | 716.89          | Mockingbird Drive  |
| 795311W    | Public               | 717.92          | Pertain Street     |
| 795312D    | Public               | 718.22          | Willis Street      |
| 795314S    | Public               | 718.645         | Frame Street       |
| TBD        | Public               | TBD             | Ruddell Street     |

## **Exhibit B**

### **Scope of Project Services**

Scope of work includes, but is not limited to the following

- Field diagnostic(s) and inspections
- Plan, specification, and construction review
- Project design
- Preparation of Project estimate for force account or other work performed by the Railroad
- Meetings and travel



## Exhibit C

### Billing Contact Information

|                               |                                    |
|-------------------------------|------------------------------------|
| <b>Name</b>                   | Tracy Beck                         |
| <b>Title</b>                  | PM, Captial Projects & Engineering |
| <b>Address</b>                | 401 N Elm Street, Denton, TX 76201 |
| <b>Work Phone</b>             | (940) 349-8925                     |
| <b>Cell Phone</b>             |                                    |
| <b>Email</b>                  | Tracy.Beck@cityofdenton.com        |
| <b>Agency<br/>Project No.</b> |                                    |