

AGREEMENT

THIS AGREEMENT (“Agreement”) is made and entered into this 23 day of August, 2024 (the “Effective Date”), by and between Canadian Pacific Kansas City Limited (“CPKC”), a Canadian corporation with headquarters at Calgary, Alberta, Canada and Kansas City, Missouri, and the following communities identified in Surface Transportation Board Docket No. FD 36500, mitigation measure VM-Community-03: the Village of Bartlett, the Village of Bensenville, the City of Elgin, the Village of Itasca, the Village of Hanover Park, the Village of Roselle, the City of Wood Dale, and the Village of Schaumburg (the “Communities”) (CPKC and the Communities are individually a “Party”).

RECITALS

WHEREAS, on March 15, 2023, the United States Surface Transportation Board (“STB”) approved, with conditions, the acquisition of control by Canadian Pacific Railway Limited (“CP”) of Kansas City Southern (“KCS”) and their respective affiliates in STB Docket No. FD 36500 (the “Merger Decision”); and

WHEREAS, CP and KCS proposed to the STB voluntary measures “to mitigate potential acquisition-related impacts” on the Communities, including the installation and funding of “a predictive mobility system, interconnected with existing railroad crossing signals, that will deliver advanced notice of blocked crossings to citizens, police, fire, and rescue operations, and others.” (“Predictive Mobility System Condition”); and

WHEREAS, another of the voluntary measures CP and KCS proposed to the STB to mitigate the potential impacts of the merger on the Communities was to “install and fund ITS Interconnect for Advanced Warning Signs at strategic locations to give drivers information about

occupied crossings, allowing them to make better on-the-spot decisions” (“Warning Signs Condition”);

WHEREAS, in the Merger Decision, the STB imposed as mitigation on CPKC the Predictive Mobility System Condition and the Warning Signs Condition; and

WHEREAS, in November 2023 CPKC informed the Communities that it was working to implement the Predictive Mobility System Condition and the Warning Signs Condition by using technology provided by a subcontractor, and references to CPKC in this Agreement may include such a subcontractor; and

WHEREAS, the STB in the Merger Decision instituted a seven-year oversight period starting April 15, 2023 (“Oversight Period”) in STB Docket No. FD 36500 (Sub-No.6) for the purpose of monitoring the implementation of the merger, including in the Communities; and

WHEREAS, CPKC will pay for the Predictive Mobility System Condition and the Warning Signs Condition during the Oversight Period; and

WHEREAS, the Communities want access to any products or services CPKC is providing under the Predictive Mobility System Condition and the Warning Signs Condition, and CPKC desires to provide such access;

NOW THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into and made a part of this Agreement, and mutual covenants, obligations and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Communities and CPKC (the “Parties”) agree as follows:

Section 1.0 Representations and Services Provided by CPKC. CPKC agrees to provide the following services under the Predictive Mobility System Condition:

1.1 Installation of Trainable Sensor Modules (“Sensors”) at certain locations at or near where public roads cross the rail line used by CPKC that runs through the Communities, with precise Sensor locations to be determined through separate discussions with each of the Communities. The Sensors installed initially pursuant to this Agreement shall be LinqThingz Trainable Sensor Network Modules CityLinq 5.0 (2024). Examples of the Sensor installation are included in Exhibit A to this Agreement.

1.2 Because the Sensors use several technologies to collect real-time data about the speed, length, and location of trains, the Sensors must be positioned close enough to the road crossings to collect accurate data. Once installed, the Sensors will provide real-time information that allows the general public and first responders to better plan or modify their chosen routes to cross the railroad tracks. CPKC intends for the Sensors, working together with other Sensors installed at or near other crossings along the corridor, to provide the following information via web-based interfaces (the Public Access Web Portal, mobile Application, and Emergency Responder Portal) described in Subsections 1.3, 1.4, and 1.5:

1.2.1 The accurate location, speed, and length of each train operating on the tracks (train length is displayed in tenths of miles; speeds are displayed in miles per hour).

1.2.2 A display of all trains operating on the tracks, including but not limited to freight trains, commuter trains, and specialized work trains.

1.2.3 Real time predictions of when road crossings will be occupied, as well as the length of time the crossing will be occupied, once it has been occupied by a train.

- 1.3 Access for the residents of the Communities to the Public Access Web Portal.
- 1.4 Access, within appropriate geographic boundaries, to the mobile Application.
- 1.5 Access to a specialized, web-based Emergency Responder Portal for first responders in the Communities to use in their vehicles and for dispatchers/telecommunicators to use within their respective dispatch centers (referred to as Public Safety Answering Points (PSAP)).
- 1.6 Advice and guidance as to the computers and other hardware to be acquired by the Communities in order to effectively utilize the Public Access Web Portal, mobile Application, and Emergency Responder Portal.
- 1.7 Training on the use of the predictive mobility system for dispatch center/PSAP employees and first responders selected by each Community for such training. The Communities and CPKC anticipate the training sessions will last no more than one hour per session. CPKC will schedule sessions for each dispatch center and first-responder headquarters. CPKC will also provide a training video that can be viewed separately.
- 1.8 In granting access to the Public Access Web Portal, mobile Application, and Emergency Responder Portal, CPKC is not supplying computers, smartphones, or other hardware as a means of access.

Section 2.0 Compliance with Warning Signs Condition

2.1 After the Sensors described in Section 1.0 are installed to meet the Predictive Mobility System Condition, CPKC will work with each of the Communities to address the Warning Signs Condition, including the location of signs and the information to be included on signs.

2.2 All signs will be installed and maintained by CPKC at no cost to the Communities.

2.3 CPKC's compliance with the Warning Signs Condition may be further addressed in a separate agreement or agreements with the Communities.

Section 3.0 Installation, Maintenance, and Removal of Sensors. CPKC will work with each of the Communities to identify the appropriate location for the Sensors.

3.1 Any installation of Sensors within a Community's right-of-way or on its other property will be subject to that municipality's permitting and licensing requirements. The Community will have final authority to approve the installation of any Sensor within its right-of-way or on its property.

3.2 CPKC will pay for any work or actions associated with the installation, maintenance, or removal of the Sensors and any related equipment, including any necessary posts, utility poles or other mounting equipment, and any permits required for such installation, maintenance, or removal.

3.3 CPKC will pay for the removal, repair and/or replacement of any Sensor that malfunctions, breaks, is defective, or becomes obsolete.

3.4 CPKC will pay for removal of any Sensor that any Community chooses to remove. The Parties recognize that removal of any Sensors may affect the accuracy of the overall predictive mobility system. CPKC will also pay for the relocation of a Sensor that a Community reasonably needs to relocate.

3.5 CPKC will pay to keep the hardware and software components of the Sensors, and the Public Access Web Portal, mobile Application, and Emergency Responder Portal reasonably updated.

Section 4.0. Term. The term of this Agreement shall coincide with the Oversight Period instituted by the STB in the Merger Decision, including any extensions to the Oversight Period. In addition, if the term of the Predictive Mobility System Condition is extended but the Oversight

Period is not, the term of this Agreement shall extend until the term of the Predictive Mobility System Condition expires. When the Oversight Period ends and Predictive Mobility System Condition no longer applies, CPKC will remove all Sensors and related equipment installed under this Agreement and will reasonably restore any property affected by the Sensors or related equipment to the condition it was in on the Effective Date. If any Community wants to continue using the Predictive Mobility System after the end of the Oversight Period, it may enter a separate agreement with the relevant service providers and CPKC will not remove the Sensors and related equipment covered by that separate agreement. CPKC will not pay for any aspect of the Predictive Mobility System, warning signs, or any other issue covered by this Agreement after the Oversight Period ends.

Section 5.0 **Notices.** All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed, postage prepaid, certified mail, return receipt requested or, alternatively, to each parties' respective attorneys via overnight courier:

(a) **TO A COMMUNITY:**

Village of Itasca
Carie Anne Ergo
550 W Irving Park Road
Itasca IL 60143
United States of America
(630) 228-5687
cergo@itasca.com

With a copy to:

Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
1629 K Street NW, Suite 300
Washington, D.C. 20006
tom@twilcoxlaw.com

(b) TO CPKC:

Larry Lloyd
Senior Director of U.S. Government Affairs
CPKC
11306 Franklin Ave.
Franklin Park, IL 60131
larry.lloyd@cpkcr.com

with a copy to:

Jay C. Johnson
Venable LLP
600 Massachusetts Ave., NW
Washington, DC 20001
jcjohnson@venable.com

and/or to such other person(s) and address(es) as either Party shall have specified in writing to the other.

Section 6.0 Assignment; Successors and Assigns. This Agreement shall not be assignable by any Party without the written consent of the other Party, which may be withheld in either Party's sole discretion. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

Section 7.0 Severability. If any part of this Agreement is found to be invalid, inoperative, or unenforceable for any reason, that finding will not render any other part of the Agreement invalid, inoperative, or unenforceable. Instead, this Agreement shall be reformed and construed as if any invalid, inoperative, or unenforceable provision was not part of the Agreement, and the rest of the Agreement is still valid, operative, and enforceable to the maximum extent permitted by law. If any of the Communities chooses not to sign this Agreement, the Agreement can proceed with whichever Communities do sign it, and the provisions of the Agreement will apply only to the

signatory Communities. CPKC will comply with the Surface Transportation Board's mitigation measures regardless of whether a Community signs this Agreement.

Section 8.0 Default. A Party will be in default if it: (a) breaches any term of this Agreement and the breach is not cured within 15 days after the breaching Party receives notice from the non-breaching Party; (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due, (c) makes a general assignment, arrangement, or composition with or for the benefit of its creditors, (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor's rights, or a petition is presented for its winding-up or liquidation, (e) has a resolution passed for its winding-up, official management or liquidation, other than pursuant to a consolidation, amalgamation, or merger, (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, or other similar official for all or substantially all of its assets, (g) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration, or other legal process levied, enforced, or sued on or against all or substantially all of its assets, (h) files an answer or other pleading admitting or failing to contest the allegations of a petition filed against it in any proceeding of the foregoing nature, or (i) takes any other action to authorize any of the actions set forth above. In the event of default, the non-defaulting Party may terminate this Agreement upon notice to the defaulting Party.

Section 10.0. Agreement Is One Way To Fulfill Condition. The Parties agree that this Agreement is intended to fulfill CPKC's responsibilities under the Predictive Mobility System Condition and (subject to potential additional agreements) the Warning Signs Condition. The Parties also recognize that this Agreement is not the only way CPKC can fulfill the Predictive

Mobility System Condition and Warning Signs Condition and that if the Parties terminate this Agreement it does not mean that CPKC cannot fulfill the Predictive Mobility System Condition and Warning Signs Condition in some other manner acceptable to the STB.

Section 11.0. No Effect on the Communities' Rights. Nothing in this Agreement diminishes, waives, or supersedes any rights the Communities have to participate in the Oversight Proceeding, or to challenge or seek the modification of either the Predictive Mobility System Condition or the Warning Signs Condition, or both, before the STB in Docket No. FD 36500 (Sub No. 6) under the terms of the Merger Decision.

Section 12.0. Termination. If the Parties agree, or the STB determines in response to request by the Communities, that this Agreement is not fulfilling the Predictive Mobility System Condition and/or the Warning Signs Condition, the signatory Communities collectively may terminate, or an individual Community may withdraw from, this Agreement on 20 days' notice, at no cost or liability to the Communities. Any such termination or withdrawal will not release any Party from its obligations occurring prior to the termination of the Agreement, nor would any such termination require the Communities to stop working with CPKC with respect to the Predictive Mobility System Condition.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

IN WITNESS WHEREOF, the Parties hereto have entered into and executed this Agreement on the date and year first written above in DuPage/Kane County, Illinois.

[SIGNATURES ON FOLLOWING PAGE]

THE VILLAGE OF BARTLETT

CPKC

By: _____
Its: _____

By: Joe Van Humbeck
Its: Director Impact Assessment

Attest:

Clerk

THE VILLAGE OF BENSENVILLE

By: _____
Its: _____

Attest:

Clerk

THE CITY OF ELGIN

By: _____
Its: _____

Attest:

Clerk

THE VILLAGE OF ITASCA

By: _____

Its: _____

Attest:

Clerk

THE VILLAGE OF HANOVER PARK

By: _____

Its: _____

Attest:

Clerk

THE VILLAGE OF ROSELLE

By: _____

Its: _____

Attest:

Clerk

THE CITY OF WOOD DALE

By: _____

Its: _____

Attest:

Clerk

THE VILLAGE OF SCHAUMBERG

By: _____

Its: _____

Attest:

Clerk