



City of
Evans, Colorado

Request for Proposals

**City of Evans Railroad Quiet Zone
Feasibility Study**

October 14, 2020

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REQUEST FOR PROPOSALS

The City of Evans (City) is seeking Proposals for Professional Engineering Services for a Railroad Quiet Zone Feasibility Memo.

Proposal submission shall be by email or other electronic means, if necessary. Proposals shall be submitted in .PDF format to the City's Project Manager before 4:00 p.m. (City time-zone) on Thursday October 29, 2020.

Pre-Proposal Meeting: A virtual, mandatory pre-proposal meeting will be held at **1000 hours, on October 29, 2020**, using **Microsoft Teams**. Interested consultants are **required** to email Karen Sabin at ksabin@evanscolorado.gov, with cc to Mark Oberschmidt at moberschmidt@evanscolorado.gov by **1600 hours, on October 28, 2020**, to obtain an invite for the pre-proposal meeting. Emails received after that deadline will not be responded to and consultants **will not be able** to attend the mandatory preproposal meeting.

The City encourages all disadvantaged business enterprises to submit proposals in response to all requests for qualifications. Disadvantaged business enterprises will not be discriminated against on the grounds of race, color, or national origin for any proposals for negotiated agreements.

Questions concerning the scope of the project should be directed to City Engineer or City Project Manager.

The City is subject to public information laws, which permits access to most records and documents. Proprietary information in your response must be clearly identified and will be protected to the extent legally permissible. Proposals may not be marked 'Proprietary' in their entirety. Information considered proprietary is limited to material treated as confidential in the normal conduct of business, trade secrets, and discount information. Summary price information may not be designated as proprietary as such information may be carried forward into other public documents. All provisions of any contract resulting from this request for proposal will be public information.

No officer, employee, or member of City Council, shall have a financial interest in the sale to the City of any real or personal property, equipment, material, supplies or services where such officer or employee exercises directly or indirectly any decision-making authority concerning such sale, or any supervisory authority over the services to be rendered. This rule also applies to subcontracts with the City. Soliciting or accepting any gift, gratuity favor, entertainment, kickback or any items of monetary value from any person who has or is seeking to do business with the City is prohibited.

Any proposal deemed to be collusive or a sham proposal will be rejected and reported to authorities as such. Your authorized signature on this proposal is presumed to assert that such proposal is genuine and is not a collusive or sham proposal.

The City reserves the right to reject any and all proposals and to waive any irregularities or informalities.

Mark Oberschmidt, P.E. City Engineer
1100 37th Street
Evans, CO 80620-2036

(970) 475-1110
moberschmidt@evanscolorado.gov

I. INTRODUCTION

This Request for Proposal entails preparation of Quiet Zone Feasibility Memo and Quiet Zone Establishment (if deemed feasible and if directed by City of Evans).

A. Project Description

The City is interested in determining if a quiet zone can be established through Evans at the four (4) existing UPRR crossings at the following cross streets.

- 31st Street Northern Crossing
- 37th Street
- 39th Street
- 42nd Street Southern Crossing

The consultant shall consider all information and relevant factors that may be appropriate in determining the necessary modifications to meet any and all requirements for creating a Quiet Zone. The selected consultant shall prepare a memo documenting the feasibility of the establishment of a Quiet Zone and a conceptual level cost estimate to establish a Quiet Zone.

II. REQUIRED QUALIFICATIONS

All firms submitting a proposal must be Professional Engineering firms, with at least one principal engineer a resident and registered Professional Engineer of the State of Colorado. The consulting firm shall agree not to refuse to hire, discharge, promote, demote or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, religion, creed, color, sex, national origin, ancestry, or physical or mental disability.

The selected firm shall have successfully completed at least two (2) similar quiet zone feasibility studies in Colorado and with UPRR.

III. CONTRACTING PROCESS

A. General Items

The City of Evans shall be the Owner. The Owner's Project Manager is the City Engineer for the City of Evans, or their designee.

The Owner reserves the right to reject or accept any or all proposals or waive any formalities, informalities, or information therein.

The Owner will award this contract based on review of, and the merits of, the proposals received. Evaluation of the proposals will consider the following items along with those found in Section IX – Selection Criteria.

- Detailed description of the project approach, specifically highlighting those portions of each section that will be critical to project success.
- Detailed description of the proposed schedule and how the schedule will be met.
- Project personnel experience.
- A comment on the ability to adhere to, or requested amendments to, the terms of the standard contract included in the appendix, as amended by proposed special provisions presented in the Consultant's proposal.
- Detailed description of deliverables.
- Project fee estimate in a separate envelope. Fee estimate shall include billing rates and estimated hours to complete the work broken down by tasks clearly outlined in the proposal.

B. RFP / Study Schedule Milestones

Refer to Exhibit C for RFP / Study Schedule date Milestones

Date and Time Deadlines

• Pre-Proposal Meeting	10/29/2020	1000 hours
• Question Deadline	11/05/2020	1700 hours
• Answer Deadline	11/06/2020	1700 hours
• Submittal Deadline	11/12/2020	1600 hours

IV. METHOD OF SUBMITTAL

Proposals shall be submitted in .pdf format by the advertised deadline and shall include the firm name in the file name. All copies shall be submitted to:

City of Evans, Engineering: moberschmidt@evanscolorado.gov

Email Header: City of Evans Quiet Zone Proposal

All proposals submitted shall become the property of City of Evans and will become public record. Proposal and fee estimate are to be submitted as separate documents and the file names should include the name of the proposing firm.

V. FORM OF PROPOSAL

The Consultant's proposal must include a scope of services which the Consultant believes is appropriate to achieve the purposes of the project. Please limit proposals to 25 pages or less, not including dividers, cover letter and resumes.

The proposal shall include the following items:

- A. Cover letter indicating interest in submitting a proposal.

- B. Detailed Project Approach: The Consultant must comment on the elements included in their proposed scope of services. The selection team will review the Consultant's project approach to ascertain the Consultant's understanding of the project and issues, to assure that a proper effort will be devoted to the project, and to entertain the Consultant's special perspectives on approach, techniques, and work efforts.
- C. A brief summary of the personnel who will most likely be working on the project; their past experience in similar projects, professional status, education, etc.
- D. Detailed description and list of deliverables to be provided.
- E. Fee: The Fee Proposal shall correspond to Section VIII of this request for proposal. The Consultant shall complete a fee proposal for each listed section of the project. Scope items recommended by the Consultant should be listed with applicable fees.
- F. Project Schedule: The Consultant shall provide a bar (Gantt) chart and narrative description in the proposal that will show the project schedule from selection of the Consultant, through project completion. Specifically, the Consultant will indicate their requirements in calendar days to complete the project.
- G. The narrative description shall specifically describe how the Consultant will meet the project deadlines. Although they are beyond their control, the Consultant shall also include and state assumptions concerning City review time in their proposal.
- H. The Consultant shall list five (5) project references for similar projects.
- I. Standard Contract: The Consultant shall review the standard contract and state a willingness to enter into this contract, subject to amendments necessary for the firm to comply with the proposal and listed as "Proposed Special Provisions to the City of Evans Standard Contract." Specific statements must be made concerning contract issues. General statements such as, "... in general agrees with all of contractual provisions...", "... have identified some minor items to resolve...", "...do not anticipate any difficulty in negotiating these issues...", are not considered acceptable responses. All contractual issues must be clearly identified in this portion of the proposal. Failure to do so may result in cancellation of contract award. The Consultant will be judged upon the thoroughness of review of the standard contract and the specificity of comments and changes. The scope of services of the standard contract will be modified to reflect the project specific scope of services arrived at by the City and the Consultant.

VI. SCOPE OF SERVICES

A. **PHASE I – QUIET ZONE FEASIBILITY STUDY**

Activity 1 – PRELIMINARY INVESTIGATIONS/RISK INDEX UPDATE AND REVIEW

- Analyze and update existing conditions at each crossing identified. Including but not limited to gathering necessary data to provide updated traffic, pedestrian and train counts to Federal Railway Administration (FRA).
- Upon approval of all traffic counts and updates to the FRA database, analyze existing risk index for the proposed quiet zone.
- Identify potential issues at each crossing and corresponding potential safety improvements.

B. **PHASE II – QUIET ZONE ESTABLISHMENT**

(To be pursued at the discretion of the City of Evans)

Activity 1 – COORDINATION WITH GOVERNING ENTITIES/DIAGNOSTIC MEETING

- Coordinate and participate the required field diagnostic meeting with the Federal Railroad Administration (FRA) and other stakeholders. Prepare and distribute meeting minutes.
- This will result in an evaluation of the feasibility of a quiet zone and required safety improvements at each crossing.

Activity 2 – QUIET ZONE CALCULATIONS AND ANALYSIS

- Determine the applicability of each safety measure and evaluate any possible alternatives. Analyze the crossings in terms of Quiet Zone improvements (measurements of risk, quiet zone safety measures, evaluation of grade crossing improvements, etc.). Provide a measurement of Quiet Zone Risk Index (QZRI) figures for each crossing, based on implementation of the various supplemental safety measures (SSM).
- Complete required safety analysis and make final recommendations regarding the necessary supplemental safety measures (SSM) or alternative safety measures (ASM) and estimated project budget for required improvements.
- Produce and submit a feasibility report.

Activity 3 – NOTICE OF INTENT

- Submit required Notice of Intent (NOI) to create a new 24-hour Quiet Zone in accordance with FRA guidelines.
- If alternate safety measures are proposed, submit the necessary approval requests to the FRA to obtain approval.
- Based on 60-day NOI comment period, review required improvements at each crossing that would qualify the corridor as a quiet zone.
- When the appropriate improvements have been identified, a separate proposal for any necessary engineering, design, survey, coordination or

permitting with the railroad will be sought by the City in accordance with its procurement requirements and procedures. *(Award of the contract for this proposal does not guarantee award of design and construction services for the appropriate improvements.)*

Activity 4 – NOTICE OF ESTABLISHMENT

- Upon installation of the required safety improvements required at each crossing, prepare and submit the Notice of Establishment (NOE) for the Quiet Zone to the required entities.

VII. MEETINGS AND DELIVERABLES

- A. The Consultant should plan for, at a minimum, a kickoff meeting and site visit with City staff during the course of Phase 1 of the project. The Consultant should plan for two progress meetings with City staff during the course of Phase 2 of the project (to be pursued at the discretion of the City of Evans)
- B. The selected consultant shall attend and present the findings of the Quiet Zone Feasibility memo at a City Council work session in 2021.
- C. Deliverables:
 - i. Feasibility Memo in electronic format at 60% level and 100%

VIII. FEE PROPOSAL

The fee shall be based upon man-hour estimates and upon average hourly rates for the employee classifications anticipated, including a not-to-exceed maximum total for each phase of the project. Sub-consultant reimbursements shall also be included, as well as direct costs.

A. Project Schedule Milestones

A tentative overall project schedule is provided in Exhibit C. The City reserves the right to amend a project schedule at any time. All meetings are to be held virtually at via Zoom or MS Teams unless otherwise noted.

IX. INSTRUCTIONS TO TEAMS

A. Submittal Requirements

Qualified teams interested in performing the work described in this request for qualifications should submit the information detailed below to the City in electronic format only. Responses must include a minimum of all of the items listed below, in the order listed, or it may be deemed incomplete and be subject to rejection.

B. Executive Summary

The Executive Summary should highlight the design team's qualifications, approach to the project, and any unique aspects, benefits or skill sets provided

by your team.

C. Team Information and Experience

The Team should provide the following minimum information:

- Primary contact information for the team including contact name(s) and title(s), mailing address(s), phone number(s), and email address(s).
- Qualifications of the team, and qualifications and experience of the specific staff proposed to provide consulting/construction services similar to those being requested. A résumé for key professional and technical persons assigned to the contract.
- Identify the primary contact person and roles of each team member.
- Describe the availability of project personnel to participate in this project in the context of the team's other commitments.
- Provide a list of quiet zone feasibility studies and or designs completed in the last five (5) years by the key members of the proposed team.
- References (current contact name, telephone number, and email address) from at least three (3) similar projects that have been completed within the past five (5) years that have involved the staff proposed to work on this project. As part of the reference check process, the City may choose to visit one or more of the referenced projects and/or request a copy of the plans and project documentation. Provide detail about each referenced project including a description, original cost, final cost, change order details, original completion date, final completion date.

D. Scope of Services

Provide details as to the team's approach to successfully completing similar projects from concept through to completion.

E. Fees

The City of Evans shall be the Owner of this project. The Owner's Project Manager is the City Engineer, or their designee.

The Owner reserves the right to reject or accept any or all proposals or waive any formalities, informalities, or information therein.

Reasonable expenses will be reimbursable as mutually agreed-upon at a cost plus a reasonable administrative mark-up. Please indicate the percent mark-up for expenses. Teams should provide billing rates that will be used for the project.

F. Additional information

Teams may provide any additional information they feel will assist the City in our evaluation of the submitted statement of qualifications.

G. Contact

Questions related to the scope of work shall be emailed to:

Mark Oberschmidt, P.E.
City Engineer
1100 37th Street
Evans, CO 80620-2036
(970) 475-1110
moberschmidt@evanscolorado.gov

Deadline for Questions / Answers will be by 5:00 PM as noted on the schedule provided in Exhibit C

X. SELECTION CRITERIA AND METHOD

A. Review and Assessment Criteria

Professional Teams will be evaluated on the following criteria. These criteria will be the basis for review of the written proposals and interview session (if the City should determine an interview process is required).

The rating scale shall be from one (1) to five (5), with one (1) being a poor rating, three (3) being an average rating, and five (5) being an outstanding rating.

A shortlist of teams may be identified and invited for an interview at the City. The final selection will be made from this shortlisted group. The City reserves the right to award directly as a result of the written statement of qualifications.

WEIGHTING FACTOR	QUALIFICATION	STANDARD
2.0	Scope of Services	Does the proposed scope show an understanding of the project objective, methodology to be used and results that are desired from the project?
2.0	Assigned Personnel	Do the persons who will be working on the project have the necessary skills? Are sufficient people of the requisite skills assigned to the project? Is your experience pertinent?
1.0	Availability	Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the project schedule if required? Is the project team available to attend meetings as needed to complete the scope of work?
1.0	Motivation	Is the team interested and are they capable of doing the work in the required time frame?
2.0	Team Capability	Does the team have the support capabilities that the assigned personnel require? Has the team completed previous projects of this type and scope?

B. Reference Evaluation

The Project Manager will check references using the following criteria. The evaluation rankings will be labeled Satisfactory/Unsatisfactory.

QUALIFICATION	STANDARD
Overall Performance	Would you hire this Professional again? Did they show the skills required by this project?
Timetable	Was the original Scope of Work completed within the specified time? Were interim deadlines met in a timely manner?
Completeness	Was the Professional responsive to client needs? Did the Professional anticipate problems? Were problems solved quickly and effectively?
Budget	Was the original Scope of Work completed within the project budget?
Job Knowledge	If a study, did it meet the Scope of Work? If Professional administered a construction contract, was the project functional upon completion and did it operate properly? Were problems corrected quickly and effectively?

EXHIBIT A – Request for Proposals Receipt Acknowledgement

Contractor hereby acknowledges receipt of the City of Evans Request for Proposals (RFP) and acknowledges that they have read and agree to be fully bound by all of the terms, conditions, and other provisions set forth in the RFP. Additionally, the Contractor hereby makes the following representations to the City of Evans:

- a. All of the statements and representations made in this proposal are true to the best of my knowledge and belief.
- b. I further agree that the method of award is acceptable to my company.
- c. I also agree to complete the proposed Agreements with the City of Evans within thirty (30) days of notice of award.
- d. If contract is not completed and signed within thirty (30) days, City reserves the right to cancel and award to the next highest rated firm.
- e. I acknowledge receipt of _____ addenda.

Firm Name: _____

Physical Address: _____

Remit to Address: _____

Phone: _____

Authorized Agent of Firm Name: _____

Signature of Authorized Agent: _____

Primary Contact for Project: _____

Title: _____

Email Address: _____

Phone: _____

Cell Phone: _____

EXHIBIT B – Project Description

City of Evans UPRR Quiet Zone Feasibility Project Description

The City is interested in determining if a quiet zone can be established through Evans City Limits at the four (4) existing Union Pacific Rail Road (UPRR) crossings at the following cross streets.

- 31st Street Northern Crossing
- 37th Street
- 39th Street
- 42nd Street Southern Crossing

The UPRR extends from the City Limits at the South Platte River north to the Highway 34/85 Interchange for a distance of approximately 1.89 miles.

The consultant shall consider all information and relevant factors that may be appropriate in determining the necessary modifications to meet any and all requirements for creating a Quiet Zone in accordance with Federal Rail Administration (FRA) & UPRR requirements.

The Table below summarizes the locations of the crossing with respect to each other and to the nearest cross streets as measured off of Google Earth.

UPRR Quiet Zone Crossings in Evans Colorado										
Street Crossing North to South	UPRR MP	East Cross Street (CS)	West Cross Street (CS)	Dist to ECS ft (1),(3)	Dist to WCS ft (1),(3)	Dist to Hwy 85 ft (1)	Distance between Crossings miles (2)	Lat DD (4)	Long DD (4)	DOT #
31st	48.99	Empire	State / CO 85	64	795	814	0.56	40.3846	104.6874	804-363R
37th	48.43	Central	State / CO 85	30	136	475	0.23	40.3774	104.6916	804-362J
39th	48.20	Denver	State / CO 85	132	172	361	0.40	40.3744	104.6933	804-361C
42nd	47.80	Idaho	CO 85	433	125	125		40.3701	104.6956	804-359B
Total Length of Quiet Zone (5)							1.19			
1	distance measured from CL tracks to CL road (or east flowline if Hwy 85)									
2	measured from north to south									
3	change to red font and red shading if less than 100 feet									
4	Latitude and Longitude obtained from Google Earth									
5	measured from 42nd Street to 31st Street									

Each of the crossings is described on the following pages and photos are attached. The crossings are listed from north to south and the UPRR ROW through Evans is 200 feet wide. The tracks are not centered in the ROW. For the aerial images, north is always up.

31st Street

The 31st Street crossing is at UPRR MP 48.99 is located between State Street/CO Hwy 85 on the west and Empire Street on the east. The track is a single track and has existing gate arms and lights and bells. There is sidewalk on both sides of 31st Street immediately adjacent to the track on the east and west sides.



Figure 1: 31st Street Crossing



Figure 2: 31st Street Crossing Cabinet



Figure 4: 31st Street Crossing looking east



Figure 3: 31st Street Crossing looking north



Figure 5: 31st Street Crossing looking south



Figure 7: 31st Street Crossing EB



Figure 6: 31st Street Crossing looking west



Figure 8: 31st Street Crossing WB

37th Street

The 37th Street crossing is at UPRR MP 48.43 is located between State Street/CO Hwy 85 on the west and Central Street on the east. The track is a single track and has existing gate arms and lights and bells. There is sidewalk on both sides of 37th Street immediately adjacent to the track on the on the east and west sides.



Figure 9: 37th Street UPRR Crossing



Figure 10: 37th Street Crossing Cabinet



Figure 11: 37th Street Crossing looking west



Figure 12: 37th Street Crossing looking east



Figure 15: 37th Street Crossing WB



Figure 13: 37th Street Crossing looking north



Figure 16: 37th Street Crossing looking south



Figure 14: 37th Street Crossing EB

39th Street

The 39th Street crossing is at UPRR MP 48.20 is located between State Street / CO Hwy 85 on the west and Denver Street on the east. The track is a single track and has existing gate arms and lights and bells. There is an abandoned or rarely used rail siding on the west side of the single rail north of 39th Street. There is no sidewalk immediately adjacent to the track on the east and west sides .



Figure 17: 39th Street UPRR Crossing



Figure 18: 39th Street Crossing Cabinet



Figure 19: 39th Street Crossing looking east



Figure 20: 39th Street Crossing looking south



Figure 22: 39th Street Crossing EB



Figure 21: 39th Street Crossing looking west



Figure 23: 39th Street Crossing WB



Figure 24: 39th Street Crossing looking north

42nd Street

The 42nd Street crossing is at UPRR MP 47.80 is located between CO Hwy 85 on the west and Idaho Street on the east. The track is a single track and has existing gate arms and lights and bells. There is sidewalk on both sides of 42nd Street immediately adjacent to the track on the east and west sides.



Figure 25: 42nd Street UPRR Crossing



Figure 26: 42nd Street Crossing Cabinet



Figure 27: 42nd Street Crossing looking north



Figure 28: 42nd Street Crossing looking east



Figure 29: 42nd Street Crossing looking south



Figure 30: 42nd Street Crossing looking west



Figure 31: 42nd Street Crossing EB



Figure 32: 42nd Street Crossing WB

EXHIBIT C – Project Schedule

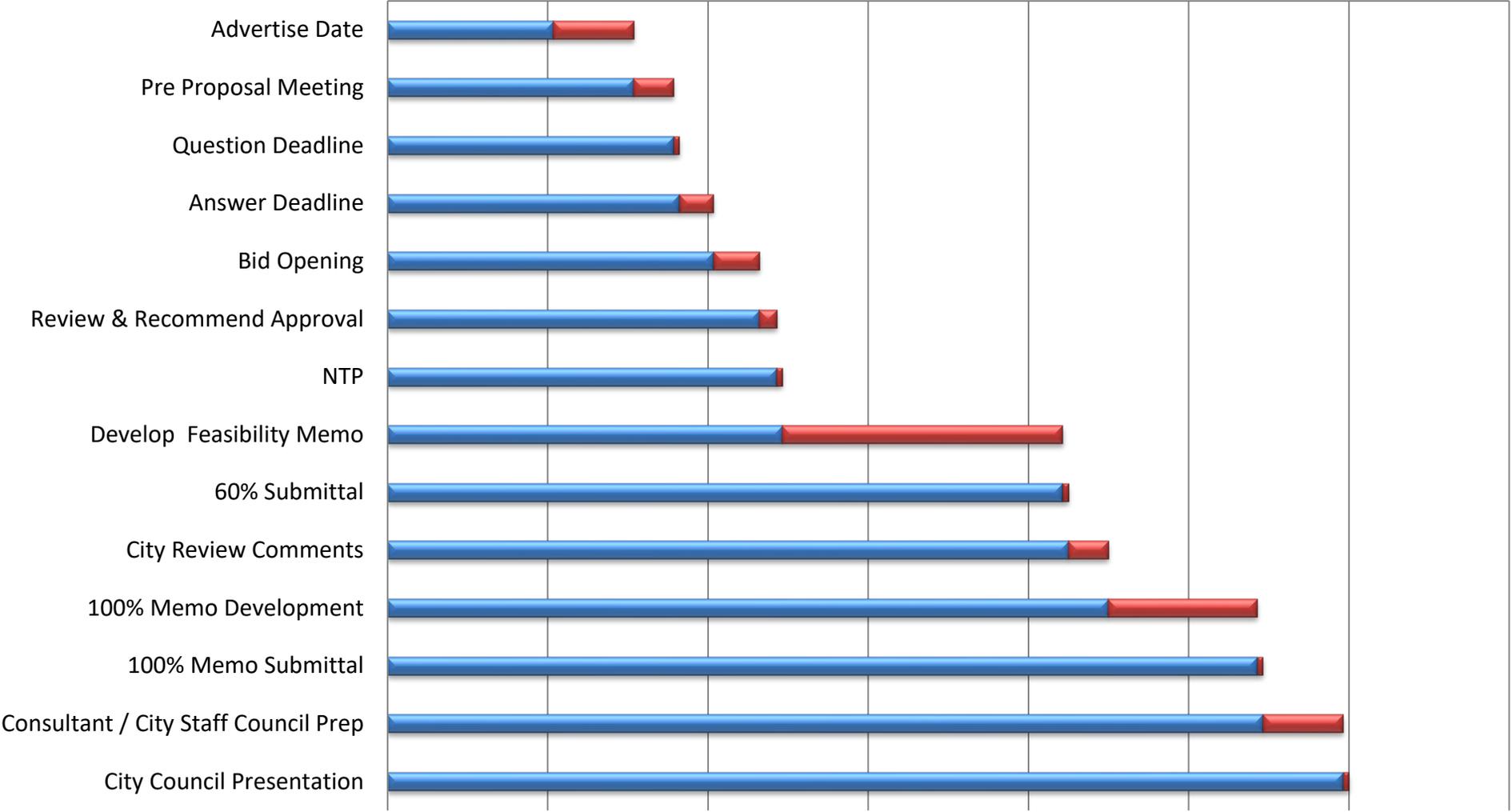
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UPRR Quiet Zone**RFP/ Study Schedule**

Task	Effective Date	Duration (days)
Advertise Date	Thursday, October 15, 2020	14
Pre Proposal Meeting	Thursday, October 29, 2020	7
Question Deadline	Thursday, November 5, 2020	1
Answer Deadline	Friday, November 6, 2020	6
Bid Opening	Thursday, November 12, 2020	8
Review & Recommend Approval	Friday, November 20, 2020	3
NTP	Monday, November 23, 2020	1
Develop Feasibility Memo	Tuesday, November 24, 2020	49
60% Submittal	Tuesday, January 12, 2021	1
City Review Comments	Wednesday, January 13, 2021	7
100% Memo Development	Wednesday, January 20, 2021	26
100% Memo Submittal	Monday, February 15, 2021	1
Consultant / City Staff Council Prep	Tuesday, February 16, 2021	14
City Council Presentation	Tuesday, March 2, 2021	1

City of Evans RR Quiet Zone Study

9/16/20 10/14/20 11/11/20 12/9/20 1/6/21 2/3/21 3/3/21 3/31/21



■ Start Date ■ Duration

EXHIBIT D – Agreement for Professional Services

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City of Evans, Colorado
AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT
CONTRACTOR

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the City of Evans, State of Colorado (hereinafter referred to as the "City"), and _____ (hereinafter referred to as "Consultant").

RECITALS:

A. The City requires professional services for the design/preparation of a **Union Pacific Railroad (UPRR) Quiet Zone Feasibility Study** (hereinafter referred to as "Project").

B. Consultant has held itself out to the City as having the requisite expertise and experience to perform the required services for the Project.

NOW, THEREFORE, it is hereby agreed, for the consideration hereinafter set forth, that Consultant shall provide to the City professional consulting services for the Project.

I. SCOPE OF SERVICES

Consultant shall furnish all labor and materials to perform the services required for the complete and prompt execution and performance of all duties, obligations and responsibilities for the Project, which are described or reasonably implied from **Exhibit A**, which is attached hereto and incorporated herein by this reference.

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

The City shall provide Consultant with reports and such other data as may be available to the City and reasonably required by Consultant to perform hereunder. No project information shall be disclosed by Consultant to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure. All documents provided by the City to Consultant shall be returned to the City. Consultant is authorized by the City to retain copies of such data and materials at Consultant's expense.

III. OWNERSHIP OF INSTRUMENTS OF SERVICE

The City acknowledges that the Consultant's documents are an instrument of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the City upon completion of the services. Any reuse of the Consultant's documents is at the City's own risk without liability to the consultant.

IV. COMPENSATION

A. In consideration for the completion of the services specified herein by Consultant, the City shall pay Consultant on a time and materials basis in an amount not to exceed _____ Dollars (\$____.00). Payment shall be made in accordance with the schedule of charges in **Exhibit B**, which is attached hereto and incorporated herein by this reference. Invoices will be itemized and

include hourly breakdown for all personnel and other charges. The maximum fee specified herein shall include all fees and expenses incurred by Consultant in performing all services hereunder.

B. Consultant may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the services performed by Consultant under this Agreement, except as otherwise supplemented or accompanied by such supporting data as may be required by the City.

1. All invoices, including Consultant's verified payment request, shall be submitted by Consultant to the City no later than the twenty-fourth (24th) day of each month for payment, pursuant to the terms of this Agreement. In the event Consultant fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Consultant defers its right to payment, pursuant to said late invoice, until the following month.
2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice, as provided by this Agreement. No payment shall be due on the portion of any invoice for which the City has requested clarification unless and until 30 days after clarification satisfactory to the City has been provided by Consultant.

C. The City has the right to ask for clarification on any Consultant invoice after receipt of the invoice by the City.

D. In the event payment for services rendered has not been made within forty-five (45) days from the timely receipt of the invoice for any uncontested billing, interest will accrue at the rate of twelve percent (12%) per annum compounded annually. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Consultant may, after giving seven (7) days' written notice and without penalty or liability of any nature, suspend all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days' written notice, Consultant may terminate this Agreement. Upon receipt of payment in full for services rendered, Consultant will continue with all authorized services.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Consultant's written notification that services required herein by Consultant have been fully completed in accordance with this Agreement and all data and reports for the Project.

V. COMMENCEMENT AND COMPLETION OF SERVICES

Within seven (7) days of receipt from the City of a Notice to Proceed, Consultant shall commence services on all its obligations as set forth in the Scope of Services or that portion of such obligations as is specified in said Notice. Except as may be changed in writing by the City, the Project shall be complete and Consultant shall furnish the City the specified deliverables, as provided in **Exhibit A**.

VI. CHANGES IN SCOPE OF SERVICES

A change in the Scope of Services shall constitute any material change or amendment of services which is different from or additional to the Scope of Services specified in Section I of this Agreement. No such change, including any additional compensation, shall be effective or paid, unless authorized by written amendment executed by the City. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit or implied contract. Except as expressly provided herein, no agent, employee or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Agreement.

VII. PROFESSIONAL RESPONSIBILITY

A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, as required by law.

B. The services performed by Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of services in the applicable community.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or resolve any errors or deficiencies in his designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the City for all costs caused by errors and omissions which fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports and incidental services or materials furnished hereunder shall not in any way relieve Consultant of responsibility for technical adequacy of the services. Neither the City's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Consultant shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VIII. COMPLIANCE WITH LAW

The services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

IX. INDEMNIFICATION

A. INDEMNIFICATION – GENERAL: The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Consultant or any other

person or entity whatsoever, for any purpose whatsoever. The Consultant shall defend, indemnify and hold harmless the City, its mayor and City council, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including worker's compensation claims, to the extent resulting from the fault of, or negligent services rendered by the Consultant, its employees, agents or subconsultants, or others for whom the Consultant is legally liable, under this Agreement; provided, however, that the Consultant need not indemnify or save harmless the City, its mayor and City council, its officers, agents and employees from damages resulting from the sole negligence of the City's mayor and City council, officials, officers, directors, agents and employees.

B. **INDEMNIFICATION – COSTS:** Consultant agrees, to the extent provided in Paragraph A., above, to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims or demands at the sole expense of Consultant or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Consultant also agrees, to the extent provided in Paragraph A. above, to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent.

X. INSURANCE

A. Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law. Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to Section IX, Indemnification, above, by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.

B. Consultant shall procure and maintain and shall cause any subconsultant of Consultant to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Worker's compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of services under this Agreement, and Employer's Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) each claim, Five Hundred Thousand Dollars (\$500,000) disease - policy limit, and Five Hundred Thousand Dollars (\$500,000) disease - each employee.
2. Commercial general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and

employee acts), blanket contractual, products and completed operations. The policy shall contain a severability of interests provision.

3. Professional liability insurance with minimum limits of One Million Dollars (\$1,000,000) each claim and Two Million Dollars (\$2,000,000) annual aggregate, and Consultant shall maintain such coverage for at least three (3) years from the termination of this Agreement.
4. The policy required by Paragraph 2, above shall be endorsed to include the City and the City's officers, employees and consultants as additional insureds. Every policy required above shall be primary insurance, with the exception of Professional Liability and Worker's Compensation, and any insurance carried by the City, its officers, its employees or its consultants shall be excess and not contributory insurance to that provided by Consultant. No additional insured endorsement to the policy required by Paragraph 2, above shall contain any exclusion for bodily injury or property damage arising from completed operations. Consultant shall be solely responsible for any deductible losses under any policy required above.
5. The certificate of insurance provided for the City shall be completed by Consultant's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled or terminated until at least thirty (30) days' prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

City of Evans
1100 37th Street
Evans, Colorado 80620-2036
Attn: Safety and Risk Management

6. Failure on the part of Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Consultant to the City upon demand, or the City may offset the cost of the premiums against any monies due to Consultant from the City.
7. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
8. The parties hereto understand and agree that the City, its officers and its employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently Three Hundred Fifty Thousand Dollars (\$350,000) per person and Nine Hundred Ninety Thousand Dollars (\$990,000) per occurrence)

or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-101, et seq., as from time to time amended, or otherwise available to the City, its officers or its employees.

XI. NONASSIGNABILITY

Neither this Agreement nor any of the rights or obligations of the parties hereto shall be assigned by either party without the written consent of the other.

XII. TERMINATION

This Agreement shall terminate at such time as the services in Section I are completed and the requirements of this Agreement are satisfied, or upon the City's providing Consultant with seven (7) days' advance written notice, whichever occurs first. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Consultant for all services previously authorized and completed prior to the date of termination. If, however, the Consultant has substantially or materially breached the standards and terms of this Agreement, the City shall have any remedy or right of set-off available at law and equity. If, however, the City has substantially or materially breached the standards and terms of this Agreement, the Contractor shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Consultant.

XIII. CONFLICT OF INTEREST

The Consultant shall disclose any personal or private interest related to property or business within the City. Upon disclosure of any such personal or private interest, the City shall determine if the interest constitutes a conflict of interest. If the City determines that a conflict of interest exists, the City may treat such conflict of interest as a default and terminate this Agreement.

XIV. VENUE

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Weld, State of Colorado.

XV. INDEPENDENT CONTRACTOR

A. Consultant is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Consultant to perform services under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it is the employee of the City for any purposes.

B. Disclosure: Consultant is not entitled to workers' compensation benefits, unemployment insurance benefits unless unemployment compensation coverage is provided by the Consultant or some other entity, and Consultant is obligated to pay federal and state income tax on any moneys earned pursuant to this Agreement for Professional Services by Independent Contractor.

XVI. NO WAIVER

Delays by the City in enforcement of this Agreement or the waiver by the City of any one or more defaults or breaches of this Agreement by the Consultant shall not constitute a waiver of any of the other terms or obligations of this Agreement.

XVII. ENTIRE AGREEMENT

This Agreement and the attached Exhibits A-B are the entire Agreement between Consultant and the City, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified or changed, except as specified herein.

XVIII. NOTICE

Any notice or communication between Consultant and the City which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States mail, addressed as follows:

The City: City of Evans
 Attn: City Manager
 1100 37th Street
 Evans, Colorado 80620-2036

Consultant: _____

XIX. EFFECTIVE DATE AND EXECUTION

This Agreement shall become effective following execution by both Consultant and City. This Agreement may be executed in counterparts, including by facsimile or electronically, each of which shall be considered an original, but all of which together shall constitute one instrument.

XX. SPECIAL PROVISIONS

The "Special Provisions" attached hereto as **Exhibit C** and incorporated by this reference are made a part of this Agreement. For purposes of the Special Provisions, the Consultant shall be referred to as the "Contractor."

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in triplicate, as of the date first written above.

CITY OF EVANS, COLORADO

By: _____
James L. Becklenberg, City Manager

ATTEST:

Karen Frawley, City Clerk

APPROVED AS TO FORM:

Scott Krob, City Attorney

APPROVED AS TO CONTENT:

James L. Becklenberg, City Manager

CONSULTANT

By: _____
Title: _____

ATTEST:

By: _____
Title: _____

Exhibit A
Scope of Services

Exhibit B
Schedule of Charges

Exhibit C

Special Provisions Required by §§ 8-17.5-101 et seq., C.R.S.

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien and that Contractor has participated or attempted to participate in the basic pilot program administered by the U.S. Department of Homeland Security in order to verify that it does not employ any illegal aliens. §

B. Prohibited Acts. Contractor shall not:

1. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or

2. Enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. Contractor has verified or attempted to verify through participation in the basic pilot program administered by the U.S. Department of Homeland Security that Contractor does not employ any illegal aliens and, if Contractor is not accepted into the basic pilot program prior to entering into this Agreement, that Contractor shall apply to participate in the basic pilot program every three (3) months until Contractor is accepted or this Agreement has been completed, whichever is earlier.

2. Contractor shall not use basic pilot program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall:

i. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph i. hereof, the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

EXHIBIT E – Quiet Zone Requirements

Section I. Pre-Rule Quiet Zones: Qualifying for Automatic Approval (Chart 1A)

1. Identify all the crossings you wish to include as part of the proposed Quiet Zone (QZ).
2. Check whether each crossing qualifies as a pre-rule crossing (horns not sounding on October 9, 1996 and December 18, 2003 because of state/local law or community agreement with the railroads). If all crossings do not qualify as pre-rule crossings, then the proposed quiet zone does not qualify as a Pre-Rule QZ, and you should refer to *Section III, New Quiet Zones*.
3. Determine whether you wish to eliminate any crossings from the proposed QZ. The length of a Pre-Rule QZ may continue unchanged from that which existed on October 9, 1996. If, however, you choose to eliminate a crossing, the QZ must be at least ½ mile in length along the railroad tracks.
4. A QZ may include highway-rail grade crossings on a segment of rail line crossing more than one political jurisdiction, or there may be roads within a particular area that are the responsibility of different entities (State or county roads within a town, for example). If the selected crossings are the responsibility of more than one entity, obtain the cooperation of all relevant jurisdictions.
5. Update the USDOT Grade Crossing Inventory Form to reflect conditions at each public and private crossing; this update should be complete, accurate, and be dated within 6 months prior to the QZ implementation. For instructions on how to complete the update, see the FRA website at <http://www.fra.dot.gov/eLib/details/L02730>.
6. If each public crossing in the proposed QZ is equipped with one or more Supplementary Safety Measures (SSMs) as defined in Appendix A of the Rule, the QZ qualifies for Automatic Approval. To complete the process of creating the QZ, notify the parties listed in rule section 222.43 by December 18, 2004.

Note: Once the QZ has been created, install the required signage by December 18, 2006. (Refer to rule sections 222.25 and 222.35 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 4.5-5 years. (Refer to rule section 222.47 for details.)

7. If every public crossing is not equipped with at least one SSM, then the QZ can automatically qualify by comparing its Quiet Zone Risk Index (QZRI) with the Nationwide Significant Risk Threshold (NSRT). However, these QZs are subject to annual review by the FRA.

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8. Using the FRA's Quiet Zone Calculator, a web-based tool that can be found at <http://safetydata.fra.dot.gov/quiet/>, determine whether the QZRI of the proposed QZ is less than or equal to the NSRT. If the QZRI is less than or equal to the NSRT, the QZ qualifies for Automatic Approval. Notify the parties listed in rule section 222.43 by December 18, 2004.

Note: Once the quiet zone has been created, install the required signage by December 18, 2006. (Refer to rule sections 222.25 and 222.35 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 2.5-3 years. (Refer to rule section 222.47 for details.)

9. If the QZRI is greater than the NSRT, use the FRA's Quiet Zone Calculator to check whether it is less than twice the NSRT. If the QZRI is more than twice the NSRT, the QZ cannot qualify for Automatic Approval. For information on how to proceed, see *Section II, Pre-Rule Quiet Zones Not Qualified for Automatic Approval*.
10. If the QZRI is greater than the NSRT, but less than twice the NSRT, determine whether any of the public crossings have experienced a "relevant collision" on or after December 18, 1998. (See rule section 222.9 for the definition of a "relevant collision.") If there have not been any "relevant collisions" at any public crossing since December 18, 1998, the QZ qualifies for Automatic Approval. Notify the parties listed in rule section 222.43.

Note: Once the quiet zone has been created, install the required signage by December 18, 2006. (Refer to rule sections 222.25 and 222.35 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 2.5-3 years. (Refer to rule section 222.47 for details.)

11. If the QZRI is greater than the NSRT, but less than twice the NSRT, and there has been a "relevant collision" at a public crossing within the proposed QZ, the QZ cannot qualify for Automatic Approval. For information on how to proceed, see *Section II, Pre-Rule Quiet Zones Not Qualified for Automatic Approval*.

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Section II. Pre-Rule Quiet Zones Not Qualified for Automatic Approval (Chart 1B)

1. Review *Section I, Pre-Rule Quiet Zones: Qualifying for Automatic Approval*, to confirm that the proposed Pre-Rule Quiet Zone does not qualify for Automatic Approval.
2. If each crossing qualifies as a pre-rule crossing (horns not sounding on October 9, 1996 and December 18, 2003 because of state/local law or community agreement with the railroads), send notice of continuation of the quiet zone to all parties by December 18, 2004. (Refer to rule section 222.43 for details.)

Note: If you eliminated any pre-rule crossings to create the proposed Quiet Zone, the Quiet Zone must be at least ½ mile in length along the railroad tracks.

3. Submit to FRA a detailed plan for establishing a quiet zone before December 18, 2006. This plan should include a timetable for the implementation of safety improvements. If you intend to implement ASMs, the plan should include a completed application for FRA approval of their use. If a detailed plan is not been submitted by December 18, 2006, the quiet zone will terminate. (Refer to rule section 222.41 for details.)

Note: Since the proposed quiet zone does not qualify for Automatic Approval, any SSMs and ASMs used must be implemented in accordance with rule section 222.39.¹

Note: For guidance on ASM use, see *Section IV, Creating Quiet Zones using Engineering Alternative Safety Measures (modified SSMs)* and *Section V, Creating Quiet Zones using Non-engineering Alternative Safety Measures*.

Note: Required signage must also be installed by December 18, 2006. (Refer to rule sections 222.25 and 222.35 for details.)

4. Install SSMs and/or traffic control device upgrades as necessary to reduce risk within the proposed quiet zone.
5. If every public crossing in the proposed Quiet Zone is equipped with one or more SSMs as defined in Appendix A of the Rule, you can establish the proposed Quiet Zone through public authority designation by completing the following steps:

¹ Although the requirements for implementation of SSMs and ASMs must be in accord with rule section 222.39, the Pre-Rule Quiet Zone requirements covering minimum length and traffic control devices remain in effect for these crossings.

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- a. Complete the planned improvements by December 18, 2008,²
- b. Update the USDOT Grade Crossing Inventory Form.
- c. Notify the parties listed in the rule. (Refer to rule section 222.43 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 4.5-5 years. (Refer to rule section 222.47 for details.)

6. Using the FRA's Quiet Zone Calculator, a web-based tool that can be found at <http://safetydata.fra.dot.gov/quiet/>, determine whether the implementation of SSMs, ASMs, and/or traffic control devices will reduce the QZRI of the proposed Pre-Rule Quiet Zone to the level of risk that would exist if the train horns were still sounded (RIWH). If the QZRI will be less than or equal to the RIWH, you can establish the Quiet Zone through public authority designation by completing the following steps:

- a. Complete the planned improvements by December 18, 2008,²
- b. Update the USDOT Grade Crossing Inventory Form.
- c. Notify the parties listed in the rule. (Refer to rule section 222.43 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 2.5-3 years. (Refer to rule section 222.47 for details.)

7. Using the FRA's Quiet Zone Calculator, a web-based tool that can be found at <http://safetydata.fra.dot.gov/quiet/>, determine whether the implementation of SSMs, ASMs, and/or traffic control devices will reduce the QZRI of the proposed Pre-Rule Quiet Zone to the Nationwide Significant Risk Threshold (NSRT). If the QZRI will be less than or equal to the current NSRT, you can establish the Quiet Zone through public authority designation by completing the following steps:

- a. Complete the planned improvements by December 18, 2008.²
- b. Update the USDOT Grade Crossing Inventory Form.

² If the State is involved in the development of Quiet Zones, then the date for completion is extended an additional 3 years.

- c. Notify the parties listed in the rule. (Refer to rule section 222.43 for details.)

Note: Quiet Zones established by comparison to the NSRT are subject to annual FRA review. (Refer to rule section 222.51 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 2.5-3 years. (Refer to rule section 222.47 for details.)

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Section III. Creating a New Quiet Zone Using SSMS (Chart 2)

1. Select the crossings to be included in the New Quiet Zone.
2. A Quiet Zone may include highway-rail grade crossings on a segment of rail line crossing more than one political jurisdiction, or there may be roads within a particular area that are the responsibility of different entities (State or county roads within a town, for example). If the selected crossings are the responsibility of more than one entity, obtain the cooperation of all relevant jurisdictions.
3. A New Quiet Zone must be at least ½ mile in length along the railroad tracks.
4. A New Quiet Zone must have, at a minimum, flashing lights and gates in place at each public crossing. These must be equipped with constant warning time devices where reasonably practical, and power out indicators. Any necessary upgrades must be completed before calculating risk for the quiet zone.
5. Are there any private crossings within the proposed Quiet Zone? If any private crossings allow access to the public or provide access to active industrial or commercial sites, you must conduct a diagnostic team review of those crossings. Following the diagnostic review, you must comply with the diagnostic team's recommendations concerning those crossings.
6. Update the USDOT Grade Crossing Inventory Form to reflect conditions at each public and private crossing; this update should be complete, accurate, and dated within 6 months prior to the Quiet Zone implementation³. For instructions on how to complete the update, see the FRA website at <http://www.fra.dot.gov/Content3.asp?P=801>.
7. Using the FRA's Quiet Zone Calculator, a web-based tool that can be found at <http://safetydata.fra.dot.gov/quiet/>, determine whether the Quiet Zone Risk Index (QZRI) of the proposed Quiet Zone is less than or equal to the Nationwide Significant Risk Threshold (NSRT). If the QZRI is less than or equal to the NSRT, you can establish the Quiet Zone through public authority designation by completing the following steps:
 - a. Install required signage at each crossing. (Refer to rule sections 222.25 and 222.35 for details.)
 - b. Notify the parties listed in the rule. (Refer to rule section 222.43 for details.)

³ For New Quiet Zones, the baseline conditions for calculating risk require that the minimum required traffic control devices are in place. This first Inventory update, therefore, must be completed after the gates, lights, and signs are in place, but before the SSMS and other measures are implemented. **Disclaimer: This summary of the interim final rule is for informational purposes only. Entities subject to the interim final rule should refer to the rule text as published in the Federal Register on December 18, 2003. Should any portion of this summary conflict with the interim final rule, the language of the interim final rule shall govern.**

Note: Quiet Zones established by comparison to the NSRT are subject to annual FRA review. (Refer to rule section 222.51 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 2.5-3 years. (Refer to rule section 222.47 for details.)

8. The step described above involves qualifying a quiet zone without implementing any Supplementary Safety Measures (SSMs) or Alternative Safety Measures (ASMs). If FRA's Quiet Zone Calculator indicates that the proposed quiet zone will not qualify on that basis, install any measures that are needed. To qualify for Public Authority Designation, you must implement SSMs, build grade separations, close crossings, or install wayside horns.

Note: If you would like to implement any ASMs, their use must be approved in advance by FRA, in accordance with Appendix B of the rule. For guidance on ASM use, see *Section IV, Creating Quiet Zones using Engineering Alternative Safety Measures (modified SSMs)* or *Section V, Creating Quiet Zones using Non-engineering Alternative Safety Measures*.

9. If every public crossing in the proposed Quiet Zone is equipped with one or more SSMs, you can establish the Quiet Zone through public authority designation by completing the following steps:
 - a. Install required signage at each crossing. (Refer to rule sections 222.25 and 222.35 for details.)
 - b. Update the National Grade Crossing Inventory to reflect current conditions at each public and private crossing within the Quiet Zone.
 - c. Notify the parties listed in the rule. (Refer to rule section 222.43 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 4.5-5 years. (Refer to rule section 222.47 for details.)

10. If every public crossing is not equipped with an SSM, use FRA's Quiet Zone Calculator to determine whether enough SSMs have been implemented to reduce the QZRI to the level of risk that would exist if the train horns were still sounded (RIWH). The Quiet Zone Calculator can be found at <http://safetydata.fra.dot.gov/quiet/>. If the QZRI is less than or equal to the RIWH, you can establish the Quiet Zone through public authority designation by completing the following steps:

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- a. Install required signage at each crossing. (Refer to rule sections 222.25 and 222.35 for details.)
- b. Update the National Grade Crossing Inventory to reflect current conditions at each public and private crossing within the Quiet Zone.
- c. Notify the parties listed in the rule. (Refer to rule section 222.43 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 2.5-3 years. (Refer to rule section 222.47 for details.)

11. Use FRA's Quiet Zone Calculator to determine whether enough SSMs have been implemented to reduce the QZRI to the Nationwide Significant Risk Threshold (NSRT). The Quiet Zone Calculator can be found at <http://safetydata.fra.dot.gov/quiet/>. If the QZRI is less than or equal to the current NSRT, you can establish the Quiet Zone through public authority designation by completing the following steps:

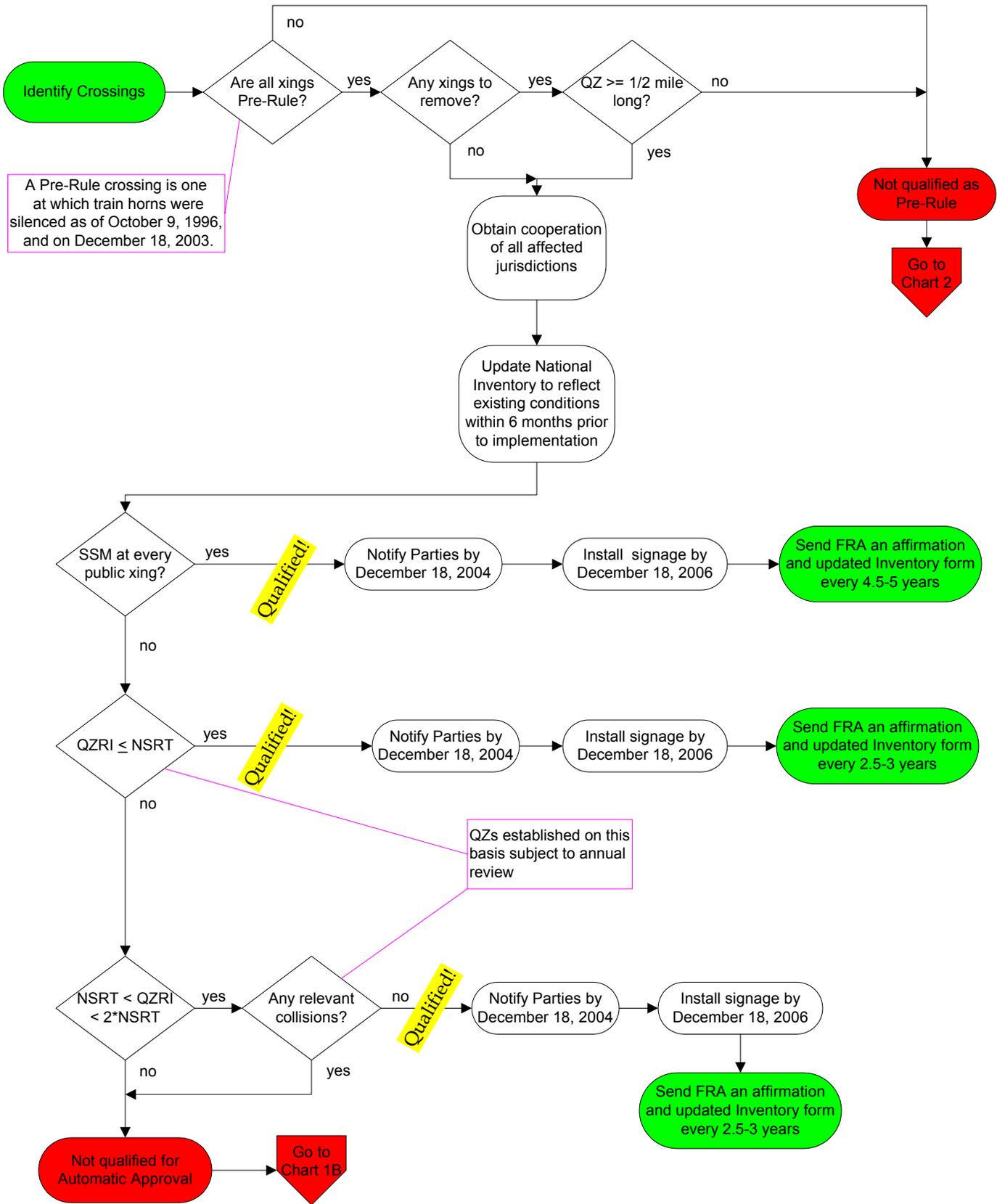
- a. Install required signage at each crossing. (Refer to rule sections 222.25 and 222.35 for details.)
- b. Update the National Grade Crossing Inventory to reflect current conditions at each public and private crossing within the Quiet Zone.
- c. Notify the parties listed in the rule. (Refer to rule section 222.43 for details.)

Note: Quiet Zones established by comparison to the NSRT are subject to annual FRA review. (Refer to rule section 222.51 for details.)

Note: Periodic updates, including updated USDOT Grade Crossing Inventory Forms, must be submitted to FRA every 2.5-3 years. (Refer to rule section 222.47 for details.)

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Chart 1A - Pre-Rule Quiet Zones: Qualifying for Automatic Approval



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Chart 1B - Pre-Rule Quiet Zones: Not Qualified for Automatic Approval

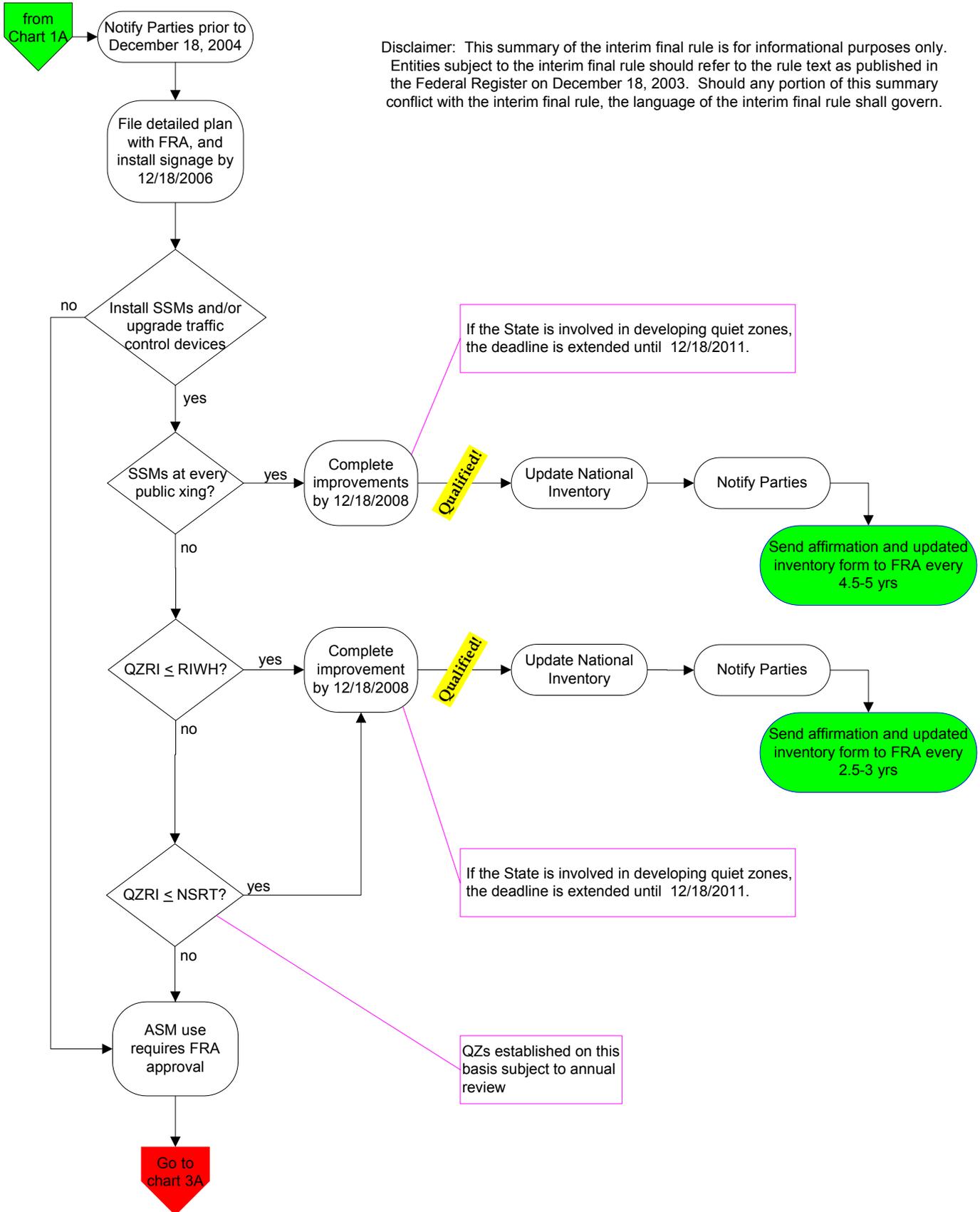


Chart 2 - Creating a New Quiet Zone using SSMs

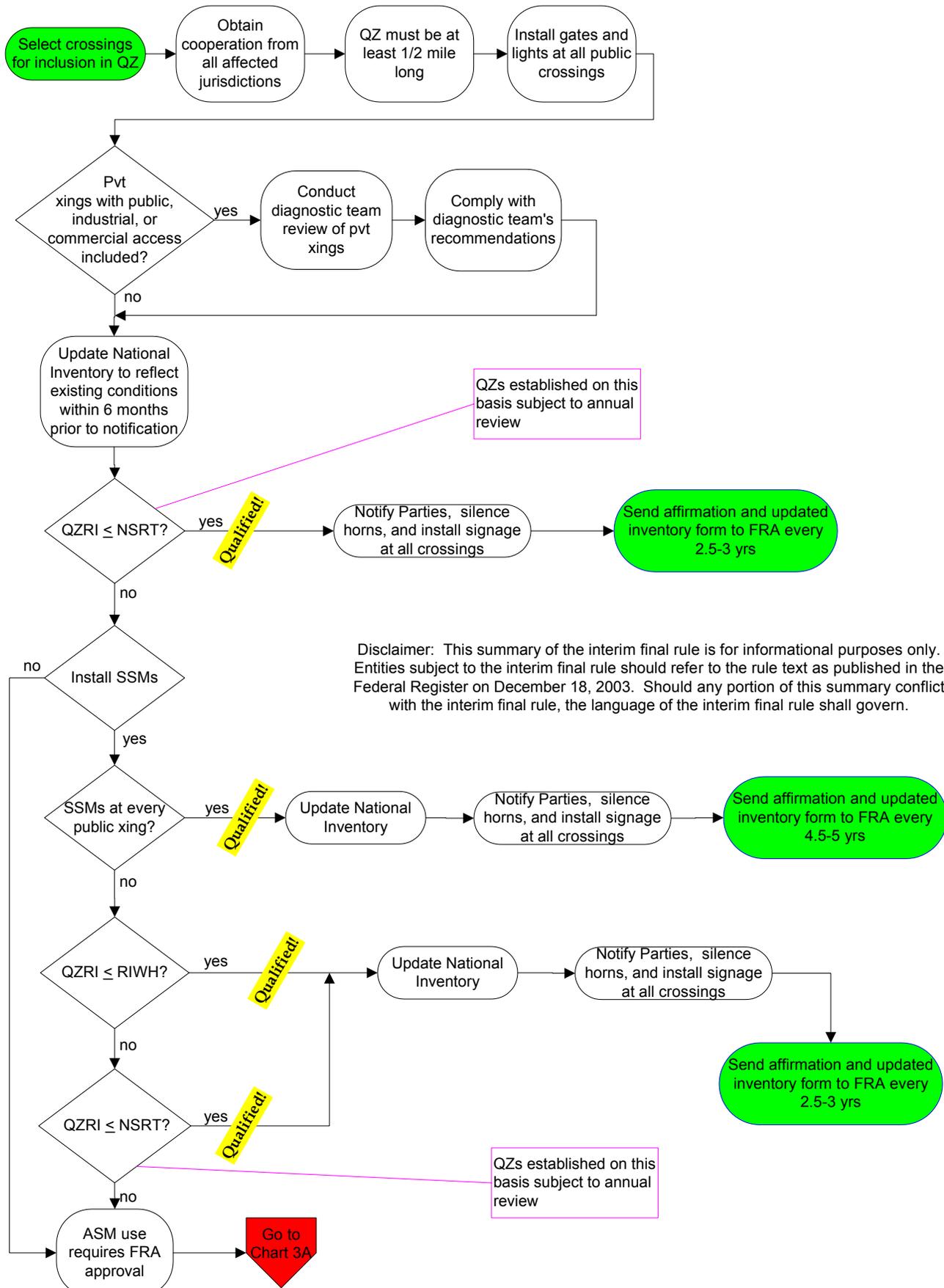


Chart 3A - Creating a Quiet Zone using Engineering ASMs (Modified SSMs)

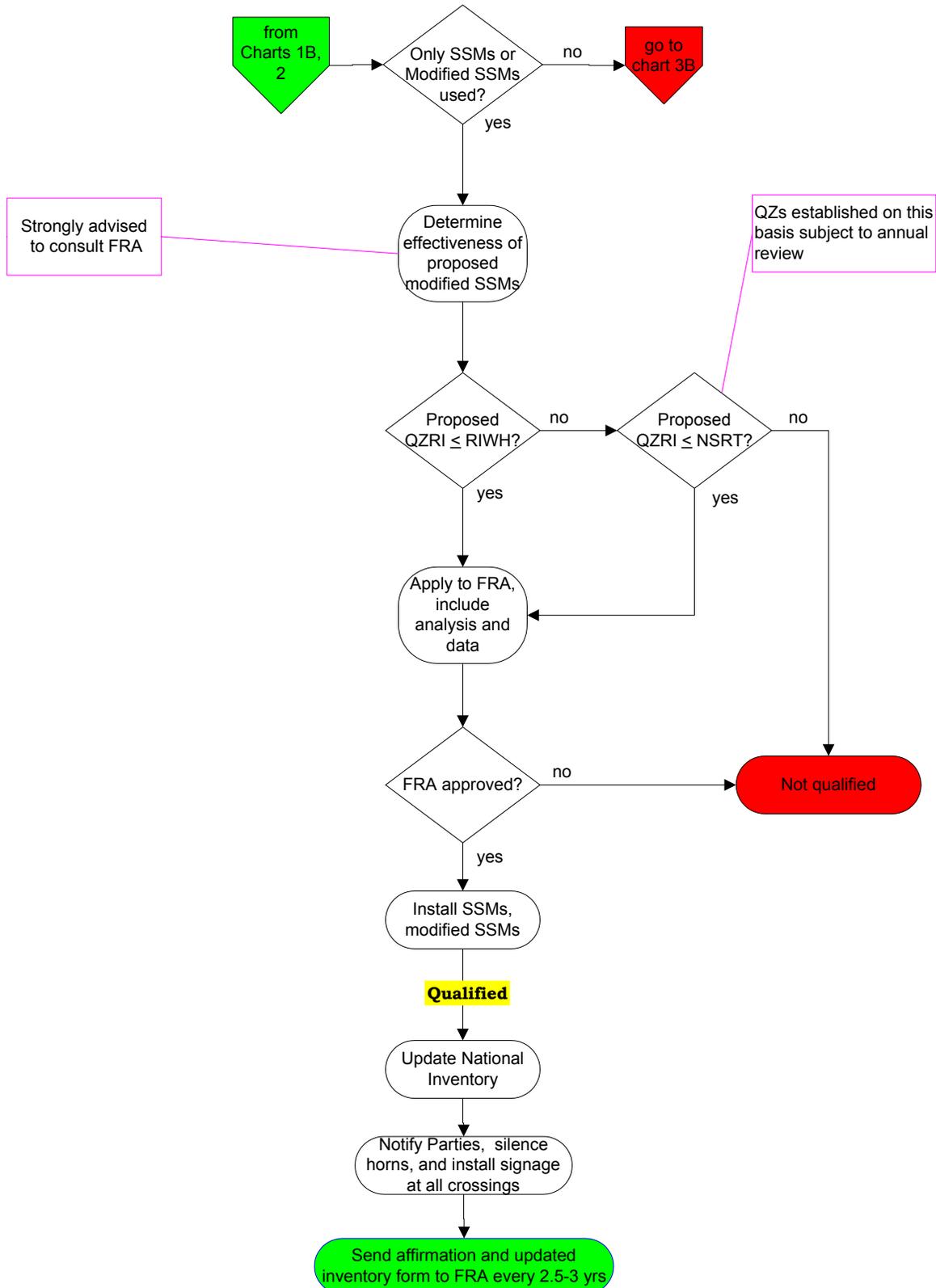
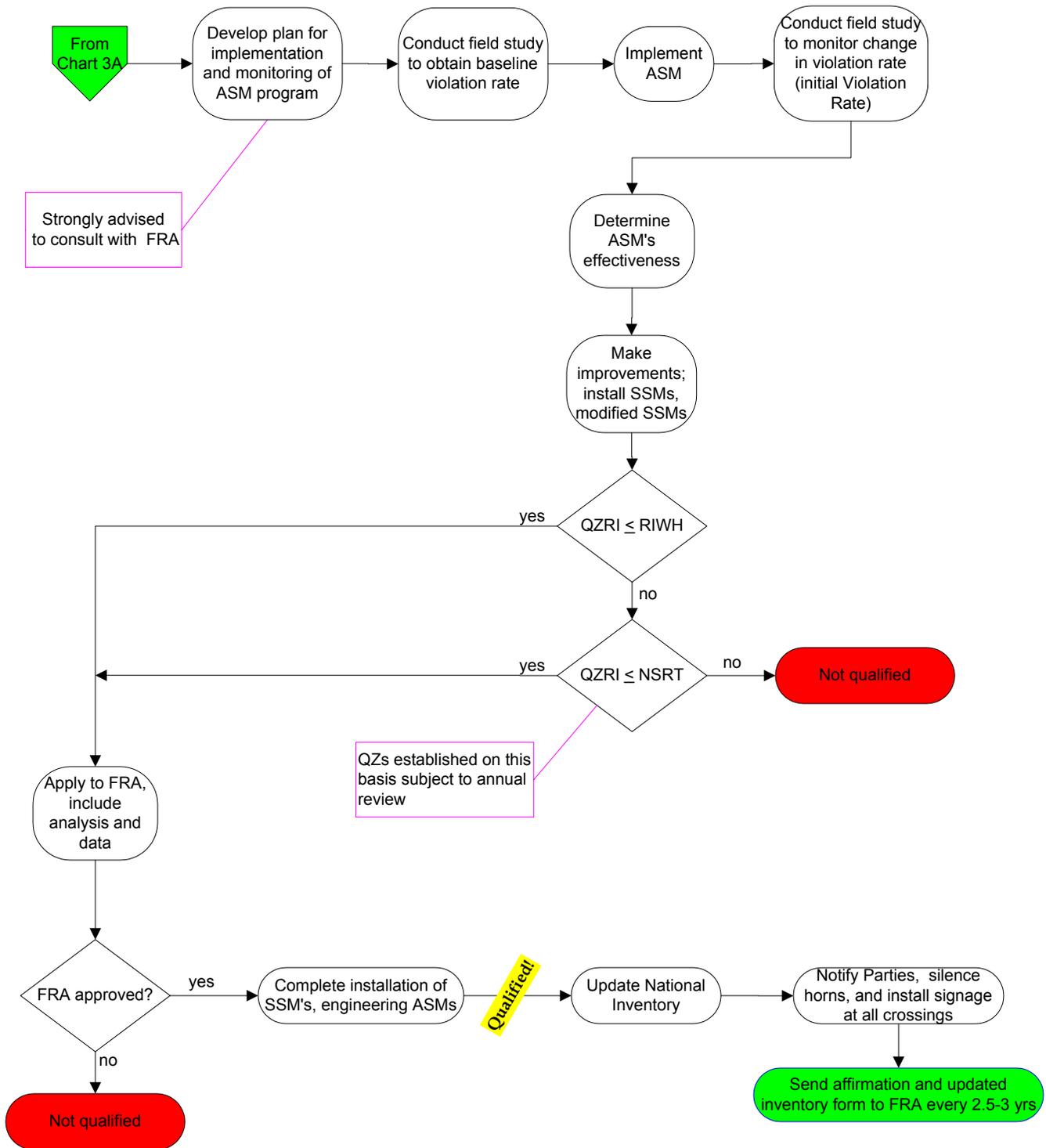


Chart 3B: Creating a Quiet Zone using Non-engineering ASMs



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Basis for Continuation of a Pre-Rule Quiet Zone:

Submit to all Parties

Quiet Zone Name: _____

This quiet zone is being continued in compliance with the following (check all that apply):

- §222.41(a) Pre-Rule Quiet Zones that qualify for automatic approval because
 - every crossing is equipped with an SSM,
 - $QZRI \leq NSRT$, or
 - $NSRT < QZRI < 2 * NSRT$, and there have been no relevant collisions within the 5 years preceding December 18, 2003
- §222.41(b) Pre-Rule Quiet Zones that do not qualify for automatic approval

Note: Quiet Zones established in accordance with §222.41(b) can be maintained under that provision for an interim period only. Continuation of the quiet zone beyond the interim period will require implementation of SSMs or ASMs in accordance with the section of the rule governing establishment of a New Quiet Zone (§222.49).

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FRA Quiet Zone Calculator Pages

Submit to all Parties

If the Quiet Zone is being continued under §222.41(a), Pre-Rule Quiet Zones which qualify for automatic approval, the notification to the parties must also include a copy of the FRA web page containing the quiet zone data upon which the public authority relies.

The Quiet Zone Calculator can be found at: <http://safetydata.fra.dot.gov/quiet/>

Sample

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Certificate of Service (submit one for each party notified)

Submit to all Parties including FRA

Quiet Zone Name: _____

Notice of the establishment or continuation of this Quiet Zone was provided to the following:

Name:	
Title:	
Organization:	
Address:	
Notification Method:	
Notification Date:	

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Grade Crossing Inventory Form (Initial)

Submit to FRA Associate Administrator, Office of Safety

Submit an accurate and complete Grade Crossing Inventory Form for each public and private crossing within the quiet zone, dated within six months prior to notification of the quiet zone. This form should reflect conditions prior to implementation of SSMs and ASMs.

Copies of the Grade Crossing Inventory Form FRA 6180.71 can be downloaded from the FRA web site at <http://safetydata.fra.dot.gov/officeofsafety/Forms/Default.asp>.

Sample

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Grade Crossing Inventory Form Reflecting Improvements

Submit to FRA Associate Administrator, Office of Safety

Submit an additional accurate and complete Grade Crossing Inventory Form for each public and private crossing within the quiet zone, reflecting the improvements implemented within the Quiet Zone.

Copies of the Grade Crossing Inventory Form FRA 6180.71 can be downloaded from the FRA web site at <http://safetydata.fra.dot.gov/officeofsafety/Forms/Default.asp>.

Sample

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Point of Contact Information

Submit to FRA Associate Administrator, Office of Safety

Quiet Zone Name: _____

Date: _____

The following individual is responsible for monitoring compliance with §222:

Name: _____

Title: _____

Organization: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

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Chief Executive Officer Statement

Submit to FRA Associate Administrator, Office of Safety

Quiet Zone

Designation: _____

I hereby certify that responsible officers of the public authority of which I am the Chief Executive Officer have reviewed documentation prepared by or for the FRA, filed in Docket No. FRA-1999-6439, sufficient to make an informed decision regarding the advisability of establishing the quiet zone.

Signature

Date

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Pre-Rule Quiet Zone Notification Checklist

Be sure to include the following information when providing notification of the continuation of a pre-rule quiet zone. Notifications must be sent by certified mail, return receipt requested.

All parties, including FRA, must receive:

- List of Crossings within Quiet Zone
- Basis for Continuation of a Pre-Rule Quiet Zone
- FRA Quiet Zone Calculator Page if quiet zone qualifies for automatic approval under §222.41(a)
- Certificate of Service (submit one for each party notified)

FRA must also receive the following:

- Grade Crossing Inventory Form (Initial)
- Grade Crossing Inventory Form Reflecting Improvements (when applicable)
- Point of Contact Information
- Chief Executive Officer Statement

Notification should be mailed to FRA at the following address:

Associate Administrator for Safety

Federal Railroad Administration

1120 Vermont Avenue, NW

Washington, DC 20590

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Pre-Rule Quiet Zone Notification Checklist

Be sure to include the following information when providing notification of the continuation of a pre-rule quiet zone. Notifications must be sent by certified mail, return receipt requested.

All parties, including FRA, must receive:

- List of Crossings within Quiet Zone
- Basis for Continuation of a Pre-Rule Quiet Zone
- FRA Quiet Zone Calculator Page if quiet zone qualifies for automatic approval under §222.41(a)
- Certificate of Service (submit one for each party notified)

FRA must also receive the following:

- Grade Crossing Inventory Form (Initial)
- Grade Crossing Inventory Form Reflecting Improvements (when applicable)
- Point of Contact Information
- Chief Executive Officer Statement

Notification should be mailed to FRA at the following address:

Associate Administrator for Safety
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1120 Vermont Avenue, NW
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New Quiet Zone Notification¹

Parties to be notified

Once a public authority has successfully established a quiet zone either through public authority designation or through FRA approval, it must provide written notice to several parties. These parties include the following:

- ❑ All railroads operating over the public highway-rail grade crossings within the quiet zone,
- ❑ The highway or traffic control authority, or the law enforcement authority with jurisdiction over motor vehicle traffic at the quiet zone crossings,
- ❑ Landowners with control over any private crossings within the quiet zone,
- ❑ The State agency responsible for highway and road safety, and
- ❑ The FRA Associate Administrator.

All notices must be provided by certified mail, return receipt requested.

Deadlines

The notice sent to the above parties must designate a specific date on which the routine sounding of horns at crossings within the quiet zone shall cease. On no account shall this date be earlier than 21 days after the mailing of this written notification.

¹ This collection of information will be used by FRA to increase safety at highway-rail grade crossings. Public reporting burden is estimated to average five (5) hours per response for notifications, and thirty-five (35) hours per response for the certification, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 2130-0560.

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Notification contents

- ❑ The notice must unambiguously state which crossings will be contained within the quiet zone. Each public and private crossing must be identified by both the U.S. DOT National Highway-Rail Grade Crossing Inventory number and the street or highway name.
- ❑ The notification must also clearly cite the regulatory provision that provides the basis for establishing the quiet zone. For a new quiet zone, one of the following provisions should apply:
 - §222.39(a)(1), implementation of SSMs at every public crossing in the quiet zone;
 - §222.39(a)(2)(i), the QZRI is at or below the NSRT without installation of any SSMs;
 - §222.39(a)(2)(ii), SSMs were implemented at some crossings to bring the QZRI to a level at or below the NSRT;
 - §222.39(a)(3), SSMs were implemented at some crossings to bring the QZRI to a level at or below the RIWH; or
 - §222.39(b), public authority application to the FRA.
- ❑ If the quiet zone is established on the basis of §222.39(a)(1), (2), or (3), the notification must include a copy of the FRA web page containing the quiet zone data upon which the public authority is relying.
- ❑ If the quiet zone is being established on the basis of § 222.39(b) (public authority application to the FRA), the notification must include a copy of the FRA's notification of approval.
- ❑ All notifications must contain a certificate of service. This certificate of service shall show to whom the notice was provided, and by what means the notice was provided.

Additional information that must be submitted to FRA

The items listed above must be submitted to each of the parties listed in the section labeled "Parties to be notified". Public authorities are also required to submit the following information in their submission to FRA:

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- ❑ An accurate and complete Grade Crossing Inventory Form for each public and private crossing within the quiet zone, dated within six months prior to designation or FRA approval of the quiet zone;
- ❑ An accurate, complete, and current Grade Crossing Inventory Form reflecting the SSMs and ASMs implemented within the quiet zone. (SSMs and ASMs that cannot be fully described on the Inventory Form must be described separately);
- ❑ The name and title of the person responsible for monitoring compliance with the requirements of the rule and his/her contact information. In addition to the person's name, title, and organization, contact information should include his/her business address, telephone number, fax number, and email address;
- ❑ A list of all parties notified in accordance with the rule; and
- ❑ A statement signed by the Chief Executive Officer (CEO) of each public authority establishing the quiet zone. In the CEO's statement, he or she must certify that responsible officials of the public authority have reviewed the documentation prepared by or for the FRA, and filed in Docket No. FRA-1999-6439, sufficient to make an informed decision regarding the advisability of establishing the quiet zone.

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Pre-Rule Quiet Zone Notification¹

Parties to be notified

A public authority that wants to continue silencing the locomotive horn at grade crossings within a Pre-Rule Quiet Zone must provide written notice to several parties. These parties include the following:

- All railroads operating over the public highway-rail grade crossing within the quiet zone,
- The highway or traffic control authority, or the law enforcement authority with jurisdiction over motor vehicle traffic at the quiet zone crossings,
- Landowners with control over any private crossings within the quiet zone,
- The State agency responsible for highway and road safety, and
- The FRA Associate Administrator.

All notices must be provided by certified mail, return receipt requested.

Deadlines

Notice of the continuation of a Pre-Rule Quiet Zone must be served no later than December 18, 2004.

¹ This collection of information will be used by FRA to increase safety at highway-rail grade crossings. Public reporting burden is estimated to average five (5) hours per response for notifications, and thirty-five (35) hours per response for the certification, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 2130-0560.

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Notification contents

- ❑ The notice must unambiguously state which crossings are contained within the quiet zone. All public and private crossings must be identified by both the U.S. DOT National Highway-Rail Grade Crossing Inventory Number, and by street or highway name.
- ❑ The notification must clearly cite the regulatory provision that provides the basis for continuing the Quiet Zone.

Note: The continuation of Pre-Rule Quiet Zones that qualify for automatic approval is governed by § 222.41(a). All other Pre-Rule Quiet Zones are governed by § 222.41(b).

- ❑ The notification must also include an explanation as to how the quiet zone is in compliance with § 222.41.
- ❑ If the quiet zone is being continued on the basis of §222.41(a) (automatic approval), the notification must include a copy of the FRA web page containing the quiet zone data upon which the public authority is relying.
- ❑ All notifications must contain a certificate of service. This certificate of service shall show to whom the notice was provided, and by what means the notice was provided.

Additional information that must be submitted to FRA

The items listed above must be submitted to each of the parties listed in the section labeled “Parties to be notified”. Public authorities are also required to submit the following information in their submission to FRA:

- ❑ An accurate and complete Grade Crossing Inventory Form for each public and private crossing within the quiet zone, dated within six months prior to designation of the quiet zone;
- ❑ An accurate, complete, and current Grade Crossing Inventory Form reflecting the SSMs and ASMs implemented within the quiet zone;
- ❑ The name and title of the person responsible for monitoring compliance with the requirements of the rule and his/her contact information. In addition to the person’s name, title, and organization, contact

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information should include his/her business address, telephone number, fax number, and email address;

- ❑ A list of all parties notified in accordance with the rule; and
- ❑ A statement signed by the Chief Executive Officer (CEO) of each public authority continuing the quiet zone. In the CEO's statement, he or she must certify that responsible officials of the public authority have reviewed the documentation prepared by or for the FRA, and filed in Docket No. FREA-1999-6439, sufficient to make an informed decision regarding the advisability of establishing the quiet zone.

Note: Pre-Rule Quiet Zones that do not qualify for automatic approval can only be maintained for an interim period. Continuation of the quiet zone beyond the interim period will require submission of a detailed plan, as well as implementation of SSMs or ASMs in accordance with section 222.39. Please refer to sections 222.39 and 222.41 for more information.

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