



Contract Number: BF20198388-A-0002
Amendment Number: 2

SECOND AMENDMENT TO PRELIMINARY ENGINEERING SERVICES AGREEMENT

THIS SECOND AMENDMENT AGREEMENT (hereinafter called "First Amendment") is dated _____, by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**BNSF**"), the **CITY OF Riverside**, a political Subdivision of the State of California, ("**Agency**"), or collectively referred to as "Parties".

RECITALS:

WHEREAS, BNSF and Agency entered into to a Preliminary Engineering Services Agreement dated June 06, 2022 also referred to as BNSF's Contract Number **BF-20198388**; and

WHEREAS, the Preliminary Engineering Services Agreement is modified by the terms of this Second Amendment shall be referred to collectively herein as the "Agreement"; and

WHEREAS, the Parties hereto desire to amend the Agreement by increasing the estimated BNSF costs because BNSF project costs have increased due to project circumstances, delays, and scope changes; and

WHEREAS, except as herein expressly amended, the Agreement and each and every term, covenant, and condition therein shall remain in full force and effect.

NOW, THEREFORE, in consideration of the mutual covenants exchanged herein and other good and valuable consideration, the adequacy of which is hereby acknowledged, BNSF and Agency agree to amend the Agreement as follows:

AGREEMENT:

1. **Term of the Second Amendment.** This Second Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date) and shall remain in full force and effect through the term of the Agreement, as amended, unless terminated at an earlier date pursuant to the provisions of the Agreement, or pursuant to federal or state statute, rule, or regulation.

2. **Amendments.** As of the Effective Date of this Second Amendment, the following portions of the Agreement are amended and superseded as follows:



Contract Number: BF20198388-A-0002

Amendment Number: 2

Article 2) Payment for Work: Section 2 paragraph 1 of the Agreement is deleted in its entirety and replaced with the following:

Agency authorizes BNSF to proceed with the Work relating to the Project. Agency shall pay and reimburse BNSF for all actual costs and expenses that BNSF incurs in performing the Work, including without limitation: (a) labor, supplies, and material; (b) direct and indirect labor and contractor charges including additives; (c) delivery charges; (d) BNSF's additives and overhead, as such are in effect on the date BNSF prepares its final billing; and (e) all applicable taxes due, paid, or payable by BNSF on such products and services, including sales and use taxes, business and occupation taxes, and similar taxes (collectively, "**Actual Costs**"). BNSF's estimated cost for Work on this Project is \$160,000 ("**Estimated Cost**"). Any estimate provided by BNSF for the Work shall not be a limitation on the Work to be performed or the costs and expenses incurred, which Agency shall reimburse to BNSF in full.

Except as amended herein, the terms and conditions of the Agreement remain in effect. Capitalized terms not defined herein have the same meaning as set forth in the Agreement.

Remainder of page intentionally left blank. Signatures on the following page.



Contract Number: BF20198388-A-0002
Amendment Number: 2

IN WITNESS WHEREOF, the Parties have entered into this Second Amendment as of the date first written above.

CITY OF RIVERSIDE:

By: _____
Name: _____

Date: _____
ATTEST:

Date: _____
Approved as to form:

Name: _____
Title: _____

BNSF RAILWAY COMPANY:

By: _____
Name: _____
Title: _____

Date: _____

CERTIFIED AS TO FUNDS AVAILABILITY:

BY: *[Signature]*
ASSISTANT CHIEF FINANCIAL OFFICER

APPROVED AS TO FORM:

BY: *[Signature]*
ASSISTANT CITY ATTORNEY