



Contract Number: BF20537997-A-0001  
Amendment Number: 1

## FIRST AMENDMENT TO PRELIMINARY ENGINEERING SERVICES AGREEMENT

**THIS FIRST AMENDMENT AGREEMENT** (hereinafter called "First Amendment") is dated \_\_\_\_\_ (Effective Date), by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**BNSF**"), the **City of Fresno**, a California municipal corporation, ("**Agency**"), or collectively referred to as "Parties".

### RECITALS:

**WHEREAS**, BNSF and Agency entered into to a Preliminary Engineering Services Agreement dated November 15, 2024 also referred to as BNSF's Contract Number **BF-20537997**; and

**WHEREAS**, the Preliminary Engineering Services Agreement is modified by the terms of this First Amendment and they 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 First Amendment.** This First Amendment shall commence upon the date first written above (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As of the Effective Date of this First Amendment, the following portions of the Agreement are amended and superseded as follows:



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**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 and supplies; (b) direct and indirect labor and contractor charges including additives; (c) BNSF's additives and overhead, as such are in effect on the date BNSF prepares its final billing; and (d) 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 \$159,952.61 ("**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.**



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

CITY OF FRESNO,  
a California municipal corporation

BNSF RAILWAY COMPANY,  
a Delaware corporation

By: \_\_\_\_\_  
Paul Amico, Director  
Department of Public Utilities

DocuSigned by:  
By: Cheryl Townlian \_\_\_\_\_  
3CDF5D5643A34A2...  
Name: Cheryl Townlian  
Title: Assistant Director Public Projects

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

Signed by:  
By: Jennifer M. Quintanilla /3/2026  
71318AF32A24406...  
Jennifer M. Quintanilla Date  
Sr. Deputy City Attorney

ATTEST:  
AMY K. ALLER  
Interim City Clerk

By: \_\_\_\_\_  
Deputy Date