

Attachment 2

DRAFT

Engineering Cost Reimbursement Agreement

This Cost Reimbursement Agreement (the “Agreement”) dated as of _____, 20____ (“Effective Date”) is between **San Joaquin Valley Railroad Co.**, a California corporation (“Railroad”) with an address of 13901 Sutton Park Drive South, Suite 270, Jacksonville, Florida 32224 and **City of Visalia**, a municipal entity (“Agency”) with an address of 315 East Acequia Avenue, Visalia, California 93291.

WHEREAS, Agency proposes to remove and replace a pedestrian trail parallel to Railroad’s tracks between Camp Drive (FRAID# 752939V) and Mooney Boulevard (FRAID# 752980M), including all necessary improvements to at-grade crossings between these two crossings, located between Mileposts 239.97 and 251.69 in Visalia, Tulare County, California (the “Improvements”); and

WHEREAS, the parties agree that the estimated total cost of Railroad’s engineering review services of the Improvements (the “Services”) is estimated to total **\$166,038.00** (“Estimated Services Cost”); and

WHEREAS, this Agreement provides for Agency’s agreement to reimburse Railroad for the costs that will be incurred by Railroad to complete the Services, subject to the terms and conditions set forth herein.

NOW THEREFORE, in view of the foregoing statements, which form the factual basis of this Agreement and in further view of other good and valuable consideration, the parties agree as follows:

1. SERVICES.

(a) Railroad agrees to perform engineering review of the Improvements, (the “Services”):

Services include but are not limited to project scope research, location research, preparation and management of project correspondence, review of design plans and specifications prepared by Agency, preparation of remark letters in response to design plans and specifications prepared by Agency, attending progress meetings, preparation of railroad cost estimates, agreement processing, project controls, preparation and submission of invoices to Agency, and other tasks as needed to progress project to construction phase.

(b) Agency agrees to reimburse Railroad for all costs and expenses (including overhead) incurred by Railroad in connection with Railroad’s performance of the Services, in accordance with Section 3 below. The parties acknowledge and agree that the foregoing reimbursable costs may exceed the Estimated Services Cost.

(c) RAILROAD MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES. IN PARTICULAR THERE SHALL BE EXCLUDED THE IMPLIED WARRANTY OF MERCHANTABILITY AS WELL AS THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

2. Term.

The term of this Agreement shall commence on the Effective Date and continue until the Services are complete upon mutual agreement between the parties; however, Railroad's obligation to invoice as set forth in Section 3 and Agency's obligation to make payment, as set forth in Section 1, shall survive termination of this Agreement.

3. Invoicing for Reimbursement of Expenses.

(a) Either upon completion of the Services or periodically, as determined by Railroad in its sole discretion, Railroad will invoice Agency for Railroad's costs and expenses (including overhead) incurred by Railroad with respect to the Services and provide Agency with a written invoice evidencing those costs and such other supporting documentation to substantiate those costs as Agency may reasonably request. Agency shall reimburse Railroad and pay all invoices within thirty (30) days after Agency's receipt of the invoice.

(b) Whenever a payment due under this Agreement is not made when due, such amounts shall bear interest at 6% per annum calculated from the date after the payment to which interest applies was due, until the date said payment is made, or the maximum interest allowed by applicable law.

(c) If Agency disputes any invoice, then it may withhold payment only on that portion disputed and pay the remainder by the due date. For purposes of this provision, an invoice is "disputed" by Agency only if Agency (i) notifies Railroad in writing within thirty (30) days after receipt of the invoice that it is disputed, (ii) specifies in such writing the amount disputed, (iii) pays within the time due any amount not disputed and (iv) provides Railroad any documentation or other relevant information substantiating the amount disputed.

4. Miscellaneous.

(a) This Agreement represents the complete and entire understanding of the parties regarding the Work and supersedes any prior drafts of this Agreement and any oral agreements regarding the Work.

(b) This Agreement has been executed by the authorized officials of the parties and may not be amended unless in writing and signed by the authorized officials of the parties.

(c) This Agreement is the result of the mutual negotiations of the parties and shall not be construed against either of them as the drafter. Any interpretation or enforcement of this Agreement shall be governed by the laws of the State of California.

(d) This Agreement may not be assigned by either party without the written consent of the other party, which shall not be unreasonably withheld or delayed.

(e) Any waiver of any provision must be in writing and issued by the party granting the waiver. The waiver applies only for the specific facts contained in the waiver and is not construed as a waiver of such facts for the future.

(f) No party shall be liable to the other party for any consequential, indirect, incidental, exemplary, special or punitive damages (including but not limited to, cost of capital, decline in market value, business interruption expenses, attorneys' fees and lost sales) of any kind arising out of this Agreement regardless of whether the party against whom such damages might be otherwise sought knew or reasonably should have known of the possibility of such damages.

(g) This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and counterparts of this Agreement may also be exchanged electronically, and any electronic version of any party's signature shall be deemed to be an original signature for all purposes.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have caused duly authorized representatives to execute this Agreement as of the date first written above.

**SAN JOAQUIN VALLEY
RAILROAD CO.**

CITY OF VISALIA

By: _____

By: _____

Name:

Name:

Title:

Title:

Date: _____

Date: _____

Force Account Estimate

Preliminary

Railroad:	San Joaquin Valley Railroad Co.	Region:	American
Agency:	City of Visalia	State:	CA
DOT #:	752939V and 752989M	COUNTY:	Tulare
ROADWAY:	Goshen Ave Trail Phase II - Camp Dr to Mooney Blvd	CITY:	Visalia
DESCRIPTION:	GEC PE Services for support of the Goshen Ave Trail Phase II between Camp Drive and Mooney Blvd Project near SJVR MP 239.97 - 251.69. Tasks include project management, project research, correspondence, diagnostic coordination, site survey, BoD development, plan review, prepare FAE, process agreement, agency invoicing, and progress project to construction phase.		
AGENCY PROJECT NUMBER:	TBD	ESTIMATE SUBJECT TO REVISION AFTER:	12-08-26

PRELIMINARY ENGINEERING:

Contracted & Administrative Engineering Services	\$	142,400
Subtotal	\$	142,400

CONSTRUCTION & CLOSEOUT:

Contracted & Administrative Engineering Services	\$	-
Subtotal	\$	-

FLAGGING SERVICE:

Contracted or Railroad Flagmen Services	\$	-
Subtotal	\$	-

UTILITY WORK:

Power Service	\$	-
Other	\$	-
Subtotal	\$	-

CONTRACT WORK:

Outside Services	\$	-
Design & Labor & Material	\$	-
Subtotal	\$	-

RAILROAD TRACK:

Labor & Material	\$	-
Subtotal	\$	-

RAILROAD SIGNAL & COMMUNICATION:

Labor & Material	\$	-
Subtotal	\$	-

PROJECT SUBTOTAL:

	\$	142,400
Contingencies: 10.00%	\$	14,240
Public Project Additive: 6.00%	\$	9,398

PROJECT TOTAL:

	\$	166,038
<u>CURRENT AUTHORIZED BUDGET:</u>	\$	-
<u>TOTAL SUPPLEMENT REQUESTED:</u>	\$	166,038

DIVISION OF COST:

Agency	100.00%		\$	166,038
Railroad	0.00%		\$	-

NOTE: Estimate is based on FULL CROSSING CLOSURE during work by Railroad Forces & Contractors.

This estimate has been prepared based on site conditions, anticipated work duration periods, material prices, labor rates, manpower and resource availability, and other factors known as of the date prepared. The actual cost for the railroad work may differ based upon the agency's requirements, their contractor's work procedures, and/or other conditions that become apparent once construction commences or during the progress of the work.

Estimated prepared by: SKS	Approved by:	Public Project Department
DATE: 11-06-26	REVISED: 06-11-26	DATE: 06-11-26