R-22-71

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A REIMBURSEMENT AGREEMENT FOR PRELIMINARY ENGINEERING SERVICES WITH UNION PACIFIC RAILROAD COMPANY; AND FOR OTHER PURPOSES.

WHEREAS, the City is pursuing grant funding from the U.S. Department of Transportation through the Rebuilding American Infrastructure and Sustainability and Equity ("RAISE") discretionary grant program for the purpose of rebuilding the Main Street Viaduct Bridge; and

WHEREAS, the project will affect a Union Pacific Railroad Company ("UPRC") right of way at or near the project area; and

WHEREAS, in order to proceed with the project in the event that City is awarded the RAISE grant, the City will have to coordinate with UPRC on the conceptualization and development of the project; and

WHEREAS, the City and UPRC desire to enter into a Reimbursement Agreement for Preliminary Engineering Services to determine potential impacts on existing and future railroad facilities and operations, with the City to reimburse UPRC for engineering services at an estimated cost of $150,000.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor and City Clerk are hereby authorized to enter into a Reimbursement Agreement for Preliminary Engineering Services with Union Pacific Railroad Company (substantially similar to Exhibit A attached hereto).

SECTION 2: That the cost of the services described herein shall be paid from the funds assigned within the General Fund for rebuilding the Main Street Viaduct Bridge (see Resolution No. _____).

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED: APPROVED:

_____ _____

Mayor Terry C. Hartwick

SPONSOR: ATTEST:

Terry C Hartwick

Mayor Terry C. Hartwick by AF Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/ABF

FILED 11:00 A.M. _____ P.M.

By A Fields City Atty

DATE 3/22/22

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY BTay

UPRR REMS
Project 783431

REIMBURSEMENT AGREEMENT
PRELIMINARY ENGINEERING SERVICES

Effective Date:

Agency: CITY OF NORTH LITTLE ROCK, ARKANSAS

Estimate: $150,000.00

THIS REIMBURSEMENT AGREEMENT (**Agreement**) is made and entered into as of the **Effective Date**, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation (**Railroad**), and AGENCY **(Agency)**.

RECITALS

A. Agency desires to initiate the project more particularly described on Exhibit A attached hereto **(the Project)**.

B. The Project will affect Railroad's track and right of way at or near the Project area more particularly described on Exhibit A.

C. Railroad agrees to collaborate with Agency on the conceptualization and development of the Project in accordance with the terms and conditions of this Agreement.

AGREEMENT

1. NOW THEREFORE, the parties hereto agree as follows:

2. Railroad, and/or its representatives, at Agency's sole cost and expense, agrees to perform (or shall cause a third-party consultant to perform on Railroad's behalf) the preliminary engineering services work described on Exhibit B attached hereto (**PE Work**). Agency acknowledges and agrees that: (a) Railroad's review of any Project designs, plans and/or specifications, as part of the PE Work, is limited exclusively to potential impacts on existing and future Railroad facilities and operations; (b) Railroad makes no representations or warranties as to the validity, accuracy, legal compliance or completeness of the PE Work; and (c) Agency's reliance on the PE Work is at Agency's own risk.

3. Notwithstanding the Estimate **(Estimate)**, Agency agrees to reimburse Railroad and/or Railroad's third-party consultant, as applicable, for one hundred percent (100%) of all actual costs and expenses incurred for the PE Work. During the performance of the PE Work, Railroad will provide (and/or will cause its third-party consultant to provide) progressive billing to Agency based on actual costs in connection with the PE Work. Within sixty (60) days after completion of the PE Work, Railroad will submit (and/or will cause its third-party consultant to submit) a final billing to Agency for any balance owed for the PE Work. Agency shall pay Railroad (and/or its third-party consultant, as applicable) within thirty (30) days after Agency's receipt of any progressive and final bills submitted for the PE Work. Bills will be submitted to the Agency using the contact information provided on **Exhibit C**. Agency's obligation hereunder to reimburse Railroad (and/or its third-party consultant, as applicable) for the PE Work shall apply regardless if Agency declines to proceed with the Project or Railroad elects not to approve the Project.

EXHIBIT
A

4. Agency acknowledges and agrees that Railroad may withhold its approval for the Project for any reason in its sole discretion, including without limitation, impacts to Railroad's safety, facilities or operations. If Railroad approves the Project, Railroad will continue to work with Agency to develop final plans and specifications and prepare material and force cost estimates for any Project related work performed by Railroad.

5. If the Project is approved by Railroad, Railroad shall prepare and forward to Agency a Construction and Maintenance Agreement (**C&M Agreement**) which shall provide the terms and conditions for the construction and ongoing maintenance of the Project. Unless otherwise expressly set forth in the C&M Agreement, the construction and maintenance of the Project shall be at no cost to Railroad. No construction work on the Project affecting Railroad's property or operations shall commence until the C&M Agreement is finalized and executed by Agency and Railroad.

6. Neither party shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

7. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties.

8. This Agreement sets forth the entire agreement between the parties regarding the Project and PE Work. To the extent that any terms or provisions of this Agreement regarding the PE Work are inconsistent with the terms or provisions set forth in any existing agreement related to the Project, such terms and provisions shall be deemed superseded by this Agreement to the extent of such inconsistency.

Remainder of page intentionally left blank

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

CITY OF NORTH LITTLE ROCK, ARKANSAS

_____
Signature

Terry C. Hartwick
Printed Name

Mayor
Title

_____
Date

UNION PACIFIC RAILROAD COMPANY,
a Delaware Corporation

_____
Signature

Tiecy Cotton
Printed Name

Manager I, Engineering – Public Projects
Title

ATTEST:

_____
Diane Whitbey, City Clerk

_____
Date

Contract reviewed and approved as to form by:

Amy Beckman Fields
North Little Rock City Attorney

BY:_____
Deputy City Attorney

_____
Date

Exhibit A
Project Description and Location

Project Description

City of North Little Rock, AR proposes to reconstruct the overpass over Railroad's tracks at the location referred to below.

Location

Little Rock Subdivision

DOT	Crossing Type	Milepost	Street Name
433851T	Public	343.975	North Main Street

Exhibit B
Scope of Project Services

Scope of work includes, but is not limited to the following

- Field diagnostic(s) and inspections
- Plan, specification and construction review
- Project design
- Preparation of Project estimate for force account or other work performed by the Railroad
- Meetings and travel

Exhibit C
Billing Contact Information

Name	David C. Wilborun
Title	Chief Engineer
Address	500 West 13th Street, North Little Rock, AR, 72114
Work Phone	(501) 371-8339
Cell Phone	
Email	cwilbourn@nlr.ar.gov
Agency Project No.	Main Street Viaduct