

**REQUEST FOR ITEM TO BE PLACED ON AGENDA
THOMPSON FALLS CITY COUNCIL**

I, *P. Sisti* Phone # _____

request the following item be placed on the agenda for
the _____ 20____, City Council Meeting:

Please give a brief description of the item to be discussed,
approximate time you need and the results you would like to see.

Information: _____

Time: _____

Action: *Budget mtgs 6/16 & 7/10*

Survey schedule

**All agenda requests must be submitted by Noon on
Wednesday before the Council Meeting.**

CITY OF THOMPSON FALLS

Budget/Finance

COMMITTEE MEETING MINUTES

Month: June, Day: 23, 2025

Council Members Present:

Katherine Maudone
Gerlene Powell
Shawni Vaught by phone

City Officials Present:

Rusti Leivestad/Mayor
Chris Nichols/Police Chief

Neil Hornette/Public Works Director
Kevin Whittenburg/Public Works Crew

Meeting opened at 4:00 P.m.

Others Present:

Gussie O'Connor

Action/Motion made:

Reviewed the current city pay schedule. Took comments from the mayor, Chief of Police & Public Works Director. Ideas to be considered is correcting the 1% increase every other year formula, remove evaluations from grade advancement, employee requesting advancing to next grade given notice. Department heads will review and update their department grade sheet. We will meet again on Thursday July 10th @ 4:00 pm

(_____, _____)

Meeting adjourned at 5:05 P.m.

Sign: Katherine Maudone

Print: Katherine Maudone for, Shawni Vaught Committee Chair

ATTEST:

Chelsea Peterson, City Clerk/Treasurer



Budget/Financial Committee Meeting

4:00 p.m. Agenda: Salary Schedule

June 23, 2025

Sign-in Sheet

[illegible]

CITY OF THOMPSON FALLS

Budget/Finance COMMITTEE MEETING MINUTES

Month: July, Day: Thurs 10, 2025

Council Members Present:

Shawni Vaught
Kathleen Boyett
Katherine Maudsone

City Officials Present:

Rusti Heivestad
Kelliann Barton

Meeting opened at 4:00 P.m.

Others Present:

as attached

Action/Motion made:

Pay Schedule for Pool / Public Works
Certificates / requirements for departments
longevity / timelines and fix the language
Strike a couple things.
Did not get info from Clerk P.D.

Meeting adjourned at 4:39 P.m.

Sign:

Shawni Vaught

Print:

Shawni Vaught

Committee Chair

ATTEST:

Kelliann Barton, Clerk



Budget/Financial Committee Meeting

4:00 p.m. Agenda: Salary Schedule

July 10, 2025

Sign-in Sheet

[illegible]

City of Thompson Falls

Special City Council Meeting

June 16, 2025 @ 5:50 p.m. in the City Hall

108 Fulton Street, Thompson Falls, MT 59873

Agenda: City Salary Schedule

Call the City Hall if you have questions: 406-827-3557

**CITY OF THOMPSON FALLS
SPECIAL CITY COUNCIL MEETING MINUTES**

Monday, June 16, 2025



The City Council meeting was held at the City Hall
108 Fulton Street, Thompson Falls, MT

Council Members Present: Raoul Ribeiro, City Council President; Katherine Maudrone, Earlene Powell, Larry Lack, and Shawni Vaught
Not present: Hayley Allen-Blakney, City Council Vice President

The City Council meeting was recorded via audio and is available for review on the city website.

City Officials Present:
Rusti Leivestad, Mayor
Kelliann Barton, Clerk

Rusti Leivestad opened the meeting at 6:00 p.m.

Kelliann made a note of who was present.

ACTION TAKEN

1. The Council motioned 5-0 to have the Budget/Finance Committee meet to discuss the salary schedule. (Vaught, Maudrone)

Unscheduled Public Comment: There were no unscheduled public comments.

The meeting was adjourned at 6:16 p.m.

Rusti Leivestad, Mayor

ATTEST:

Kelliann Barton, Clerk

City of Thompson Falls

Budget/Finance Committee Meeting

Thursday, July 10, 2025, at 4:00 p.m. in the City Hall,

108 Fulton Street, Thompson Falls, MT

Agenda: City Salary Schedule

Call City Hall if you have any questions: 406-827-3557

**REQUEST FOR ITEM TO BE PLACED ON AGENDA
THOMPSON FALLS CITY COUNCIL**

I, Rust Phone # _____

request the following item be placed on the agenda for
the 7-14 ~~6-9~~ 2025, City Council Meeting:

Please give a brief description of the item to be discussed,
approximate time you need and the results you would like to see.

Information: _____

Time: _____

Action: BNSF Permit for sewer
utilities on Preston Avenue
for the lift station & sewer
mains for sewer project phases 3 & 4.

**All agenda requests must be submitted by Noon on
Wednesday before the Council Meeting.**

City of Thompson Falls



Mayor
Russlyn
Leivestad

City Attorney
Timothy Goen

Ward I
Larry Lack
Raoul Ribeiro

Ward II
Earlene Powell
Katherine Maudrone

Ward III
Hayley Allen-
Blakney
Shawni Vaught

June 30, 2025

Montana DNRC
Attention: Heather Reeves
1539 Eleventh Ave
Helena, MT 59601

RE: ARPA Grant Agreement #AC-22-0064


Dear Heather Reeves:

The City of Thompson Falls is requesting a modification to the budget of the Phase 3 wastewater project. We want to transfer \$20,325 from Construction to Easement Acquisition. The city will use the funds to purchase a 25-year easement that will allow it to construct a lift station included in the Phase 3 project's scope of work on BNSF property.

Without this easement, we would have to redesign the project, which would increase project costs and extend the project timeline. Hence, your approval of these amendments will save the residents of Thompson Falls both time and money.

We have attached a copy of the proposed budget for your review. Please feel free to contact me at (406) 827-3557 if you have any questions.

Sincerely,



Russlyn Leivestad, Mayor

PIPELINE LICENSE

THIS PIPELINE LICENSE ("License") is made to be effective July 1, 2025 (the "Effective Date") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("Licensor") and **CITY OF THOMPSON FALLS**, ("Licensee").

In consideration of the mutual covenants contained herein, the parties agree to the following:

GENERAL

1. **Grant of License.** Licensor hereby grants Licensee a non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, use rights, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to construct and maintain, in strict accordance with the drawings and specifications approved by Licensor as part of Licensee's application process (the "**Drawings and Specifications**"), one (1) pipeline, six (6") inches in diameter (the "**Pipeline**"), across or along Licensor's rail corridor at or near the station of Thompson Falls, County of Sanders, State of Montana, Line Segment 0044, Mile Post 30.99 to Mile Post 31.37 as shown on the attached Drawing No. 92336, dated March 17, 2025, attached hereto as **Exhibit "A"** and incorporated herein by reference (the "**Premises**").
2. **Term.** This License shall commence on the Effective Date and shall continue for a period of twenty-five (25) years, subject to prior termination as hereinafter described.
3. **Existing Improvements.** Licensee shall not disturb any improvements of Licensor or Licensor's existing lessees, licensees, easement beneficiaries or lien holders, if any, or interfere with the use, repair, maintenance or replacement of such improvements.
4. **Use of the Premises.** Licensee shall use the Premises solely for construction, maintenance, and use of the Pipeline in accordance with the Drawings and Specifications. The Pipeline shall carry sanitary sewer, and Licensee shall not use the Pipeline to carry any other material or use the Premises for any other purpose. Licensee is expressly prohibited from using or allowing any telecommunication facilities or equipment within the Premises or using or allowing the use of the Premises for any other purpose.
5. **Alterations.** Except as set forth in this License, Licensee may not make any alterations to the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Licensor's prior written consent.

COMPENSATION

6. **License Fee.** Licensee shall pay Licensor, prior to the Effective Date, a one-time payment (in lieu of recurring periodic fixed license fees) in the amount the sum of twenty thousand three hundred and twenty five and no/100 Dollars (\$ 20,325.00) as compensation for the use of the Premises.
7. **Costs and Expenses.**
 - 7.1 For the purpose of this License, "cost" or "costs" and "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.
 - 7.2 Licensee agrees to reimburse Licensor (pursuant to the terms of **Section 8** below) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction and maintenance of the Pipeline, including but not limited to the furnishing of Licensor's flaggers and any vehicle rental costs incurred, inspection coordination, safety, mobilization and/or other observation services described in this License (collectively, the "**Services**"). Licensee shall bear the cost of the Services, when deemed necessary by Licensor's representative. Flagging costs shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid holidays (as applicable); railway and

unemployment insurance; public liability and property damage insurance; health and welfare benefits; transportation; meals; lodging and supervision. Negotiations for railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase flagging rates. Flagging rates in effect at the time of performance by the flaggers will be used to calculate the flagging costs pursuant to this **Section 7**.

- 7.3 Licensors, at its sole discretion, may elect to designate a third party (the "**Scheduling Agent**"), to perform and/or arrange for the performance of the Services.
8. **Payment Terms.** All invoices are due thirty (30) days after the date of invoice. If Licensee fails to pay any monies due to Licensors within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from the due date until paid at an annual rate equal to the lesser of (i) the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2-1/2%), or (ii) the maximum rate permitted by law.

LICENSOR'S RESERVED RIGHTS

9. **Reserved Rights of Use.** Licensors excepts and reserves the right, to be exercised by Licensors and any other parties who may obtain written permission or authority from Licensors:
- 9.1 to maintain, use, operate, repair, replace, modify and relocate any utility, power or communication pipe/lines/cables and appurtenances (other than the Pipeline) and other facilities or structures of like character upon, over, under or across the Premises existing as of the Effective Date;
 - 9.2 to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities, structures and related appurtenances upon, over, under or across the Premises; or
 - 9.3 to use the Premises in any manner as Licensors in its sole discretion deems appropriate, provided Licensors uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in **Section 4** above.
10. **Right to Require Relocation.** If at any time during the term of this License, Licensors desires the use of its rail corridor in such a manner as would, in Licensors's reasonable opinion, be interfered with by the Pipeline, Licensee shall, at its sole expense, within thirty (30) days after receiving written notice from Licensors to such effect, make such changes in the Pipeline as in the sole discretion of Licensors may be necessary to avoid interference with the proposed use of Licensors's rail corridor, including, without limitation, the relocation of the Pipeline, or the construction of a new pipeline to replace the Pipeline. Notwithstanding the foregoing, Licensee agrees to make all emergency changes and minor adjustments, as determined by Licensors in its sole discretion, to the Pipeline promptly upon Licensors's request.

LICENSEE'S OPERATIONS

11. **Construction and Maintenance of the Pipeline.**
- 11.1 Licensee shall not enter the Premises or commence construction unless accompanied by Licensors's representative, the Scheduling Agent or its designee. Licensee shall notify Licensors's representative or the Scheduling Agent at ROWCoordinator@BNSF.com at least ten (10) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon. Only in the event of emergency, Licensee shall notify Licensors's Roadmaster of entry onto the Premises, at the telephone 406-794-7078, as soon as practicable and shall promptly thereafter follow up with written notice of such entry to the email provided above.
 - 11.2 Licensee's on-site supervisors shall retain/maintain a fully executed copy of this License at all times while on the Premises.
 - 11.3 While on the Premises, Licensee shall use only public roadways to cross from one side of Licensors's tracks to the other.

- 11.4 Any contractors or subcontractors performing work on the Pipeline or entering the Premises on behalf of Licensee shall be deemed servants and agents of Licensee for purposes of this License.
- 11.5 Under no conditions shall Licensee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless Licensee has obtained prior written approval from Licensor. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises, including without limitation all construction and maintenance of the Pipeline, in such a manner and of such materials as not at any time to endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. If ordered to cease using the Premises at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.
- 11.6 Licensee shall, at its sole cost and expense, construct and maintain the Pipeline in such a manner and of such material that the Pipeline will not at any time endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. The construction of the Pipeline shall be completed within one (1) year of the Effective Date, and any subsequent maintenance shall be completed within one (1) year of initiation. Within fifteen (15) days after completion of the construction of the Pipeline or the performance of any subsequent maintenance thereon, Licensee shall, at Licensee's own cost and expense, restore the Premises to substantially their state as of the Effective Date, unless otherwise approved in advance by Licensor in writing. On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense, surrender the Premises to Licensor pursuant to the terms and conditions set forth in **Section 24** hereof.
- 11.7 Licensor may direct one or more of its field engineers or inspectors to observe or inspect the construction and/or maintenance of the Pipeline at any time for compliance with the Drawings and Specifications and Legal Requirements (defined below). Licensee shall reimburse Licensor for the cost of such observation or inspection related services pursuant to **Section 8**. If ordered at any time to halt construction or maintenance of the Pipeline by Licensor's personnel due to non-compliance with the Drawings and Specifications or any other hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to observe or inspect, or to halt work on, the Pipeline, it being solely Licensee's responsibility to ensure that the Pipeline is constructed and maintained in strict accordance with the Drawings and Specifications and in a safe and workmanlike manner in compliance with all terms hereof. Neither the exercise of, nor the failure by Licensor to exercise, any right granted by this Section will alter in any way the liability allocation provided by this License. If at any time Licensee shall, in the sole judgment of Licensor, fail to properly perform its obligations under this **Section 11**, Licensor may, at its option and at Licensee's sole expense, arrange for the performance of such work as it deems necessary for the safety of its operations and activities. Licensee shall promptly reimburse Licensor for all costs and expenses of such work, pursuant to the terms of **Section 8**. Licensor's failure to perform any obligations of Licensee shall not alter the liability allocation hereunder.
12. Boring and Excavation.
- 12.1 Prior to Licensee conducting any boring, excavation, or similar work on or about any portion of the Premises, Licensee shall contact the applicable State's call-before-you-dig utility location service to have 3rd parties mark the location of utilities. Licensee shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided,

however, that in lieu of the foregoing hand-tool exploration, Licensee shall have the right to use suitable detection equipment or other generally accepted industry practice (e.g., consulting with the United States Infrastructure Corporation) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Licensee shall request information from Licensors concerning the existence and approximate location of Licensors' underground lines, utilities, and pipelines at or near the vicinity of the proposed Pipeline by contacting Licensors' Telecommunications Helpdesk, currently at 1-800-533-2891 (option 1, then option 7), at least ten (10) business days prior to installation of the Pipeline. Upon receiving Licensee's timely request, Licensors will provide Licensee with the information Licensors has in its possession regarding any existing underground lines, utilities, and pipelines at or near the vicinity of the proposed Pipeline and, if applicable, identify the location of such lines on the Premises pursuant to Licensors' standard procedures. Licensors does not warrant the accuracy or completeness of information relating to subsurface conditions of the Premises and Licensee's operations will be subject at all times to the liability provisions herein.

- 12.2 For all bores greater than 26-inch diameter and at a depth less than 10.0 feet below bottom of rail, a soil investigation must be performed by Licensee and reviewed by Licensors prior to construction. This study is to determine if granular material is present, and to prevent subsidence during the installation process. If the investigation determines in Licensors' reasonable opinion that granular material is present, Licensors may select a new location for Licensee's use, or may require Licensee to furnish for Licensors' review and approval, in Licensors' sole discretion, a remedial plan to deal with the granular material. Once Licensors has approved any such remedial plan in writing, Licensee shall, at Licensee's sole cost and expense, carry out the approved plan in accordance with all terms thereof and hereof.
- 12.3 No wells shall be installed without prior written approval from Licensors.
- 12.4 Any open hole, boring, or well-constructed on the Premises by Licensee shall be safely covered and secured at all times when Licensee is not working in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises by Licensee shall be:
 - 12.4.1 filled in to surrounding ground level with compacted bentonite grout; or
 - 12.4.2 otherwise secured or retired in accordance with any applicable Legal Requirement. No excavated materials may remain on Licensors' property for more than ten (10) days, but must be properly disposed of by Licensee in accordance with applicable Legal Requirements.

LIABILITY AND INSURANCE

13. Liability and Indemnification.

- 13.1 For purposes of this License: (a) "**Indemnitees**" means Licensors and Licensors' affiliated companies, partners, successors, assigns, legal representatives, officers, directors, shareholders, employees, and agents; (b) "**Liabilities**" means all claims, liabilities, fines, penalties, costs, damages, losses, liens, causes of action, suits, demands, judgments, and expenses (including, without limitation, court costs, reasonable attorneys' fees, costs of investigation, removal and remediation, and governmental oversight costs) environmental or otherwise; and (c) "**Licensee Parties**" means Licensee and Licensee's officers, agents, invitees, licensees, employees, or contractors, or any party directly or indirectly employed by any of them, or any party they control or exercise control over.
- 13.2 **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS INDEMNITEES FOR, FROM, AND AGAINST ANY AND ALL LIABILITIES OF ANY NATURE, KIND, OR DESCRIPTION DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO (IN WHOLE OR IN PART):**

- 13.2.1 THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
 - 13.2.2 ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,
 - 13.2.3 LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
 - 13.2.4 THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED TO BY LICENSEE, OR
 - 13.2.5 ANY ACT OR OMISSION OF ANY LICENSEE PARTY.
- 13.3 TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE NOW AND FOREVER WAIVES AND WILL INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL CLAIMS THAT BY VIRTUE OF ENTERING INTO THIS LICENSE, LICENSOR IS A GENERATOR, OWNER, OPERATOR, ARRANGER, OR TRANSPORTER FOR THE PURPOSES OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED ("CERCLA") OR OTHER ENVIRONMENTAL LAWS (DEFINED BELOW). NOTHING IN THIS LICENSE IS MEANT BY EITHER PARTY TO CONSTITUTE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES AND THIS LICENSE SHOULD NOT BE SO CONSTRUED. IF ANY AGENCY OR COURT CONSTRUES THIS LICENSE TO BE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES, LICENSEE AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND INDEMNITEES FOR ANY LIABILITIES RELATED TO THAT CONSTRUCTION OF THIS LICENSE. IN NO EVENT AS BETWEEN LICENSOR AND LICENSEE AS TO USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL LICENSOR BE RESPONSIBLE TO LICENSEE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.
- 13.4 IF ANY EMPLOYEE OF ANY LICENSEE PARTY ASSERTS THAT HE OR SHE IS AN EMPLOYEE OF ANY INDEMNITEE, TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM AND AGAINST ANY LIABILITIES ARISING OUT OF OR RELATED TO (IN WHOLE OR IN PART) ANY SUCH ASSERTION INCLUDING, BUT NOT LIMITED TO, ASSERTIONS OF EMPLOYMENT BY AN INDEMNITEE RELATED TO THE FOLLOWING OR ANY PROCEEDINGS THEREUNDER: THE FEDERAL EMPLOYERS' LIABILITY ACT, THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.
- 13.5 THE FOREGOING OBLIGATIONS OF LICENSEE SHALL NOT APPLY TO THE EXTENT LIABILITIES ARE PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE, BUT SHALL APPLY TO ALL OTHER LIABILITIES, INCLUDING THOSE ARISING FROM OR ATTRIBUTED TO ANY OTHER ALLEGED OR ACTUAL NEGLIGENCE, INTENTIONAL ACTS, OR STRICT LIABILITY OF ANY INDEMNITEE.
- 13.6 Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs and expenses incident to such defense, including, but not limited to, reasonable attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.
14. Personal Property Risk of Loss. ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.

15. Insurance. Licensee shall, at its sole cost and expense, procure and maintain during the term of this License the following insurance coverage:

15.1 Commercial General Liability "CGL" Insurance.

- a. The policy will provide a minimum of \$5,000,000 per occurrence and an aggregate limit of at least \$10,000,000 but in no event will the coverage be in an amount less than the amount otherwise carried by Licensee. Coverage must be purchased on a post 2004 ISO occurrence form or equivalent and include coverage for, but not limited to, the following:
 - Bodily Injury and Property Damage
 - Personal Injury and Advertising Injury
 - Fire legal liability
 - Products and completed operations
 - Contractual Liability for an "Insured Contract" consistent with the definition under the standard ISO general liability policy form.
- b. This policy will include the following endorsements or language, which shall be indicated on or attached to the certificate of insurance:
 - The definition of "Insured Contract" will be amended to remove any exclusion or other limitation for any work being done within 50 feet of Licensor's property.
 - Waiver of subrogation in favor of and acceptable to Licensor.
 - Additional insured endorsement in favor of and acceptable to Licensor and Jones Lang LaSalle Brokerage, Inc. to include coverage for ongoing and completed operations.
 - Separation of insureds.
 - The policy shall be primary and non-contributing with respect to any insurance carried by Licensor.
- c. The parties agree that the workers' compensation and employers' liability related exclusions in the CGL policy(s) are intended to apply to employees of the policyholder and will not apply to Licensor's employees.
- d. No other endorsements that limit coverage with respect to Licensee's obligations under this agreement may be included on the policy.

15.2 Business Automobile Insurance.

- a. The insurance will provide minimum coverage with a combined single limit of at least \$1,000,000 per accident, and include coverage for, but not limited to the following:
 - Bodily injury and property damage.
 - Any and all vehicles owned, used or hired.
- b. The policy will include the following endorsements or language, which will be indicated on or attached to the certificate of insurance:
 - Waiver of subrogation in favor of and acceptable to Licensor.
 - Additional insured endorsement in favor of and acceptable to Licensor.
 - Separation of insureds.
 - The policy shall be primary and non-contributing with respect to any insurance carried by Licensor.

15.3 Workers' Compensation and Employers' Liability Insurance.

- a. The policy will provide coverage of all employees performing any part of the installation or maintenance of the Pipeline including coverage for, but not limited to:
 - Licensee's statutory liability under the workers' compensation laws of the state(s) in which the work or services under this agreement are to be performed. The policy will cover all of Licensee's employees, regardless of whether such coverage is optional under the law of that state(s).

- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.
 - b. The policy will include contain the following endorsements or language, which shall be indicated on or attached to the certificate of insurance:
 - Waiver of subrogation in favor of and acceptable to Licensor.
- 15.4 Railroad Protective Liability Insurance. The policy will name only Licensor as the Insured and will provide coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The coverage obtained under this policy shall only be effective during the initial installation and/or construction of the Pipeline. **THE CONSTRUCTION OF THE PIPELINE SHALL BE COMPLETED WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE.** If further maintenance of the Pipeline is needed at a later date, an additional Railroad Protective Liability Insurance Policy shall be required. The policy will be issued on a standard ISO form CG 00 35 12 04 and include the following:
- Endorsed to include the Pollution Exclusion Amendment.
 - Endorsed to include the Limited Seepage and Pollution Endorsement.
 - Endorsed to remove any exclusion for punitive damages.
 - Endorsed to include Evacuation Expense Coverage Endorsement.
 - No other endorsements restricting coverage may be added.
 - The original policy must be provided to Licensor and Licensee shall not perform any work or services of any kind under this agreement until Licensor has reviewed and approved the policy.
 - The definition of "Physical Damage to Property" will be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured's care, custody and control (including, but not limited to rolling stock and their contents, mechanical construction equipment or motive power equipment, railroad tracks, roadbeds, catenaries, signals, tunnels, bridges and buildings) arising out of the acts or omissions of the contractor named on the Declarations."

In lieu of providing a Railroad Protective Liability Policy, for a period of one (1) year from the Effective Date, Licensee may participate in Licensor's Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$ 2,429.37.

- ☐ Licensee may **elect** to participate in Licensor's Blanket Policy;
- ☐ Licensee **declines** to participate in Licensor's Blanket Policy.

15.5 Pollution Legal Liability (PLL) Insurance.

15.6 Other Requirements:

- 15.6.1 Where allowable by law, no exclusion for punitive damages may be included in any policy.
- 15.6.2 Licensee agrees to waive its right of recovery against Licensor for all claims and suits against Licensor. In addition, Licensee's insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against Licensor for all claims and suits. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensor for loss of Licensee's owned or leased property or property under Licensee's care, custody, or control.
- 15.6.3 Allocated Loss Expense, including but not limited to defense costs and expenses, will be in addition to all policy limits for coverage under the insurance requirements.
- 15.6.4 Licensee is not allowed to self-insure without the prior written consent of Licensor. If Licensor allows Licensee to self-insure, Licensee shall directly cover any self-insured retention or other financial responsibility for claims in lieu of insurance. Any and all

Licensors liabilities that would otherwise be covered by Licensee's insurance in accordance with the provisions of this agreement, will be covered as if Licensee elected not to include a self-insured retention or other financial responsibility for claims.

- 15.6.5 Prior to entering the Premises or commencing any work related to the installation or subsequent maintenance of the Pipeline, Licensee shall furnish to Licensors an acceptable certificate(s) of insurance from an authorized representative evidencing the required coverage(s), endorsements, and amendments.
- 15.6.6 Licensee shall notify BNSF in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration of any insurance requirement.
- 15.6.7 Any insurance policy shall be written by a reputable insurance company acceptable to Licensors or with a current Best's Guide Rating of A- and Class VII or better and authorized to do business in the state(s) in which the service is to be provided.
- 15.6.8 If the coverage provided by any of the insurance policies required by this agreement is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this agreement.
- 15.6.9 Licensee agrees to provide evidence to Licensors that it has the required coverage in place at least annually or in the event of a renewal or material change of coverage
- 15.6.10 Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), and that Licensee has instructed them to procure the insurance coverage required by this License.
- 15.6.11 Not more frequently than once every five years, Licensors may, at its discretion, reasonably modify the insurance requirements to reflect the then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.
- 15.6.12 If Licensee will subcontract any portion of the operation, Licensee shall require that the subcontractor provide and maintain insurance coverage(s) as set forth herein, naming Licensors as an additional insured. In addition, Licensee shall require that the subcontractor shall release, defend and indemnify Licensee to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensors under this agreement.
- 15.6.13 Failure to provide evidence as required by this section shall entitle, but not require, Licensors to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.
- 15.6.14 The fact that Licensee obtains insurance (including, without limitation, self-insurance) shall not release or diminish Licensee's liabilities or obligations including, without limitation, the liabilities and obligations under the indemnity provisions of the License. Damages recoverable by Licensors shall not be limited by the amount of the required insurance coverage.
- 15.6.15 In the event of a claim or lawsuit involving BNSF arising out of this Agreement, Licensee will make the policy covering such claims or lawsuits available to BNSF.
- 15.6.16 If Licensee maintains broader coverage and/or higher limits than the minimum requirements in this Agreement, BNSF requires and shall be entitled to the broader coverage and/or the higher limits. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to BNSF.

15.6.17 These insurance provisions are intended to be a separate and distinct obligation on the part of the Licensee. Therefore, these provisions shall be enforceable, and Licensee shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work or services are performed under this License.

15.6.18 For purposes of this **Section 15**, Licensors shall mean "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

COMPLIANCE WITH LAWS, REGULATIONS, AND ENVIRONMENTAL MATTERS

16. Compliance with Laws, Rules, and Regulations.

- 16.1 Licensee shall observe and comply with any and all applicable federal, state, local, and tribal laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("**Legal Requirements**") relating to the construction, maintenance, and use of the Pipeline and the use of the Premises.
- 16.2 Prior to entering the Premises, Licensee shall and shall cause its contractor(s) to comply with all of Licensors applicable safety rules and regulations. Licensee must ensure that each of its employees, contractors, agents or invitees entering upon the Premises completes the safety orientation program at the Website "www.BNSFcontractor.com" (the "**Safety Orientation**") within one year prior to entering upon the Premises. Additionally, Licensee must ensure that each and every employee of Licensee, its contractors, agents and invitees possess a card certifying completion of the Safety Orientation prior to entering upon the Premises. Licensee must renew (and ensure that its contractors, agents or invitees, as applicable, renew) the Safety Orientation annually.
- 16.3 Licensee shall obtain on or before the date it or its contractor enters the Premises, any and all additional rights-of way, easements, licenses and other agreements relating to the grant of rights and interests in and/or access to the Premises (collectively, the "**Rights**") and such other rights, licenses, permits, authorizations, and approvals (including without limitation, any necessary local, state, federal or tribal authorizations and environmental permits) that are necessary in order to permit Licensee to construct, maintain, own and operate the Pipeline and otherwise to perform its obligations hereunder in accordance with the terms and conditions hereof.
- 16.4 Licensee shall either require that the initial stated term of each such Rights be for a period that does not expire, in accordance with its ordinary terms, prior to the last day of the term of this License or, if the initial stated term of any such Right expires in accordance with its ordinary terms on a date earlier than the last day of the term of this License, Licensee shall, at its cost, exercise any renewal rights thereunder, or otherwise acquire such extensions, additions and/or replacements as may be necessary, in order to cause the stated term thereof to be continued until a date that is not earlier than the last day of the term of this License.
- 16.5 Upon the expiration or termination of any Right that is necessary in order for Licensee to own, operate or use the Pipeline in accordance with the terms and conditions of this License, this License thereby shall automatically expire upon such expiration or termination of the Right.

17. Environmental.

- 17.1 Licensee shall strictly comply with Environmental Laws (as defined below). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or Hazardous Materials (as defined below) on or about the Premises.
- 17.2 Except as specifically set forth in Section 4 of this License, Licensee covenants that it will not handle or transport Hazardous Materials through the Pipeline or on Licensors property. Upon

request by Licensor, Licensee agrees to furnish Licensor with proof, satisfactory to Licensor, that Licensee is in compliance with the provisions of this **Section 17.2**.

- 17.3 Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any known (i) release of Hazardous Materials on, from, or affecting the Premises, (ii) violation of Environmental Laws, or (iii) inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use its best efforts to immediately respond to any release on, from, or affecting the Premises. Licensee also shall give Licensor prompt notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.
- 17.4 If Licensor has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the Pipeline which occurred or may occur during the term of this License, Licensor may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensor's right-of-way.
- 17.5 Licensee shall immediately report to Licensor's Resource Operations Center at (800) 832-5452 any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take all reasonable actions necessary to prevent injury to persons, property, or the environment arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensor shall not relieve Licensee of any obligation whatsoever imposed on it by this License. Licensee shall promptly respond to Licensor's request for information regarding said conditions or activities.
- 17.6 During the term of this License, Licensor may, at Licensor's option, require Licensee to conduct an environmental audit, including but not limited to sampling, of the Premises through an environmental consulting engineer acceptable to Licensor, at Licensee's sole cost and expense, to determine if any noncompliance or environmental damage to the Premises has occurred during occupancy thereof by Licensee. The audit shall be conducted to Licensor's satisfaction and a copy of the audit report shall promptly be provided to Licensor for its review. Licensee shall pay all expenses for any remedial or corrective action that may be required as a result of said audit to correct any noncompliance or environmental damage, and Licensee shall diligently pursue and complete all necessary work prior to termination of this License. Licensee's obligations under this Section 17.6 shall survive termination of this License.
- 17.7 Notwithstanding anything in this Section 17, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine Licensee's compliance with Environmental Laws, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is compliant. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.
- 17.8 "**Environmental Law(s)**" shall mean any federal, state, local, or tribal law, statute, ordinance, code, rule, regulation, policy, common law, license, authorization, decision, order, or injunction which pertains to health, safety, any Hazardous Material, or the environment (including but not limited to ground, air, water, or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, CERCLA 42 U.S.C. §9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §5101 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq.; the Clean Air Act, 42 U.S.C. §7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 to 136y; the Oil Pollution Act, 33 U.S.C. 2701 et seq.; and the Occupational Safety and Health Act, 29 U.S.C. 651 et seq.; all as have been amended from time to time, and any other federal, state, local, or tribal environmental requirements, together with all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

- 17.9 **"Hazardous Material(s)"** shall include but shall not be limited to any substance, material, or waste that is regulated by any Environmental Law or otherwise regulated by any federal, state, local, or tribal governmental authority because of toxic, flammable, explosive, corrosive, reactive, radioactive or other properties that may be hazardous to human health or the environment, including without limitation asbestos and asbestos-containing materials, radon, petroleum and petroleum products, urea formaldehyde foam insulation, methane, lead-based paint, polychlorinated biphenyl compounds, hydrocarbons or like substances and their additives or constituents, pesticides, agricultural chemicals, and any other special, toxic, or hazardous (i) substances, (ii) materials, or (iii) wastes of any kind, including without limitation those now or hereafter defined, determined, or identified as "hazardous chemicals", "hazardous substances," "hazardous materials," "toxic substances," or "hazardous wastes" in any Environmental Law.

DISCLAIMER OF WARRANTIES

18. No Warranties.

18.1 **LICENSOR'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS LICENSE AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY LICENSOR OTHER THAN THOSE CONTAINED IN THIS LICENSE. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR WHICH MAY EXIST BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

18.2 **LICENSOR MAKES NO WARRANTY, REPRESENTATION OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING (A) THE SCOPE OF THE LICENSE OR OTHER RIGHTS GRANTED HEREUNDER TO LICENSEE OR (B) WHETHER OR NOT LICENSEE'S CONSTRUCTION, MAINTENANCE, OWNERSHIP, USE OR OPERATION OF THE PIPELINE WILL VIOLATE OR INFRINGE UPON THE RIGHTS, INTERESTS AND ESTATES OF THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY LEASES, USE RIGHTS, EASEMENTS AND LIENS OF ANY THIRD PARTY.**

19. Disclaimer of Warranty for Quiet Enjoyment. **LICENSOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.**

20. Eviction at Risk of Licensee. In case of the eviction of Licensee by anyone owning, claiming title to, or claiming any interest in the Premises, or by the abandonment by Licensor of the affected rail corridor, Licensor shall not be liable (i) to refund Licensee any compensation paid hereunder, except for the pro-rata part of any recurring charge paid in advance, or (ii) for any damages or costs Licensee sustains in connection with the eviction.

LIENS AND TAXES

21. Liens and Charges. Licensee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Licensee on the Premises. Licensor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by law to prevent the attachment of any such liens to the Premises; provided, however, that failure of Licensor to take any such action shall not relieve Licensee of any obligation or liability under this **Section 21** or any other Section of this License.

22. Taxes. Licensee shall pay when due any taxes, assessments or other charges (collectively, "**Taxes**") levied or assessed by any governmental or quasi-governmental body upon the Pipeline or any other improvements constructed or installed on the Premises by or for Licensee (collectively, the "**Improvements**") or any Taxes levied or assessed against Licensor or the Premises that are attributable to the Improvements.

DEFAULT, TERMINATION, AND SURRENDER

23. **Default and Termination.** In addition to and not in limitation of Licensor's right to terminate for failure to provide evidence of insurance as required pursuant to the terms of **Section 15**, the following events are also deemed to be events of default pursuant to which Licensor has the right to terminate as set forth below:
- 23.1 If default shall be made in any of Licensee's covenants, agreements, or obligations contained in this License and Licensee fails to cure said default within thirty (30) days after written notice is provided to Licensee by Licensor, or in case of any assignment or transfer of this License in violation of **Section 26** below, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee. Notwithstanding the foregoing, Licensor shall have the right to terminate this License immediately if Licensee fails to provide evidence of insurance as required in **Section 15**.
 - 23.2 Should Licensee not comply fully with the obligations of **Section 17** regarding the handling or transporting of Hazardous Materials, notwithstanding anything contained in any other provision of this License, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee.
 - 23.3 Any waiver by Licensor of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults, nor shall any such waiver in any way affect Licensor's ability to enforce any Section of this License. The remedies set forth in this **Section 23** shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.
 - 23.4 In addition to and not in limitation of Licensor's rights to terminate this License for failure to provide evidence of insurance or occurrence of defaults as described above, this License may be terminated by either party, at any time, by serving thirty (30) days' written notice of termination upon the other party. Such termination shall not release either party hereto from any liability or obligation under the License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or thereafter in case by the terms of the License it is provided that anything shall or may be done after termination hereof.
24. **Surrender of the Premises.**
- 24.1 On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense:
 - 24.1.1 if so directed by Licensor in writing, remove the Improvements, the Pipeline and all appurtenances thereto, or, at the sole discretion of Licensor, fill and cap or otherwise appropriately decommission the Pipeline with a method satisfactory to Licensor;
 - 24.1.2 report and restore any damage to the Premises or Licensor's other property arising from, growing out of, or connected with Licensee's use of the Premises;
 - 24.1.3 remedy any unsafe conditions on the Premises created or aggravated by Licensee; and
 - 24.1.4 leave the Premises in substantially the condition which existed as of the Effective Date, or as otherwise agreed to by Licensor.
 - 24.2 Upon any expiration or termination of this License, if Licensee fails to surrender the Premises to Licensor or if Licensee fails to complete its obligations under **Section 24.1** above (the "**Restoration Obligations**"), Licensee shall have a limited license to enter upon the Premises solely to the extent necessary for Licensee to complete the Restoration Obligations, and all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered and the Restoration Obligations are completed. Neither termination nor expiration shall release Licensee from any liability or obligation under this License, whether of indemnity or

otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Licensee surrenders the Premises, and all of the Restoration Obligations are completed.

- 24.3 If Licensee fails to complete the Restoration Obligations within thirty (30) days after the date of such termination of its tenancy, then Licenser may, at its election, either: (i) remove the Pipeline and the other Improvements or otherwise restore the Premises, and in such event Licensee shall, within thirty (30) days after receipt of bill therefor, reimburse Licenser for cost incurred, (ii) upon written notice to Licensee, take and hold the Pipeline and the other Improvements and personal property as its sole property, without payment or obligation to Licensee therefor, or (iii) specifically enforce Licensee's obligation to restore and/or pursue any remedy at law or in equity against Licensee for failure to so restore. Further, if Licenser has consented to the Pipeline and the other Improvements remaining on the Premises following termination, Licensee shall, upon request by Licenser, provide a bill of sale in a form acceptable to Licenser conveying the Pipeline and the other Improvements to Licenser for no additional consideration.

MISCELLANEOUS

25. **Successors and Assigns.** All provisions contained in this License shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of Licenser and Licensee to the same extent as if each such successor and assign was named a party to this License.

26. **Assignment.**

- 26.1 Licensee may not sell, assign, transfer, or hypothecate this License or any right, obligation, or interest herein (either voluntarily or by operation of law, merger, or otherwise) without the prior written consent of Licenser, which consent may not be unreasonably withheld or delayed by Licenser. Any attempted assignment by Licensee in violation of this **Section 26** shall be a breach of this License and, in addition, shall be voidable by Licenser in its sole and absolute discretion.

- 26.2 For purposes of this **Section 26**, the word "assign" shall include without limitation (a) any sale of the equity interests of Licensee following which the equity interest holders of Licensee immediately prior to such sale own, directly or indirectly, less than 50% of the combined voting power of the outstanding voting equity interests of Licensee, (b) any sale of all or substantially all of the assets of (i) Licensee and (ii) to the extent such entities exist, Licensee's parent and subsidiaries, taken as a whole, or (c) any reorganization, recapitalization, merger or consolidation involving Licensee. Notwithstanding the foregoing, any reorganization, recapitalization, merger or consolidation following which the equity interest holders of Licensee immediately prior to such reorganization, recapitalization, merger or consolidation own, directly or indirectly, at least 50% of the combined voting power of the outstanding voting equity interests of Licensee or any successor thereto or the entity resulting from such reorganization, recapitalization, merger or consolidation shall not be deemed an assignment. THIS LICENSE SHALL NOT RUN WITH THE LAND WITHOUT THE EXPRESS WRITTEN CONSENT OF LICENSOR, SUCH CONSENT TO BE IN LICENSOR'S SOLE DISCRETION.

- 26.3 Notwithstanding the provisions of **Section 26.1** above or anything contained in this License to the contrary, if Licensee sells, assigns, transfers, or hypothecates this License or any interest herein in contravention of the provisions of this License (a "**Purported Assignment**") to another party (a "**Purported Transferee**"), the Purported Transferee's enjoyment of the rights and privileges granted under this License shall be deemed to be the Purported Transferee's agreement to be bound by all of the terms and provisions of this License, including but not limited to the obligation to comply with the provisions of **Section 15** above concerning insurance requirements. In addition to and not in limitation of the foregoing, Licensee, for itself, its successors and assigns, shall indemnify, defend and hold harmless Licenser for all Liabilities of any nature, kind or description of any person or entity directly or indirectly arising out of, resulting from or related to (in whole or in part) a Purported Assignment. The provisions of this **Section 26.3** shall survive the expiration or earlier termination of this License.

- 26.4 Licensors shall have the right to transfer and assign, in whole or in part, all of its rights and obligations under this License, and upon any such transfer or assignment, Licensors shall be released from any further obligations hereunder, and Licensee agrees to look solely to the successor in interest of Licensors for the performance of such obligations.
27. Notices. Any notice, invoice, or other writing required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.
- If to Licensors: Jones Lang LaSalle Brokerage, Inc.
2650 Lou Menk Drive, MOB2
Fort Worth, TX 76131
Attn: Permits/Licenses
- with a copy to: BNSF Railway Company
2650 Lou Menk Dr.
Fort Worth, TX 76131
Attn: Senior Manager Real Estate
- If to Licensee: CITY OF THOMPSON FALLS
108 Fulton Street
Thompson Falls, MT 59873
28. Survival. Neither termination nor expiration will release either party from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Pipeline and the other Improvements are removed, and the Restoration Obligations are completed in accordance with the terms hereof.
29. Recordation. It is understood and agreed that this License shall not be placed or allowed to be placed on public record.
30. Applicable Law. All questions concerning the interpretation or application of provisions of this License shall be decided according to the substantive laws of the State of Texas without regard to conflicts of law provisions.
31. Severability. To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.
32. Integration. This License is the full and complete agreement between Licensors and Licensee with respect to all matters relating to Licensee's use of the Premises and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensors harmless in any prior written agreement between the parties.
33. Joint and Several Liability. If Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.
34. Waiver. The waiver by Licensors of the breach of any provision herein by Licensee shall in no way impair the right of Licensors to enforce that provision for any subsequent breach thereof.

35. Interpretation.

35.1 This License shall be interpreted in a neutral manner, and not more strongly for or against any party based upon the source of the draftsmanship; both parties hereby agree that this License shall not be subject to the principle that a contract would be construed against the party which drafted the same. Article titles, headings to sections and paragraphs and the table of contents (if any) are inserted for convenience of reference only and are not intended to be a part or to affect the meaning or interpretation hereof. The exhibit or exhibits referred to herein shall be construed with and as an integral part of this License to the same extent as if they were set forth verbatim herein.

35.2 As used herein, "include", "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import; "writing", "written" and comparable terms refer to printing, typing, lithography and other means of reproducing words in a visible form; references to any person are also to that person's successors and permitted assigns; "hereof", "herein", "hereunder" and comparable terms refer to the entirety hereof and not to any particular article, section, or other subdivision hereof or attachment hereto; references to any gender include references to the masculine or feminine as the context requires; references to the plural include the singular and vice versa; and references to this License or other documents are as amended, modified or supplemented from time to time.

36. Counterparts. This License 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 the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this License 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.

37. Licensor's Representative. Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company.

END OF PAGE – SIGNATURE PAGE FOLLOWS

This License has been duly executed by the parties hereto as of the Effective Date.

LICENSOR:

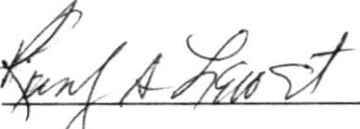
BNSF Railway Company, a Delaware corporation

By: Jones Lang LaSalle Brokerage, Inc.
2650 Lou Menk Drive, MOB2
Fort Worth, TX 76131

By: _____
Patricia Villegas
Vice President, Permits

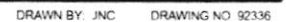
LICENSEE:

CITY OF THOMPSON FALLS,

By: 
Title: Mayor

SECTION: 8
TOWNSHIP & RANGE:
21N 29W
MERIDIAN: PRM

EXHIBIT "A"



tfl3557@blackfoot.net

From: TIMOTHY GOEN <nwmtlaw@blackfoot.net>
Sent: Tuesday, June 3, 2025 12:12 PM
To: Britani Laughery
Cc: Carrie Gardner; Chelsea Peterson; Rusti Leivestad
Subject: Re: 24w-22570 DRAFT Permit
Attachments: AI summary of BNSF Pipeline License Agreement.docx

Attached hereto is an AI summary of the BNSF Pipeline License Agreement. This summary also includes some negotiation terms and suggested language. It appears the \$88,000 is a one-time fee for a 25-year license. If BNSF is not willing to waive or negotiate the entire amount, would they accept annual payments over a 25-year period. Also, looks like after 25 years the city would have to renegotiate for a new permit with additional fees and no guarantee of approval. Further, the city would be responsible for the costs of removal.

T Goen

From: "Britani Laughery" <blaughery@mmia.net>
To: "Carrie Gardner" <cgardner@greatwesteng.com>, "Chelsea Peterson" <tfl3557@blackfoot.net>, "Timothy Goen" <nwmtlaw@blackfoot.net>, "Rusti Leivestad" <tfallsmayor@blackfoot.net>
Sent: Tuesday, June 3, 2025 10:46:56 AM
Subject: RE: 24w-22570 DRAFT Permit

Carrie,

I called and left you a voicemail. Attached is the certificate documentation for one of Thompson Fall's current pipeline license agreements.

As I mentioned in my voicemail, these new limits that BNSF is including in their agreements will not work for cities/towns as it will cause them to waive their rights to tort caps limits for all liability claims, not just claims related to the pipeline license.

I have one instance recently where another city was able to renegotiate back to the \$1 million per occurrence and \$2 million aggregate limits that used to be the standard limits required by BNSF. I had another member just sign the agreement with the \$10 million limit and then after the fact had to notify BNSF that they couldn't comply.

It's best to get the agreement revised before signing it, and since at least one of our other members has been able to negotiate it, I suspect you will be able to as well. I'm available most of today to discuss this matter in more detail. I'm going to step into a meeting here at 11 am

but I can step out if you call. I have a 1 pm meeting that I can't step out of, so that is really the only hour I won't be available today.

Brit

Britani P. Laughery, CSP, ASP, CIC, CWCP, AU | Operations Manager

Montana Municipal Interlocal Authority

406-495-7004 | 800-635-3089 ext. 114 | Fax: 406-449-7440

PO Box 6669, Helena, MT 59604

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From: Carrie Gardner <cgardner@greatwesteng.com>

Sent: Tuesday, June 3, 2025 9:12 AM

To: tf13557@blackfoot.net; 'TIMOTHY GOEN' <nwmtlaw@blackfoot.net>; 'Mayor' <tfallsmayor@blackfoot.net>; Britani Laughery <blaughery@mmia.net>

Subject: RE: 24w-22570 DRAFT Permit

Hi Britani,

Rusti and I discussed this on the phone a bit this morning. I am also working with BNSF on this, as it is their standard insurance policy they require on every permit we have worked with them on. Would you have a few minutes to discuss over the phone? I'd also like to send them over the City's current insurance certificates so they can see what they carry currently. Can you please send those to me to send to BNSF? I know Chelsea is out today and Rusti is on the road.

Please give me a call when you have a few minutes.

Thank you,



Carrie Gardner, PE

Project Manager

d: (406) 495-6176

c: (406) 495-6176

2501 Belt View Drive
Helena, MT 59601

This message has been sent to you as official business of Great West Engineering. This E-mail and any attachments may be considered confidential. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing this information in any manner. If you have received this communication in error, please reply to the sender and then immediately delete it. Thank you for your cooperation.

From: tfl3557@blackfoot.net <tfl3557@blackfoot.net>

Sent: Monday, June 2, 2025 3:16 PM

To: Carrie Gardner <cgardner@greatwesteng.com>; 'TIMOTHY GOEN' <nwmtlaw@blackfoot.net>; 'Mayor' <tfallsmayor@blackfoot.net>

Subject: FW: 24w-22570 DRAFT Permit

Importance: High

Warning: Unusual sender <tfl3557@blackfoot.net>

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From: Britani Laughery <blaughery@mmia.net>

Sent: Monday, June 2, 2025 12:27 PM

To: tfl3557@blackfoot.net

Subject: RE: 24w-22570 DRAFT Permit

Importance: High

Chelsea,

Do not sign the agreement as is! They are requiring \$10 M in liability limits, which the city doesn't (and shouldn't) have. Per MCA 2-9-108 governmental entities in Montana have liability limited to \$1.5 million per occurrence. If the city secures coverage above the \$1.5 million, they waive their rights to assert the tort caps.

This agreement needs to be amended before the city signs it.

Brit

Britani P. Laughery, CSP, ASP, CIC, CWCP, AU | Operations Manager
Montana Municipal Interlocal Authority

406-495-7004 | 800-635-3089 ext. 114 | Fax: 406-449-7440
PO Box 6669, Helena, MT 59604

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From: tfl3557@blackfoot.net <tfl3557@blackfoot.net>
Sent: Monday, June 2, 2025 12:21 PM
To: Britani Laughery <blaughery@mmia.net>
Subject: FW: 24w-22570 DRAFT Permit

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Do not open unexpected links or attachments.

From: Woodruff, Melissa <Melissa.Woodruff@jll.com>
Sent: Friday, May 30, 2025 2:32 PM
To: tfl3557@blackfoot.net
Cc: 'Carrie Gardner' <cgardner@greatwesteng.com>; 'Mayor' <tfallsmayor@blackfoot.net>; WilsonCompany.Utility.IC <wilsoncompany.utility.ic@wilsonco.com>
Subject: 24w-22570 DRAFT Permit

Attached is the draft agreement and exhibit for execution by an official authorized to execute agreements on behalf of your company.

You can log into your Rail Permitting account to make an online payment for the contract fee and railroad protective coverage if you plan to participate in BNSF's blanket policy. You can also mail a check with the tracking number payable to BNSF and sent to PO Box 676160, Dallas, TX 75267-6160. DO NOT PAY THE CONVENIENCE FEE IF MAILING A CHECK.

Please send all certificates of insurance to bnsf@vertikalrms.com and not JLL.

A Certificate of Insurance as required in the agreement sent to bnsf@vertikalrms.com and the holder address is:
BNSF Railway Company P.O. Box 827, Riverside, CA 92502.

If you are providing your own Railroad Protective Coverage, please include the tracking ID in the policy. You must submit the entire, original policy. The declaration page is not acceptable. If there are any issues with your insurance, you will be contacted by a member of the BNSF Risk Management team

Acceptance and deposit of any payment by BNSF does not constitute an agreement between BNSF and Licensee for the requested license. BNSF shall not be obligated to hold the payment in a separate fund, but may commingle the funds with other funds of BNSF, and in no event shall BNSF be responsible for interest on said funds.

The enclosed permit is not a binding agreement and shall become binding only when, and if, it is executed by you and fully approved and executed by BNSF Railway Company. Upon completion on behalf of BNSF, one fully executed counterpart will be returned for your records.

Thank you

JLL Rail Practice Group – Proud Partners of BNSF Since 2001

Melissa Woodruff
Associate Permit Manager
JLL - Rail Practice Group
2650 Lou Menk Drive – MOB 2
Fort Worth, TX 76131
Direct Number (817) 352-1048

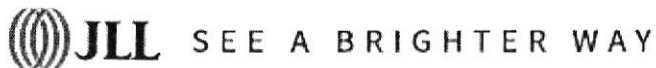
Additional Permit information can be obtained from the BNSF web-site:

<http://www.bnsf.com/about-bnsf/faqs.page>

Please apply for a permit online at <https://bnsf.railpermitting.com>

Once you access the website, you will need to register the first time before you can begin using the website.

If you need additional information or help on the Rail Permitting site you can find the customer support phone number and email when you first log on.



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AI summary of BNSF Pipeline License Agreement (with negotiation suggestion)

This appears to be a **Pipeline License Agreement** between **BNSF Railway Company** and the **City of Thompson Falls**, granting a **non-exclusive license** to construct and maintain a **six-inch pipeline** across BNSF's rail corridor.

Here are some key points from the contract:

- **License Term:** 25 years from the effective date.
- **License Fee:** A one-time payment of **\$88,880**.
- **Use Restrictions:** The pipeline is **only** for **sanitary sewer** purposes—no other materials allowed.
- **Alterations:** Prior written **approval** is required for any changes.
- **Costs & Expenses:** Licensee must cover **flagging, safety inspections, and maintenance costs**.
- **BNSF's Rights:** They can require **relocation** of the pipeline if needed.
- **Liability & Insurance:** The City must have **commercial liability insurance, automobile insurance, workers' comp, and railroad protective liability insurance**.
- **Compliance:** The City must follow **all local, state, and federal laws**, including BNSF's **safety regulations**.

Would you like me to focus on a specific section or clarify anything further?

what happens after 25 years

After **25 years**, the **Pipeline License Agreement** will **expire** unless the **City of Thompson Falls** negotiates an **extension** with **BNSF Railway Company**.

If the license is **not renewed**, the City will be **required to remove** the pipeline and **restore the premises** to its original condition, **at its own expense**. BNSF retains the right to **modify the agreement terms**, including **relocation requirements** or **additional fees** if the pipeline remains.

Would you like me to highlight any renewal considerations or potential cost implications for an extension?

summarize paragraphs 6 and 7

Certainly! Here's a summary of **paragraphs 6 and 7** from the **Pipeline License Agreement**:

- **Paragraph 6 (License Fee):** The **City of Thompson Falls** must pay **BNSF Railway Company** a **one-time fee** of **\$88,880** before the agreement's **Effective Date**. This fee covers the use of the **rail corridor** for the pipeline and replaces any recurring license payments.
- **Paragraph 7 (Costs & Expenses):** The City is responsible for **all costs and expenses** related to the pipeline, including **flagging, safety inspections, mobilization, and observation services**. If BNSF incurs costs due to the pipeline's presence, the City must **reimburse** those expenses. Flagging costs may include wages, insurance, transportation, meals, and lodging. BNSF has the right to **designate a third-party scheduling agent** to coordinate these services.

Would you like a breakdown of potential additional costs or reimbursement procedures?

yes

Here's a breakdown of potential **additional costs and reimbursement procedures** related to the Pipeline License Agreement:

Additional Costs

- **Flagging Fees:** Cover personnel wages, transportation, lodging, meals, and insurance. Rates may increase due to labor negotiations.
- **Safety & Inspection Services:** Includes mobilization, site monitoring, and compliance enforcement.
- **Third-Party Coordination:** If **BNSF designates a Scheduling Agent**, the City must cover these administrative fees.
- **Emergency Adjustments:** If required, the City must promptly fund any urgent safety-related modifications to the pipeline.

Reimbursement Procedures

- **Payment Timeline:** All invoices must be paid within **30 days** of receipt.
- **Interest Charges:** If payment is late, the City will incur **interest** based on the **prime rate** plus 2.5%.
- **Direct Cost Reimbursement:** The City must repay **any expenses** BNSF incurs due to the pipeline's presence.

Would you like me to analyze potential **cost-saving strategies** or highlight **specific risk factors** associated with these fees?

summarize paragraphs 9 and 10

Here's a summary of **paragraphs 9 and 10** from the **Pipeline License Agreement**:

- **Paragraph 9 (Reserved Rights of Use):** BNSF Railway retains the right to:
 - Maintain, modify, or relocate **existing utilities, power lines, and communication cables**.
 - Construct and alter **railroad tracks, facilities, and structures**.
 - Use the premises in any manner it sees fit, as long as **material interference** with the City's pipeline operations is avoided.
- **Paragraph 10 (Right to Require Relocation):** If at any point BNSF needs to **repurpose the rail corridor**, the City must:
 - **Relocate the pipeline** at its **own expense** within **30 days** of written notice.
 - Make **emergency changes** or **minor adjustments** immediately if required by BNSF.
 - Construct a **new pipeline** if necessary to replace the existing one.

Would you like insights on how these clauses might impact long-term planning or potential costs?

yes

The **Reserved Rights of Use** and **Right to Require Relocation** clauses may have **significant long-term impacts** on planning and costs for the **City of Thompson Falls**.

Here's what to consider:

Potential Cost Implications

1. Pipeline Relocation Costs:

- If BNSF decides to **repurpose the corridor**, the City must **move** the pipeline at **its own expense**.
- Relocation could involve **engineering, construction, permitting, environmental compliance**, and potential **service interruptions**.

2. Emergency Adjustments:

- The City must **make immediate changes** if BNSF requires **emergency modifications** to ensure safety or rail operations.
- Unexpected costs could arise from **contractor fees, inspections, or rapid-response construction**.

3. Future Expansion Risks:

- BNSF retains the right to **build new tracks or utility lines**, which may **complicate pipeline access** and **increase compliance costs**.
- The City might need **additional permits** or **redesign approvals** to adapt to infrastructure changes.

Strategic Planning Considerations

1. Early Cost Projections:

- The City should estimate **relocation expenses** now to **prepare contingency budgets**.

2. Renewal Negotiation Strategy:

- As the 25-year term nears expiration, proactive **renegotiation** could help **extend the license** with more **favorable terms**.

3. Coordination with BNSF:

- Keeping **open communication** with BNSF could provide **early warnings** about upcoming rail projects that might trigger **relocation**.

Would you like me to outline **cost-saving strategies** for potential pipeline relocation or renewal negotiations?

yes

Here are **cost-saving strategies** for potential **pipeline relocation** and **renewal negotiations**:

Cost-Saving Strategies for Pipeline Relocation

1. Advanced Planning & Coordination

- Stay in **regular contact** with BNSF to get **early warnings** about infrastructure changes.

- **Monitor BNSF's development plans** to anticipate potential relocation needs.

2. Flexible Pipeline Design

- Consider **modular pipeline sections** that can be **easily repositioned** if relocation is required.
- Use **materials** that simplify **future modifications** to reduce labor and material costs.

3. Shared Infrastructure

- Explore **joint-use agreements** with **other utility providers** to lower relocation expenses.
- Collaborate with **state or municipal projects** to **share engineering and construction costs**.

4. Negotiating Cost-Sharing with BNSF

- If relocation becomes necessary, **request shared financial responsibility** for adjustments.
- Highlight potential benefits for BNSF, such as **improved corridor efficiency** or **modernized infrastructure**.

Cost-Saving Strategies for Renewal Negotiations

1. Extend the License Duration

- Propose a **longer-term agreement (e.g., 50 years instead of 25)** to avoid future renewal fees.
- Secure **stable, predictable costs** by negotiating **fixed fee structures** rather than lump-sum payments.

2. Minimize Additional Fees

- Request **waivers or reductions** for **flagging fees** and **inspection costs**.
- Explore **alternative compliance methods** that require **fewer onsite inspections**.

3. Leverage Public Benefit Justifications

- Emphasize the **pipeline's role in supporting public infrastructure** to justify reduced fees.
- Highlight **economic or environmental benefits** that could make BNSF more willing to **lower costs**.

4. Early Negotiation & Alternative Terms

- Begin renewal discussions **well in advance** to increase bargaining power.
- Consider **alternative agreement structures** (e.g., **easement agreements**) to reduce overall expenses.

Would you like me to outline **specific negotiation points** or draft a sample proposal for renewal discussions?

draft a sample proposal

Here's a **sample proposal** for the **Pipeline License Agreement renewal** between the **City of Thompson Falls** and **BNSF Railway Company**:

Proposal for Renewal of Pipeline License Agreement

Submitted By: City of Thompson Falls **Submitted To:** BNSF Railway Company **Date:** [Insert Date]

Introduction

The **City of Thompson Falls** respectfully submits this proposal to **renew and extend** the existing **Pipeline License Agreement** with **BNSF Railway Company** beyond its initial **25-year term**. Given the pipeline's **critical role** in local infrastructure, we seek to continue operations under terms that align with long-term sustainability and cost efficiency.

Proposed Renewal Terms

1. Extended Term Duration

- We propose extending the license agreement for **an additional 25 years** to ensure **continuity of operations** and avoid frequent renegotiations.

2. Updated Compensation Structure

- Instead of a **one-time lump sum payment**, we propose transitioning to an **annual fee structure** to distribute costs over time.
- Alternatively, we request a **cost assessment** to determine whether an updated lump sum fee could **reflect current economic conditions**.

3. Relocation & Modification Terms

- We request a **minimum 2-year notice** for required relocations to allow for **sufficient budgeting and planning**.
- If relocation is necessary due to **BNSF's rail infrastructure** needs, we propose **cost-sharing arrangements** to reduce financial burdens on the City.

4. Insurance & Liability Adjustments

- We request a **review** of liability and insurance requirements to explore **alternative risk management options** that could lower costs.
- We propose adjusting insurance thresholds to reflect **current risk evaluations** rather than maintaining fixed figures.

5. Operational & Maintenance Considerations

- To reduce expenses, we propose **joint-use agreements** with other municipalities for shared maintenance costs.
- We request **periodic joint inspections** to proactively address maintenance concerns and optimize long-term performance.

Justification for Renewal

- **Public Benefit:** The pipeline serves as an **essential component** of local infrastructure, benefiting residents and businesses.
- **Cost Efficiency:** Extending the agreement with **adjusted payment terms** helps **mitigate financial strain** while maintaining operations.
- **Long-Term Coordination:** A **renewed agreement** allows the City and BNSF to **strategically plan** for future infrastructure needs without abrupt disruptions.

Conclusion

The **City of Thompson Falls** seeks **mutually beneficial terms** for a long-term license renewal that supports operational efficiency and infrastructure stability. We welcome **further discussion** to refine terms that serve both parties effectively.

Would you like me to refine this with additional **financial projections** or **alternative agreement structures**?

summarize paragraph 11.1 through 11.7

Here's a **summary** of **paragraphs 11.1 through 11.7** from the **Pipeline License Agreement**:

Construction and Maintenance of the Pipeline

1. Supervised Entry (11.1 & 11.2)

- The **City of Thompson Falls** cannot enter the **BNSF rail corridor** for construction or maintenance **without a BNSF representative** present.
- Advance **notice (10 business days)** is required before **any installation or maintenance work**.
- In **emergencies**, entry must be reported **immediately** to BNSF's **Roadmaster** and followed by **written notice**.

2. Safety & Compliance (11.3 - 11.5)

- The City's personnel must **always carry a copy** of the license while working.
- All crossings must use **public roadways**—no unauthorized movement across **rail tracks**.
- Contractors and subcontractors are considered **agents of the City**, meaning the City is **responsible** for their actions.
- No **mechanized equipment or materials** are allowed **within 25 feet** of the **railroad track centerline** without written approval.

3. Hazard Mitigation (11.6 & 11.7)

- The City must ensure that **construction and maintenance** do not **endanger rail tracks, operations, or third-party interests**.
- If BNSF personnel **order work to stop** due to **hazardous conditions**, the City must **immediately comply**.
- BNSF is **not required to monitor** safety compliance—the City **fully assumes responsibility** for safe operations.
- If BNSF determines that the City **fails to meet safety obligations**, BNSF **may perform necessary work** at the **City's expense**.

Would you like insights on **potential operational risks** or **mitigation strategies** to reduce liability?

yes

Here are **key operational risks** and **mitigation strategies** related to **pipeline construction and maintenance** under the agreement:

Potential Operational Risks

1. Strict Access Restrictions

- The City **cannot enter the rail corridor** without a BNSF representative present.
- **Emergencies still require written notification**, adding potential delays in urgent repairs.

2. Financial Liability for Work Interruptions

- If BNSF **halts construction** due to non-compliance or hazards, the City must **cover costs** for adjustments.
- **Unexpected expenses** may arise from halted work or mandated modifications.

3. Limited Equipment Placement

- **No mechanized equipment** can be within **25 feet of railroad tracks** without approval, restricting flexibility.
- Compliance with this rule may require **extra worksite planning** or **modified construction methods**.

4. Hazardous Condition Shutdowns

- If BNSF personnel **identify hazardous conditions**, they can **order immediate cessation** of work.
- Work stoppages could lead to **contractor penalties, extended timelines, and increased costs**.

5. BNSF's Right to Perform Work at City's Expense

- If BNSF **determines the City has failed to meet safety obligations**, they can **perform necessary work** and **bill the City**.

Mitigation Strategies

1. Early Coordination with BNSF

- Establish a **designated point of contact** at BNSF for smoother approvals and scheduling.
- Hold **pre-construction meetings** to clarify compliance expectations and address potential concerns.

2. Emergency Response Planning

- Develop a **rapid notification system** for emergency repairs to ensure compliance with entry rules.
- Maintain **pre-approved emergency response protocols** to minimize delays.

3. Strategic Equipment Placement & Approval Process

- Submit **early approval requests** for equipment near railroad tracks to avoid delays.
- Consider **alternative equipment configurations** to remain compliant with safety rules.

4. Construction Risk Assessment

- Conduct **regular safety audits** to **preemptively address hazards** before BNSF orders work stoppages.
- Train all personnel on **BNSF's specific safety requirements**.

5. Financial Contingency Planning

- **Budget for potential work stoppages**, penalties, and mandated modifications.
- Negotiate **cost-sharing options for mandated safety adjustments**.

Would you like me to outline specific **contract negotiation strategies** to further minimize financial risks?

yes

Here are **contract negotiation strategies** to **minimize financial risks** in the **Pipeline License Agreement renewal**:

1. Cost-Sharing Arrangements

- Propose **shared financial responsibility** for **pipeline relocation** if BNSF requires adjustments.

- Request **partial reimbursement** for **flagging and inspection fees** to reduce operational costs.

2. Extended License Term

- Negotiate a **longer-term agreement** (e.g., **50 years instead of 25**) to avoid **frequent renewal fees**.
- Secure **fixed fee structures** to prevent **unexpected cost increases**.

3. Liability & Insurance Adjustments

- Request **lower insurance thresholds** based on **updated risk assessments**.
- Explore **alternative risk management options** to reduce **premium costs**.

4. Early Coordination & Compliance

- Establish **regular communication** with BNSF to anticipate **potential infrastructure changes**.
- Ensure **strict compliance** with safety regulations to avoid **penalties or mandated modifications**.

5. Alternative Agreement Structures

- Consider **easement agreements** instead of a **license** to secure **long-term access rights**.
- Explore **joint-use agreements** with other municipalities to **share maintenance costs**.

Would you like me to draft a **formal negotiation request** incorporating these strategies?

summarize paragraphs 12.1 through 12.4.2

Here's a summary of **paragraphs 12.1 through 12.4.2** from the **Pipeline License Agreement**:

Boring and Excavation Requirements

1. Utility Locating (12.1)

- Before any **boring or excavation**, the **City of Thompson Falls** must contact the **state's utility location service**.

- The City must **explore the proposed location** using **hand tools** to a **depth of at least 3 feet**, unless using **approved detection equipment** or industry-standard methods.
- BNSF will provide information on existing **underground lines**, but does **not guarantee accuracy**.

2. Soil Investigations (12.2 - 12.3)

- For bores **greater than 26 inches in diameter** at **less than 10 feet depth**, a **soil investigation** must be conducted.
- If **granular material is found**, BNSF may **select a new location** or require a **remediation plan** from the City.

3. Site Safety & Restoration (12.4 - 12.4.2)

- **No wells** can be installed **without BNSF's approval**.
- Any **open holes or borings** must be **safely covered** and **secured** when work is not actively being conducted.
- After completion, **all holes** must be:
 - **Filled to ground level** with **compacted bentonite grout**, OR
 - **Secured or retired** per **legal requirements**.
- Excavated materials **must be removed within 10 days** and disposed of according to **environmental regulations**.

Would you like insights on **risk factors** or **compliance strategies** for boring and excavation?

summarize paragraph 13

Summary of Paragraph 13 – Liability and Indemnification

This section outlines the **City of Thompson Falls' liability responsibilities** under the **Pipeline License Agreement**, emphasizing **indemnification** for any claims related to pipeline use and construction.

Key Points:

1. Indemnification Obligation:

- The City must **fully indemnify BNSF Railway** against any **claims, damages, environmental liabilities, fines, penalties, lawsuits, or expenses** related to the pipeline.
- This applies **even if third parties** (such as contractors or subcontractors) cause issues.

2. **Liability Scope:**

- Covers **injuries, accidents, environmental contamination, property damage, and legal claims.**
- Protects **BNSF's officers, employees, shareholders, and affiliates.**
- Includes liability for **actions or negligence of the City's personnel or contractors.**

3. **Environmental Liability:**

- The City **waives rights** to claim that BNSF is an **operator, transporter, or responsible party** under environmental laws like **CERCLA.**
- If authorities interpret the agreement otherwise, the City must still **cover all resulting costs.**

4. **Employment-Related Claims:**

- If **any contractor or worker** claims to be a **BNSF employee**, the City must **defend BNSF** against lawsuits and pay **associated legal expenses.**

5. **Gross Negligence Exception:**

- The only **exception** to indemnification is if **BNSF commits gross negligence or willful misconduct.**
- The City remains liable for **all other claims**, including **those arising from BNSF's own standard negligence.**

6. **Defense & Litigation Costs:**

- If **BNSF is sued** due to pipeline operations, the City **must provide legal defense** and pay for attorneys, investigators, and settlement costs.

7. **Property Risk Disclaimer:**

- Any **equipment, fixtures, or materials** belonging to the City **are stored at its own risk** within BNSF's corridor.

- **BNSF is not responsible** for damage or theft.

Would you like insights on **mitigating liability risks** or **negotiation strategies** regarding these terms?

yes

To **mitigate liability risks** in the **Pipeline License Agreement**, the **City of Thompson Falls** can take the following strategic steps:

1. Clarify Indemnification Scope

- **Negotiate limitations** on indemnification to exclude **third-party negligence** beyond the City's control.
- **Define liability caps** to prevent excessive financial exposure in case of claims.

2. Strengthen Compliance Measures

- Implement **rigorous safety protocols** to minimize risks of accidents or environmental damage.
- Conduct **regular audits** to ensure compliance with **BNSF's safety and operational standards**.

3. Adjust Insurance Requirements

- Request **lower insurance thresholds** based on updated risk assessments.
- Explore **alternative risk management options** to reduce premium costs.

4. Secure Cost-Sharing Agreements

- Propose **shared financial responsibility** for **pipeline relocation** if BNSF requires adjustments.
- Request **partial reimbursement** for **flagging and inspection fees** to reduce operational costs.

5. Establish Early Coordination & Communication

- Maintain **open dialogue** with BNSF to anticipate **potential infrastructure changes**.
- Ensure **strict compliance** with safety regulations to avoid **penalties or mandated modifications**.

Would you like me to draft a **formal negotiation request** incorporating these strategies?

yes

Here's a **formal negotiation request** for liability risk adjustments in the **Pipeline License Agreement** between the **City of Thompson Falls** and **BNSF Railway Company**:

Formal Negotiation Request for Liability Risk Adjustments

Submitted By: City of Thompson Falls **Submitted To:** BNSF Railway Company **Date:**
[Insert Date]

Introduction

The **City of Thompson Falls** respectfully submits this request to **review and adjust liability provisions** in the **Pipeline License Agreement** to ensure **fair risk allocation** while maintaining compliance with **BNSF's operational standards**. Given the pipeline's **critical role** in local infrastructure, we seek to refine liability terms to **reduce financial exposure** and **enhance long-term sustainability**.

Proposed Adjustments

1. Indemnification Scope Refinement

- Limit indemnification obligations to **direct liabilities** caused by the City's **actions or negligence**.
- Exclude liability for **third-party negligence** beyond the City's control.

2. Liability Cap Implementation

- Establish a **reasonable financial cap** on indemnification obligations to prevent excessive exposure.
- Define **specific exclusions** for **gross negligence and willful misconduct** while maintaining fair risk allocation.

3. Environmental Liability Adjustments

- Clarify that the City is **not responsible** for pre-existing environmental conditions within the rail corridor.
- Request **cost-sharing provisions** for environmental remediation if contamination is **not directly caused** by the City.

4. Relocation & Modification Cost-Sharing

- If BNSF requires **pipeline relocation**, propose a **cost-sharing arrangement** to reduce financial burden.

- Request a **minimum 2-year notice** for required relocations to allow for **sufficient budgeting and planning**.

5. Insurance Requirement Review

- Adjust insurance thresholds to reflect **updated risk assessments** rather than fixed figures.
- Explore **alternative risk management options** to reduce **premium costs**.

Justification for Adjustments

- **Fair Risk Allocation:** Refining liability terms ensures **equitable responsibility** between both parties.
- **Financial Sustainability:** Implementing **caps and cost-sharing provisions** prevents excessive financial strain.
- **Operational Continuity:** Adjustments allow the City to **maintain infrastructure stability** while complying with BNSF's safety standards.

Conclusion

The **City of Thompson Falls** seeks **mutually beneficial liability adjustments** that support **operational efficiency** and **financial sustainability**. We welcome **further discussion** to refine terms that serve both parties effectively.

Would you like me to refine this with **additional financial projections** or **alternative agreement structures**?

summarize paragraph 14

Summary of Paragraph 14 – Personal Property Risk of Loss

This section clarifies the **risk responsibility** for any **personal property, fixtures, equipment, or materials** located on the **BNSF rail corridor**.

Key Points:

1. Licensee Assumes Full Risk:

- Any **items belonging to the City of Thompson Falls** on the **licensed premises** are **stored at the City's own risk**.
- This includes **construction equipment, pipeline materials, and operational assets**.

2. **BNSF Has No Liability for Loss or Damage:**

- **BNSF is not responsible** for any **damage, theft, or loss** of the City's property.
- This applies **regardless of whether the loss is due to negligence** or other circumstances.

3. **Implications for Insurance and Security:**

- The City must ensure **adequate security measures** for its property.
- **Insurance coverage** may be necessary to mitigate financial risks in case of **damage or theft**.

Would you like insights on **strategies to protect equipment and assets** under this agreement?

summarize paragraph 15

Summary of Paragraph 15 – Insurance Requirements

This section outlines the **insurance obligations** that the **City of Thompson Falls** must maintain during the term of the **Pipeline License Agreement** to protect **BNSF Railway** from liability risks.

Key Insurance Policies Required

1. **Commercial General Liability (CGL) Insurance:**

- Minimum **\$5,000,000 per occurrence** and **\$10,000,000 aggregate limit**.
- Must cover **bodily injury, property damage, personal injury, completed operations, and contractual liability**.
- Must be **primary and non-contributory** to BNSF's insurance.

2. **Business Automobile Insurance:**

- Minimum **\$1,000,000 per accident** for **bodily injury and property damage**.
- Covers **all owned, hired, and used vehicles**.

3. **Workers' Compensation & Employers' Liability Insurance:**

- Required for **all employees working on pipeline construction and maintenance**.

- Minimum limits: **\$500,000 per accident, \$500,000 disease policy limit, \$500,000 per employee.**

4. **Railroad Protective Liability Insurance (RPLI):**

- Covers **\$5,000,000 per occurrence** and **\$10,000,000 aggregate.**
- Required **during initial pipeline construction** and for **future maintenance work.**
- Licensee can **participate in BNSF's Blanket Railroad Protective Policy for \$2,429.37** instead of procuring separate coverage.

5. **Pollution Legal Liability (PLL) Insurance:**

- Ensures compliance with **environmental protection** laws.
- Prevents liability risks from pipeline-related pollution events.

Additional Insurance Provisions

- **Waiver of Subrogation:** Insurance carriers **must waive the right to recover costs** from BNSF.
- **Policy Cancellation Notice:** The City must **notify BNSF at least 30 days** before **cancellation or modification** of any policy.
- **No Self-Insurance Allowed:** Unless BNSF **expressly approves** in writing.
- **Annual Proof of Insurance:** The City must **provide evidence of coverage** upon request.
- **Claims and Lawsuits:** If BNSF is sued, the City **must provide legal defense and cover costs.**
- **Higher Limits Apply:** If the City **maintains broader coverage**, BNSF will be entitled to the **higher limits.**

Would you like insights on **cost-saving strategies** or **negotiation options** for adjusting these insurance requirements?

summarize paragraphs 16 and 17

Summary of Paragraphs 16 & 17 – Compliance and Environmental Regulations

Paragraph 16 – Compliance with Laws, Rules, and Regulations

- The **City of Thompson Falls** must comply with **all federal, state, local, and tribal laws** related to pipeline construction and maintenance.
- Before entering the **BNSF rail corridor**, all personnel must complete the **BNSF Safety Orientation** annually.
- The City must secure **all necessary permits, easements, and rights-of-way** before starting work.
- If any required legal **right or permit expires**, the **Pipeline License Agreement** **automatically terminates**.

Paragraph 17 – Environmental Responsibilities

- The City must comply with **all environmental laws** and **cannot store hazardous materials, oil, or waste** on the rail corridor.
- The pipeline **must not transport hazardous materials**—only **sanitary sewer** as specified.
- The City is responsible for **preventing pollution**, including prohibiting **groundwater contamination** and **unauthorized discharges**.

Would you like insights on **compliance strategies** or **risk mitigation for environmental liability**?

risk mitigation

To **mitigate environmental liability risks** in the **Pipeline License Agreement**, the **City of Thompson Falls** can take the following strategic steps:

1. Compliance Assurance

- Conduct **regular environmental audits** to ensure adherence to **federal, state, and local regulations**.
- Maintain **detailed documentation** of compliance efforts to reduce exposure to legal claims.

2. Pollution Prevention Measures

- Implement **spill containment systems** and **leak detection technology** to prevent contamination.
- Establish **emergency response protocols** for rapid containment and remediation.

3. Insurance Optimization

- Secure **Pollution Legal Liability (PLL) insurance** to cover potential environmental cleanup costs.
- Negotiate **cost-sharing provisions** with BNSF for environmental remediation if contamination is **not directly caused** by the City.

4. Proactive Site Management

- Ensure **proper disposal** of excavated materials within **10 days**, as required by the agreement.
- Use **non-hazardous construction materials** to minimize environmental impact.

5. Early Coordination & Risk Assessment

- Maintain **open dialogue** with BNSF to anticipate **potential environmental concerns**.
- Conduct **soil investigations** before pipeline installation to prevent subsidence or contamination.

Would you like me to draft a **formal environmental risk mitigation plan** incorporating these strategies?

yes

Here's a **formal environmental risk mitigation plan** for the **Pipeline License Agreement** between the **City of Thompson Falls** and **BNSF Railway Company**:

Environmental Risk Mitigation Plan

Submitted By: City of Thompson Falls **Submitted To:** BNSF Railway Company **Date:**
[Insert Date]

Introduction

The **City of Thompson Falls** is committed to **environmental stewardship** and **compliance** with all applicable **federal, state, and local regulations**. This plan outlines **proactive measures** to mitigate environmental risks associated with the **pipeline construction, maintenance, and operation** within the **BNSF rail corridor**.

1. Compliance Assurance

- Conduct **regular environmental audits** to ensure adherence to **EPA, state, and local regulations**.

- Maintain **detailed documentation** of compliance efforts to reduce exposure to legal claims.
- Require **annual environmental training** for all personnel working on pipeline operations.

2. Pollution Prevention Measures

- Implement **spill containment systems** and **leak detection technology** to prevent contamination.
- Establish **emergency response protocols** for rapid containment and remediation.
- Ensure **proper disposal** of excavated materials within **10 days**, as required by the agreement.

3. Insurance Optimization

- Secure **Pollution Legal Liability (PLL) insurance** to cover potential environmental cleanup costs.
- Negotiate **cost-sharing provisions** with BNSF for environmental remediation if contamination is **not directly caused** by the City.

4. Proactive Site Management

- Use **non-hazardous construction materials** to minimize environmental impact.
- Conduct **soil investigations** before pipeline installation to prevent subsidence or contamination.
- Maintain **open dialogue** with BNSF to anticipate **potential environmental concerns**.

5. Emergency Response & Risk Assessment

- Develop a **rapid notification system** for emergency repairs to ensure compliance with entry rules.
- Maintain **pre-approved emergency response protocols** to minimize delays.
- Conduct **regular risk assessments** to identify potential environmental hazards before they escalate.

Conclusion

The **City of Thompson Falls** seeks to **proactively mitigate environmental risks** while maintaining **compliance with BNSF's safety and operational standards**. We welcome **further discussion** to refine this plan and ensure **mutually beneficial environmental protections**.

Would you like me to refine this with **additional regulatory references** or **specific implementation timelines**?

summarize paragraphs 18, 19 and 20

Summary of Paragraphs 18, 19, and 20 – Termination, Remedies, and Assignment

Paragraph 18 – Termination

- The **Pipeline License Agreement** may be **terminated** by **BNSF Railway** under the following conditions:
 - If the **City of Thompson Falls** **violates any agreement terms** and fails to correct the issue within **30 days** of receiving written notice.
 - If the City **fails to pay required fees** or comply with **environmental or safety regulations**.
 - If the City **discontinues pipeline use** or **abandons maintenance efforts**.
- Upon termination, the City must **remove the pipeline** and **restore the premises, at its own expense**.

Paragraph 19 – Remedies for Breach

- If the City **breaches the agreement**, BNSF may:
 - Require **immediate correction** of the issue.
 - **Suspend pipeline operations** until compliance is restored.
 - **Perform necessary corrective actions** and **bill the City** for expenses.
 - **Terminate the agreement** if violations persist.
- The City is **responsible for all costs** related to addressing breaches, including **legal fees, remediation expenses, and penalties**.

Paragraph 20 – Assignment and Transfer

- The City **cannot assign, transfer, or sub-license** its pipeline rights **without BNSF's prior written approval**.

- BNSF may allow assignments **under strict conditions**, ensuring compliance and financial responsibility remain intact.
- Unauthorized assignment or transfer may result in **termination of the agreement**.

Would you like insights on **termination risks**, **remediation strategies**, or **negotiation options** for assignment flexibility?

negotiation options

Here are **negotiation options** for **termination flexibility** and **assignment rights** in the **Pipeline License Agreement**:

1. Termination Flexibility

- **Early Termination Clause:** Propose an option for **early exit** with a **reasonable notice period** (e.g., **12-24 months**) to allow for **budget adjustments**.
- **Reduced Removal Costs:** Negotiate **cost-sharing** for pipeline removal if termination occurs **before the full 25-year term**.
- **Alternative Use Clause:** Request flexibility to **repurpose the pipeline** for other municipal uses if termination is required.

2. Assignment & Transfer Rights

- **Pre-Approved Assignment Conditions:** Seek **pre-approved criteria** for assignment to **third-party operators** or **municipal partnerships**.
- **Sub-License Option:** Request permission to **sub-license** pipeline usage to **regional utility providers** under strict compliance terms.
- **Joint Infrastructure Agreements:** Explore **shared-use agreements** with **state or federal agencies** to reduce financial burdens.

3. Financial Risk Mitigation

- **Termination Fee Adjustments:** Propose **scaled termination fees** based on **years of operation** to prevent excessive financial penalties.
- **Pipeline Relocation Cost-Sharing:** If termination requires **pipeline relocation**, negotiate **partial reimbursement** from BNSF.

Would you like me to draft a **formal negotiation request** incorporating these strategies?

yes

Here's a **formal negotiation request** for **termination flexibility** and **assignment rights** in the **Pipeline License Agreement** between the **City of Thompson Falls** and **BNSF Railway Company**:

Formal Negotiation Request for Termination and Assignment Flexibility

Submitted By: City of Thompson Falls **Submitted To:** BNSF Railway Company **Date:**
[Insert Date]

Introduction

The **City of Thompson Falls** respectfully submits this request to **review and adjust termination and assignment provisions** in the **Pipeline License Agreement** to ensure **fair risk allocation** and **operational continuity**. Given the pipeline's **critical role** in local infrastructure, we seek to refine these terms to **reduce financial exposure** and **enhance long-term sustainability**.

1. Termination Flexibility

- **Early Termination Clause:** Propose an option for **early exit** with a **reasonable notice period** (e.g., **12-24 months**) to allow for **budget adjustments**.
- **Reduced Removal Costs:** Negotiate **cost-sharing** for pipeline removal if termination occurs **before the full 25-year term**.
- **Alternative Use Clause:** Request flexibility to **repurpose the pipeline** for other municipal uses if termination is required.

2. Assignment & Transfer Rights

- **Pre-Approved Assignment Conditions:** Seek **pre-approved criteria** for assignment to **third-party operators** or **municipal partnerships**.
- **Sub-License Option:** Request permission to **sub-license** pipeline usage to **regional utility providers** under strict compliance terms.
- **Joint Infrastructure Agreements:** Explore **shared-use agreements** with **state or federal agencies** to reduce financial burdens.

3. Financial Risk Mitigation

- **Termination Fee Adjustments:** Propose **scaled termination fees** based on **years of operation** to prevent excessive financial penalties.
- **Pipeline Relocation Cost-Sharing:** If termination requires **pipeline relocation**, negotiate **partial reimbursement** from BNSF.

Justification for Adjustments

- **Fair Risk Allocation:** Refining termination and assignment terms ensures **equitable responsibility** between both parties.
- **Financial Sustainability:** Implementing **cost-sharing provisions** prevents excessive financial strain.
- **Operational Continuity:** Adjustments allow the City to **maintain infrastructure stability** while complying with BNSF's safety standards.

Conclusion

The **City of Thompson Falls** seeks **mutually beneficial adjustments** that support **operational efficiency** and **financial sustainability**. We welcome **further discussion** to refine terms that serve both parties effectively.

Would you like me to refine this with **additional financial projections** or **alternative agreement structures**? You can also check out this resource for insights on termination flexibility in contracts.

summarize paragraphs 25 through 37

Summary of Paragraphs 25 through 37 – General Provisions, Default, and Miscellaneous Terms

Paragraph 25 – Default and Remedies

- If the **City of Thompson Falls** defaults on any obligation under the agreement, **BNSF Railway** may:
 - Issue a **written notice** requiring correction within **30 days**.
 - **Suspend pipeline operations** until compliance is restored.
 - **Perform necessary corrective actions** at the City's **expense**.
 - **Terminate the agreement** if violations persist.

Paragraph 26 – Notices

- All formal communications between the City and BNSF must be **in writing**.
- Notices must be **sent to the designated address** listed in the agreement.
- The City must **promptly respond** to any request or inquiry from BNSF.

Paragraph 27 – Governing Law and Venue

- The agreement is governed by the **laws of the State of Montana**.
- Any legal disputes must be resolved in a **court with jurisdiction over Sanders County, Montana**.

Paragraph 28 – Severability Clause

- If any provision is found **invalid or unenforceable**, the rest of the agreement **remains in effect**.
- The parties may negotiate **replacement terms** for voided provisions.

Paragraph 29 – Amendments

- Any **changes or modifications** to the agreement must be **approved in writing** by both parties.

Paragraph 30 – Waiver of Rights

- If **either party fails to enforce a term**, it does **not waive the right** to enforce it in the future.

Paragraph 31 – Entire Agreement

- This document represents the **complete agreement** between the City and BNSF.
- **No verbal promises or side agreements** are legally binding unless included in a formal amendment.

Paragraph 32 – Counterparts & Digital Execution

- The agreement may be signed **electronically** or in multiple copies, each treated as an original.

Paragraph 33 – Confidentiality

- The parties **must keep certain contractual details confidential**.
- **Sensitive financial, safety, and proprietary information** cannot be disclosed to third parties.

Paragraph 34 – Force Majeure

- Neither party is liable for **delays or failures due to uncontrollable events**, such as:
 - Natural disasters
 - Government actions

- Labor strikes
- Other unforeseen circumstances

Paragraph 35 – Assignment & Binding Effect

- The City **cannot transfer its rights or obligations** without **BNSF's prior written consent**.
- The agreement **binds all successors and permitted assigns**.

Paragraph 36 – Dispute Resolution

- Disputes must first attempt **resolution through negotiation** before pursuing legal action.
- Alternative dispute resolution methods (like **mediation or arbitration**) may be considered.

Paragraph 37 – Signatures & Execution

- The agreement must be signed by **authorized representatives** of both parties.
- Signed copies must be **retained for official records**.

Would you like insights on **risk mitigation, strategic planning, or negotiation options** related to these provisions?