



Contract Number

SAP Number

### Sheriff/Coroner/Public Administrator

<b>Department Contract Representative</b>	Kelly Welty, Chief Deputy Director of Sheriff's Administration
<b>Telephone Number</b>	(909) 387-0640
<b>Contractor</b>	BNSF Railway Company (hereinafter called CONTRACTOR)
<b>Contractor Representative</b>	John Macias
<b>Telephone Number</b>	(817) 352-4113
<b>Contract Term</b>	07/01/2023 – 6/30/2026
<b>Original Contract Amount</b>	\$46,724
<b>Amendment Amount</b>	\$0
<b>Total Contract Amount</b>	\$46,724
<b>Cost Center</b>	4430001000

IT IS HEREBY AGREED AS FOLLOWS:

WITNESSETH

WHEREAS, the COUNTY provides dispatch services throughout the geographical boundaries of the County of San Bernardino; AND

WHEREAS, the CONTRACTOR desires to enter into an Agreement with the COUNTY for dispatch services within the territorial boundaries of the CONTRACTOR;

NOW, THEREFORE, the parties agree as follows:

**A. SCOPE OF SERVICES**

COUNTY, through the San Bernardino County Sheriff/Coroner/Public Administrator Department (hereinafter referred to as "SHERIFF"), shall provide emergency dispatching for the CONTRACTOR during the term of this Agreement. The emergency dispatch services to be provided by COUNTY to CONTRACTOR hereunder shall include:

- A.1 Dispatch services provided by SHERIFF for the CONTRACTOR as follows:
  - A.1.1 Operate and monitor radio and communications equipment in accordance with FCC Regulations.
  - A.1.2 Monitor the location and status of field units.
  - A.1.3 Assign back-up assistance as warranted for field personnel.

- A.1.4** Receive radio calls and inquiries from personnel, input information, and archive records.
- A.1.5** Query and/or research computerized data banks for information requested.
- A.1.6** Operate the Computer Aided Dispatch (CAD) system, Central Name Index (CNI), California Law Enforcement Telecommunications System (CLETS), and National Crime Information Center (NCIC) system.
- A.1.7** Provide assistance and make phone calls at the request of field units for tows, notifications, etc.
- A.1.8** Track calls for statistical purposes.

**A.2** Emergency dispatch services provided by SHERIFF for the CONTRACTOR on a twenty-four (24) hour per day basis. Any dispatching services provided outside of standard operations will be compensated at the overtime rate. CONTRACTOR shall provide a schedule for planned special operational events. Any training in radio operations and procedures for the CONTRACTOR personnel will be provided by the SHERIFF and compensated at the overtime rate. The training hours and frequency will be at the discretion of the SHERIFF.

**A.3** Attendance by SHERIFF's representative(s) at meetings of the CONTRACTOR and such other meetings as necessary in carrying out services under this Agreement.

**A.4** The services provided by the COUNTY hereunder shall include all equipment (including repairs thereto or depreciation thereon), supplies, communications, administration, labor, vacation and sick leave, any COUNTY retirement contributions, travel expenses, and all other services, obligations, or expenditures necessary or incidental to the performance of the duties to be performed by the SHERIFF under the terms of this Agreement. Notwithstanding the foregoing, in all instances where special supplies, stationary, notices, forms, and the like are to be issued in the name of the CONTRACTOR and approved by the SHERIFF, the same shall be supplied by the CONTRACTOR at its own cost and expense.

**B. STANDARDS OF PERFORMANCE**

**B.1** The standards of performance, the methods of performance, the discipline and control of personnel, the determination of proper dispatching practices and procedures, and all other matters incidental to the manner of performance of services by SHERIFF hereunder shall be determined by the SHERIFF at his sole discretion. The responsibility of SHERIFF and of COUNTY to CONTRACTOR hereunder shall be to provide, as an independent contracting agency, effective dispatching at the level herein contracted for, and the CONTRACTOR shall not have the right to determine or direct the manner or means of the performance.

**B.2** All persons directly or indirectly employed by COUNTY in the performance of the services and functions to be provided to the CONTRACTOR hereunder, shall be employees of the COUNTY, and no COUNTY employees shall be entitled to CONTRACTOR's pension, civil service, or other status or right.

**B.3** CONTRACTOR shall have the right, at any time and from time to time, during the term of this Agreement to request a higher level of dispatching than that herein contracted for, and within a reasonable time after such requests, COUNTY shall provide such additional personnel as may be required to provide such additional dispatching services. Adjustment of contracted costs may be necessary.

**B.4** To facilitate the performance of services hereunder by COUNTY; the CONTRACTOR, its officers, agents, and employees shall give their full cooperation and assistance within the scope of the duties and responsibilities of such officers, agents, and employees.

**B.5** SHERIFF shall designate a representative to work directly with and provide liaison with the CONTRACTOR. The SHERIFF's representative shall make reports as may be appropriate as determined by the SHERIFF, with respect to dispatching services provided to CONTRACTOR.

**C. TERM AND TERMINATION**

The term of this Agreement shall be for a period of three years beginning July 1, 2023 and ending on June 30, 2026. Notwithstanding the foregoing, this Agreement may be terminated at any time with or without cause by CONTRACTOR or by SHERIFF upon written notice given to the other party at least ninety (90) days prior to the date specified for such termination. Any such termination date shall coincide with the end of a calendar month. In the event of such termination, each party shall fully pay and discharge all obligations in favor of the other accruing prior to the date of such termination, and each party shall be released from all obligations or performance which would otherwise accrue subsequent to the date of termination. Neither party shall incur any liability to the other by reason of termination.

**D. FISCAL PROVISIONS**

**D.1** CONTRACTOR shall pay SHERIFF the sum of money per Schedule A attached hereto and incorporated herein by reference. SHERIFF shall invoice CONTRACTOR for the cost of services quarterly in arrears, plus overtime, if any. SHERIFF shall submit a quarterly invoice including any overtime generated during the previous quarter for hours of service outside of this Agreement, outlined in the Scope of Services provision. Payment shall be due within forty-five (45) days from the date of each invoice.

**D.2** Schedule A reflects the rates in effect at the Execution of this Agreement. SHERIFF shall have the right to adjust the Agreement rates annually and any subsequent rate change(s) shall become effective on July 1 of the COUNTY fiscal year (July 1 through June 30). Such rate change(s) is affected by the service provided during the prior year and increased labor costs from Memorandum of Understanding changes. SHERIFF shall provide notice to CONTRACTOR of pending rate change(s) by providing CONTRACTOR with a revised Schedule A, which shall be signed by CONTRACTOR and returned to SHERIFF.

**D.3** If a change in service level is requested or required during the fiscal year, SHERIFF shall provide a revised Schedule A, incorporating such changes, which shall be signed by CONTRACTOR and returned to SHERIFF. CONTRACTOR's subsequent invoice shall be adjusted in accordance with the rate change(s).

**D.4** COUNTY reserves the right to reduce the level of dispatching services resulting from labor relations actions and CONTRACTOR's obligation to pay COUNTY shall be reduced for services not performed for that reason.

**E. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

**E.1 Indemnification**

The CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers ("Indemnitees") from any and all direct claims, actions, losses, damages and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. The CONTRACTOR indemnification obligation does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

**E.2 Insurance**

Both CONTRACTOR and COUNTY are authorized self-insured entities for purposes of Professional Liability, General Liability, Automobile Liability, and Workers' Compensation. CONTRACTOR and COUNTY warrant that through their respective program of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.

**E.3 Waiver of Subrogation Rights**

CONTRACTOR shall require the carriers of required coverages to waive all rights of subrogation against the COUNTY, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the CONTRACTOR and CONTRACTOR’s employees or agents from waiving the right of subrogation prior to a loss or claim. The CONTRACTOR hereby waives all rights of subrogation against the COUNTY.

**E.4 Policies Primary and Non-Contributory**

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

**F. NOTICES**

All written notices provided for in this Agreement or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County  
Sheriff/Coroner/Public Administrator  
Attn: Contracts/Procurement Unit  
655 East Third Street  
San Bernardino, CA 92415

BNSF Railway Company  
2500 Lou Menk Drive  
Fort Worth, TX 76131  
Attn: Direct Services  
Email: [directservices@bnsf.com](mailto:directservices@bnsf.com)

With a copy to:

BNSF Railway Company  
2500 Lou Menk Drive, AOB-3  
Fort Worth, TX 76131  
Attn.: Manager, Contract Services  
Email: [SourcingHelp@bnsf.com](mailto:SourcingHelp@bnsf.com)

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**G. AUTHORITY**

The SHERIFF of San Bernardino County shall have the right to exercise the COUNTY’s authority under this Agreement including the right to give notice of termination on behalf of the COUNTY at his sole discretion.

**H. AGREEMENT AUTHORIZATION**

CONTRACTOR warrants and represents that the individual signing this Agreement is a properly authorized representative of the CONTRACTOR and has the full power and authority to enter into this Agreement on the CONTRACTOR’s behalf.

**I. California Consumer Privacy Act**

To the extent applicable, if Contractor is a business that collects the personal information of a consumer(s) in performing Services pursuant to the Contract, Contractor must comply with the provisions of the California Consumer Privacy Act (CCPA). (Cal. Civil Code section §§1798.100, et seq.). For purposes of this provision, “business,” “consumer,” and “personal information” shall have the same meanings as set forth at Civil Code section 1798.140. Contractor must contact the County immediately upon receipt of any request by a consumer submitted pursuant to the CCPA that requires any action on the part of the County, including but not limited to, providing a list of disclosures or deleting personal information. Contractor must not sell, market or otherwise disclose personal information of a consumer provided by the County unless specifically authorized pursuant to terms of the Contract. Contractor must immediately provide to the County any notice provided by a consumer to Contractor pursuant to Civil Code section 1798.150, subdivision (b) alleging a violation of the CCPA, that involves personal information received or maintained pursuant to the Contract. Contractor must immediately notify the County if it receives a notice of violation from the California Attorney General pursuant to Civil Code section 1798.155, subdivision (b).

**J. Executive Order N-6-22 Russia Sanctions**

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>), as well as any sanctions imposed under state law (<https://www.dgs.ca.gov/OLS/Ukraine-Russia>). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should it be determined that Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. Contractor shall be provided advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the County.

**K. Campaign Contribution Disclosure (SB1439)**

- i. Contractor has disclosed to the County using Attachment B - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Contractor's proposal to the County, or (2) 12 months before the date the Contract was approved by the Board of Supervisors. Contractor acknowledges that under Government Code section 84308, Contractor is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Contract.
- ii. In the event of a proposed amendment to the Contract, the Contractor will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.
- iii. Campaign contributions include those made by any agent/person/entity on behalf of the Contractor or by a parent, subsidiary or otherwise related business entity of Contractor.

**L. ENTIRE AGREEMENT**

This Agreement, consisting of six (6) pages and Schedule A, is attached hereto and incorporated by reference, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein.

This Agreement, and if applicable, any subsequent amendments, may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

[With the exception of signatures, this page is intentionally left blank].

SAN BERNARDINO COUNTY

►  
\_\_\_\_\_  
Dawn Rowe, Chair, Board of Supervisors

Dated: \_\_\_\_\_  
SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Lynna Monell  
Clerk of the Board of Supervisors  
San Bernardino County

By \_\_\_\_\_  
Deputy

BNSF Railway Company

(Print or type name of corporation, company, contractor, etc.)

By ► \_\_\_\_\_  
(Authorized signature - sign in blue ink)

Name \_\_\_\_\_  
(Print or type name of person signing contract)

Title \_\_\_\_\_  
(Print or Type)

Dated: \_\_\_\_\_  
Address 2500 Lou Menk Drive, GW1  
Fort Worth, TX 76131-2828

**FOR COUNTY USE ONLY**

Approved as to Legal Form  
► \_\_\_\_\_  
Grace B. Parsons, Deputy County Counsel

Reviewed for Contract Compliance  
► \_\_\_\_\_

Reviewed/Approved by Department  
► \_\_\_\_\_  
Kelly Welty, Chief Deputy Director of  
Sheriff's Administration

Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

# SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT

## SCHEDULE A

### EMERGENCY DISPATCH SERVICES BNSF RAILWAY COMPANY FY 2023-24 \*

#### ANNUAL SERVICE FEE

Salary and Benefits:

0.25 - Dispatcher (\$134,904 x 25%) \$33,726

County Indirect Cost: \$12,998

**ANNUAL COST:**

<b>\$46,724</b>
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**QUARTERLY PAYMENT:** **\$11,681.00**

#### OVERTIME

Overtime will be billed in arrears at a rate of \$60.54 per hour \*

\* The fees on this Schedule are for fiscal year 2023-24 only, are subject to Memorandum of Understanding changes approved by the County Board of Supervisors, and will be annually reviewed and adjusted accordingly.



## ATTACHMENT B Campaign Contribution Disclosure (SB 1439)

### **DEFINITIONS**

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

**Contractors must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.**

1. Name of Contractor: **BNSF Railway Company**\_\_\_\_\_
2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?  
 Yes  If yes, skip Question Nos. 3-4 and go to Question No. 5      No
3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: \_\_\_\_\_
4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded (“closed corporation”), identify the major shareholder(s):

**Burlington Northern Santa Fe, LLC**

\_\_\_\_\_

5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship
<b>Burlington Northern Santa Fe, LLC</b>	<b>Parent</b>

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and//or Agent(s):
<b><u>N/A</u></b>	<b><u>N/A</u></b>	<b><u>N/A</u></b>
<b><u>N/A</u></b>	<b><u>N/A</u></b>	<b><u>N/A</u></b>

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name

9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No  If **no**, please skip Question No. 10.

Yes  If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: **N/A**\_\_\_\_\_

Name of Contributor: **N/A**\_\_\_\_\_

Date(s) of Contribution(s): **N/A**\_\_\_\_\_

Amount(s): **N/A**\_\_\_\_\_

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing the Contract, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of the Contract is being considered and for 12 months after a final decision by the County.