

1st AMENDMENT

This 1st Amendment is made and entered into this 12th day of August, 2019 by and between R. J. Corman Licensors Company/Central Kentucky Line LLC, the mailing address of which is 101 R. J. Corman Drive, P.O. Box 788, Nicholasville, Kentucky 40340 (Licensor), and Lexington Fayette Urban County Government, an urban county government of the commonwealth of Kentucky, the mailing address of which is 200 East Main Street, Lexington, Kentucky 40507, (Licensee).

RECITALS:

The Licensee and Licensor are parties to a certain Non-Motorized Grade Crossing License Agreement, RJCC2018020 (Agreement) dated July 19th, 2018, by which the Licensee and Licensor mutually desire to revise the Exhibit B of the agreement to reflect additional cost for a pedestrian gate assembly.

WITNESSETH:

Section 4.3 of the Agreement, references Exhibit B dated May 17th, 2018 for \$977.00, which shall be revised to \$64,862.60 to include a pedestrian gate assembly as shown on the revised Exhibit B dated 6/10/2019.

Except as provided in this Amendment, all other terms and conditions of the Agreement shall remain in effect.

THEREFORE, in consideration of the mutual promises, covenants, terms and conditions set out herein, it is hereby agreed by and between the parties.

IN WITNESS OF WHICH we have executed this Amendment on the day and year first shown above.

R. J. CORMAN RAILROAD COMPANY/
CENTRAL KENTUCKY LINE, LLC

LEXINGTON FAYETTE URBAN
COUNTY GOVERNMENT

BY: Deborah J Hawley

BY: Linda Gordon

ITS: Director - Contracts & Real Estate

ITS: Mayor

REVISED EXHIBIT B



Rj Corman Signaling



A Limited Liability Company

101 RJ Corman Drive • PO Box 788 • Nicholasville, KY 40340-0788
(859) 881-7521 • Fax: (859) 885-7804 • www.rjcorman.com

June 10, 2019 – REV. 1

Deborah J. Hawley
Director – Real Estate and Contracts
R. J. Corman Railroad Group, LLC
PO Box 788, 101 RJ Corman Drive
Nicholasville, KY 40340
O: 859-881-2499
Deborah.Hawley@rjcorman.com

Re: Newton Pike – Lexington, KY (Add Pedestrian Gate)

Add Pedestrian Gate assembly, to be connected to existing crossing system. Also adding additional equipment in existing case.

Please see our proposal below for your consideration, delivery 70-90 days ARO:

Material	\$21,961.60
Engineering	\$2,270.00
Shop Wiring	\$600.00
Field Installation	\$40,031.00
Total	\$64,862.60
Freight	\$0.00
Grand Total	\$64,862.60

The Bill of Materials are below for your reference.

Notes:

- Sales Tax on material is not included (If required, to be added to invoice).
- Does not include relocation of any utilities (gas, water, electric, etc.).

Sincerely,

David W. Ermier
RJ Corman - Estimating Group
RJ Corman Signaling, LLC
O: (859) 881-2319
C: (859) 213-1928

NON-MOTORIZED GRADE CROSSING LICENSE AGREEMENT
RJCC2018020

THIS AGREEMENT, made and effective as of this 19th day of July, 2018, by and between R.J. CORMAN RAILROAD COMPANY/CENTRAL KENTUCKY LINE, the mailing address of which is 101 R. J. Corman Drive, P.O. Box 788, Nicholasville, Kentucky 40340, hereinafter called "Licensor," and LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT, an urban county government of the commonwealth of Kentucky, the address for purposes of this agreement is 200 East Main Street, Lexington, Kentucky 40507, hereinafter called "Licensee,"

WITNESSETH:

Licensor, subject to the limitations herein, for and in consideration of the fee(s) to be paid by Licensee and of the covenants, terms, conditions and agreements herein to be kept and performed by Licensee, hereby grants to Licensee the right or license to construct, use and maintain a public non-motorized grade crossing across the track(s) and property of Licensor, adjacent to Newtown Pike (KY922), Lexington, Fayette County, Kentucky, DOT346829S, Railroad Milepost 95.16 of Licensor's track, hereinafter called "Crossing", as more particularly shown on Exhibit A attached hereto and made a part hereof.

1. DEFINITIONS:

1.1 The term "Licensee" herein shall include the undersigned corporation, association, partnership, governmental body or individual, and shall also include Licensee's agents, employees and other duly authorized individuals. All words herein referring to Licensee shall be taken to be of such number and gender as the context may require.

1.2 The term "Licensor" herein shall include any other company or companies whose property at the aforesaid location may be leased or operated by the undersigned Licensor, and any parent, subsidiary or affiliated system companies of Licensor and the servants, agents or employees of each.

1.3 The term "satisfactory" or "satisfaction" herein shall mean approval by Licensor's Chief Engineer or his designated representative.

1.4 The term "Crossing" herein shall include track crossings, approaches, roadways, trails, drainage facilities, warning devices, signal and wire lines, gates, barricades, signs, appliances and ancillary facilities.

1.5 If this Agreement covers more than one track, the term "track" herein shall be construed respectively as including any one or all of said tracks, as the context may require.

1.6 "Maintenance" shall include, but not be limited to, keeping all vegetation cut to a height not exceeding two feet (2') above ground level, and keeping area free of parked vehicles and other obstructions.

2. USE, LIMITATIONS:

2.1 This license is subject to: (a) all encumbrances, conditions, covenants and easements applicable to Licensor's title to or rights in the subject property; (b) any existing public utilities and other pipe or wireline facilities located in, on, over, under or across the Crossing; (c) all instruments, easements, agreements and rights therefor, recorded or not; and (d) compliance by Licensee with all terms and conditions set out herein.

2.2 The Crossing shall be used solely as a non-motorized traffic crossing of Licensee, for use by the general public pursuant to the more restrictive of the terms and conditions of this Agreement and any authorizing signs or notices which may be posted concerning such use by Licensee. The Crossing is for non-motorized traffic only, such as pedestrians, bicyclists, wheelchair users, and skaters, and is not for use by powered vehicles of any kind, except for powered wheelchairs and maintenance and emergency vehicles.

2.3 This Agreement grants a personal license to Licensee only, and Licensee's rights hereunder cannot be assigned without the prior consent in writing of Licensor.

2.4 Licensee, at its sole cost and expense, shall erect and permanently maintain one or more signs indicating the conditions and limitations on the use of the Crossing, at location(s) adjacent to the Crossing designated by Licensor.

2.5 Nothing in this Agreement shall grant any rights in the public other than as stated herein, and Licensee shall not undertake to grant to the public or any third party any rights in or to the Crossing other than as permitted pursuant to and in accordance with this Agreement.

2.6 Licensor reserves and excepts unto itself the paramount right to continue to occupy, possess and use the area of the Crossing for any and all railroad purposes. Licensor shall not be obligated to make cuts in its trains for the Crossing.

2.7 No expressed or implied means of ingress and egress or way of necessity upon, across or over or adjacent lands of Licensor is granted by this Agreement. Licensee, at its own expense, will secure and maintain any necessary means of ingress and egress to the Crossing across lands of others.

3. FEES:

[INTENTIONALLY OMITTED]

4. CONSTRUCTION, MAINTENANCE:

4.1 The Crossing shall be constructed, and thereafter maintained, by Licensor, at the sole cost and expense of Licensee.

4.2 The approaches to the Crossing, including, but not limited to, gates, fencing and separately metered electric service shall be constructed and installed by, and at the sole cost and

expense of Licensee.

4.3 Licensee will pay Licensor for the cost of construction of the crossing surface and signalization, as shown on Exhibit B and the parties agree to execute a Right of Entry Permit for construction which shall include indemnification and insurance terms substantially similar to those set forth in this Agreement.

4.4 All other work associated with the construction of the Crossing shall be done by, and at the sole cost and expense of Licensee.

4.5 Licensor shall thereafter maintain the Crossing, at the sole cost and expense of Licensee, including signalization as more particularly set out in section 7, below.

4.6 Licensee, at its sole cost and expense, shall thereafter maintain all approaches, including, but not limited to, fencing, gates and separately metered electric service, and shall keep the Crossing and designated Sight Clearance Area(s) at all times free and clear of all spilled materials, mud, debris and all obstructions (including parked vehicles) to the reasonable satisfaction of Licensor.

4.7 Licensee shall perform or cause all Licensee's construction and maintenance under this Agreement to be performed in a prudent and workmanlike manner, in conformity with any applicable statutes, orders, rules, regulations and specifications of any public authority having jurisdiction over the Crossing and under conditions satisfactory to and approved by Licensor. Said construction and maintenance shall be performed at such times and in such manner as not to interfere with the movement of Licensor's trains.

4.8 In the event Licensee contracts for the performance of any Crossing work, Licensee shall require its contractor(s) and/or subcontractor(s) to comply with all the terms of this Agreement.

4.9 In the event Licensee fails, in the judgment of Licensor, to comply with any construction or maintenance requirement of this Agreement, Licensor, without waiving any other provision of this Agreement, may either furnish the labor and materials required to do such work, at the sole cost and expense of Licensee, or terminate this Agreement in accordance with Article 12 hereof.

4.10 Licensee shall be solely responsible for the location and any relocation or protective encasement of any subsurface pipe or wire lines (telephone, electrical power transmission or distribution, fiber optic, cable television, water, sewer, gas or petroleum products, et al.) and for necessary relocation of surface structures or facilities (fences, towers, poles, etc.) incident to the construction (or reconstruction) of the Crossing.

5. DRAINAGE:

5.1 Licensee shall not interfere with, or permit its contractors to interfere with, the existing drainage facilities within the approach ways or underneath the Crossing.

5.2 Licensee shall furnish, install and maintain, at Licensee's sole expense and in a manner satisfactory to Licensor, necessary drainage pipe within the approach ways and underneath the Crossing, on each side of said track(s), to accept drainage from the roadbed and keep drainage from the track(s) and right-of-way of Licensor.

6. PERMITS:

6.1 Before any construction hereunder is performed, or before use by Licensee of the Crossing, Licensee, at its sole cost and expense, shall obtain any necessary permits or licenses from all Federal, State or local public authorities having jurisdiction over the Crossing or Licensor's right-of-way and shall thereafter observe and comply with said licenses and permits, with the requirements of such public authorities, and with all applicable laws, rules and regulations and modifications thereof.

6.2 Licensor shall co-operate with Licensee in securing and complying with any Federal, State or local permits relative to the Crossing.

6.3 Licensee shall defend, protect and hold Licensor harmless for failure to obtain permits and licenses, for any violation thereof, or for costs or expenses of compliance or remediation.

6.4 During any period of time that Licensee or Licensee's contractors will be performing construction or maintenance a Right of Entry will be required.

7. BARRICADES, GATES; SIGNALS:

7.1 Licensee, at its sole cost and expense, shall furnish, construct and maintain any gate(s), barricade(s), sign(s), flashing light signals, and/or crossing warning device(s), or provide permanent flaggers or other protective services, as shall from time to time be deemed necessary for public safety purposes by Licensor or by any public authority having jurisdiction over rail grade crossings. The design and placement of signs, barriers, gates and any crossing warning devices shall be subject to the approval of Licensor. The cost of installing and maintaining and/or furnishing such additional crossing protection shall be paid solely by Licensee as a condition to keeping the Crossing in place.

7.2 Licensor may elect to furnish materials and install such gates, barricades, signs or automatic or other crossing warning devices, or provide such protective services, at the sole cost and expense of Licensee. Licensor may require the advance deposit of the estimated cost and expense of such work and materials. Upon completion of construction, Licensor will promptly refund any portion of the deposit in excess of Licensor's costs and expenses. Should Licensor's costs and expenses exceed said deposit, Licensee shall promptly pay such excess upon receipt from Licensor of bill therefor.

7.3 The operation of barriers and other warning devices and the performance of said protective services shall be in accordance with the more restrictive of the requirements of Licensor or such public authority.

7.4 a. Licensee will pay to Licensor, a base Annual Signal Inspection and Testing Fee of \$ (not applicable at this time) for as long as the Crossing exists pursuant to this Agreement. The base Annual Signal Inspection and Testing Fee shall be Licensor's compensation for providing all inspection and testing of the signaling devices at the crossing as may be required by the Federal Railroad Administration, and any other agency having regulatory jurisdiction over the same, and shall be adjusted on an annual basis, in proportion to the increase in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) specified for all Items – United States compiled by the Bureau of Labor Statistics of the United States Department of Labor ("CPI").

b. In addition to said Annual Signal Inspection and Testing Fee, Licensee shall reimburse Licensor, within thirty (30) days after receipt of any invoice from Licensor for the same, (a) the cost of upgrading said signals to prevent obsolescence, and (b) the cost of repairing or replacing said signals, or any component thereof, whether required by damage thereto from any cause, ordinary wear and tear, or the exhaustion of the actual or legally permissible useful life of the same. If Licensee fails or refuses to maintain and/or provide or pay any part of said costs, Licensor may terminate this Agreement as in Article 12.

c. Payment by Licensee of any Annual License Fee shall not be held to create an irrevocable license for any period.

d. Licensee shall also indemnify Licensor against, and shall pay or reimburse Licensor for, any additional taxes and assessments levied solely on account of the existence of the Crossing.

8. OPERATIONAL SAFETY:

8.1 Licensee shall use and shall cause its agents, employees, contractors, patrons and invitees to use the highest degree of care in the operation and use of the Crossing so as to avoid collisions and/or interference with operations of Licensor.

8.2 Licensee shall erect, and maintain standard universal, reflectorized 'RAILROAD CROSSING' signs on each side of the Crossing, clearly visible to pedestrian and other non-motorized traffic approaching the Crossing from either side and shall erect, and thereafter maintain, standard universal, reflectorized highway 'STOP' signs on each side of the Crossing, clearly visible to pedestrian and other non-motorized traffic approaching the Crossing from either side, all at Licensee's cost. Licensee shall be solely responsible to periodically inspect such signs to insure that they are in place and visible. All signage text will be in English and Spanish.

9. FLAGGING, CONSTRUCTION:

9.1 If Licensor deems it advisable during any period of construction, maintenance, repair, renewal, alteration, change, or removal of the Crossing, to place temporary watchmen, flaggers, inspectors or supervisors, for protection of operations of Licensor or others on Licensor's right-of-way at the Crossing, Licensor shall have the right to do so, at the expense of Licensee, but Licensor shall not be liable for its failure to do so.

9.2 Subject to Licensor's consent and to Licensor's railroad operating rules, Licensee may provide flaggers, watchmen, inspectors or supervisors during all times of such construction, re-construction, etc., at Licensee's sole risk and expense; and in such event, Licensor shall not be liable for the failure or neglect of such watchmen, flaggers, inspectors or supervisors.

10. EXPLOSIVES:

10.1 In the construction and/or maintenance of the Crossing, Licensee shall not use explosives of any type or perform or cause any blasting without the separate express prior written consent of Licensor. In the event such consent is extended, a representative will be assigned by Licensor to monitor, and Licensee shall reimburse Licensor for the entire cost and/or expense of furnishing said monitor.

10.2 Neither Licensee nor Licensee's contractor(s), agent(s), employee(s) or invitee(s), shall transport, carry or haul any explosive, flammable, combustible or other hazardous or dangerous materials, goods or commodities across track(s) of Licensor without separate prior written consent of Licensor. Such restrictions shall not apply to gasoline or diesel fuel in the vehicular fuel supply tanks of any construction or maintenance vehicle passing over the Crossing.

11. ALTERATIONS; TRACK CHANGES:

11.1 Whenever any repairs or changes are made to Licensor's right-of-way or track, or if additional track(s) are laid at the site of the Crossing, necessitating repairs to, alteration of, or relocation of the Crossing, the cost of all labor and materials required to make such repairs to, alterations of, or relocation of the Crossing shall be borne equally by the parties.

11.2 In the event that Licensor's operating and/or maintenance needs or uses require any change (including any raising, lowering, or additions to), relocation or improvement in its right-of-way, track(s), structures, roadbed, rail communication or other facilities (including fiber optic cable), which necessitate any change of location, height or depth of the Crossing, Licensor shall make such changes in the Crossing and/or the grading, approaches or drainage, within thirty (30) days after notice in writing to Licensee, and the cost of the same shall be borne equally by the parties.

11.3 If Licensee desires to revise, relocate or change in all or any part of the Crossing, or if Licensee is required to change or alter the Crossing, drainage or approach ways, plans therefor shall be submitted to Licensor for approval before any such change is made.

11.4 After any such change or alteration, the terms and conditions of this Agreement shall apply the Crossing, drainage and/or approach ways, as so changed or altered.

12. TERM, TERMINATION, REMOVAL:

12.1 This Agreement shall be and remain in effect, from the date first written above, shall continue for a term of 20 years, which term shall thereafter automatically renew for successive like terms, for as long as the Crossing is used by the public pursuant hereto.

12.2 Upon failure of Licensee to perform or comply with any term, covenant, clause, or condition herein contained, Licensor shall give Licensee 60 days' notice and opportunity to cure, upon failure of which this Agreement may be terminated immediately upon notice by Licensor. After any such termination, Licensor may barricade or otherwise block the Crossing until removed by Licensee, at sole risk and expense of Licensee.

12.3 Within thirty (30) days after termination of this Agreement, unless the parties hereto otherwise agree, the Crossing shall be removed, all approaches barricaded, and right-of-way of Licensor restored in a manner satisfactory to Licensor, all at the sole cost and expense of Licensee. All removal and restoration work to be performed on that portion of the Crossing between the rails of said track(s) and for two feet (2') beyond each rail shall be done by Licensor, at Licensee's sole cost and expense.

12.4 If Licensee fails to make removal as in Section 12.3, Licensor may remove same, by Licensor employee or contract forces, at Licensee's sole risk, cost and expense.

12.5 All rights which Licensee may have hereunder shall cease and end upon termination as provided herein; provided, however, that termination of this Agreement shall not in any manner affect any claims and liability which may have arisen or accrued hereunder prior to termination, and which, at the time of termination, have not been satisfied.

13. RAILROAD FORCE ACCOUNT COSTS:

13.1 Licensor's expense for wages of Licensor's employees ("force account" charges) and materials for any work performed at the expense of Licensee pursuant to this Agreement shall be paid by Licensee within thirty (30) days after invoicing for the same.

13.2 Such expense shall include, but not be limited to: cost of labor and supervision under "force account" rules, plus current applicable overhead charges (traveling expense, Federal Railroad Retirement and Unemployment Taxes, vacation allowances); the actual cost of materials; and insurance and freight and handling charges on all material used. Equipment rentals, if any, shall be in accordance with Railroad fixed applicable rates.

14. RISK, LIABILITY, INDEMNITY:

14.1 Licensee, recognizing that Licensor's operations and any use of Licensor's property, tracks and right-of-way involves increased risks, expressly assumes all risk of loss and damage to, and waives any right to ask or demand damages for, Property of Licensee, or any part thereof, at the Crossing, including loss of or interference with the use of service thereof, regardless of cause, including: (A) any fault, failure or negligence of Licensor in the construction, operation or maintenance of the Crossing or in rail operations on or over the Crossing; and/or (B) any fire, regardless of the source or origin thereof. For this Section, the term "Property of Licensee" shall include property of third parties situated or placed upon Licensor's right-of-way by Licensee or by such third parties at request of or for the sole benefit of Licensee.

14.2 Licensee, with the recognition of the above, and as further consideration for the

grant of this crossing right, also assumes, to the extent permitted by law, all liability for, and releases and agrees to defend, indemnify, protect and save licensor harmless from and against:

- a. all loss of or damages to any other property, including property in the care, custody or control of Licensor and third parties, now situated or which may be placed at the Crossing or adjacent thereto, and the loss of or interference with any use or services thereof;
- b. all loss and damages on account of injury to or death of any and all person (including but not limited to employees, invitees and patrons hereto) on the Crossing; and
- c. all claims and liability for such loss and damage and cost and expense thereof; arising out of, resulting from, or connected in any manner with the construction, reconstruction, maintenance, existence, use, condition, repair, change, relocation or subsequent removal of the Crossing, any parts thereof or appurtenant structures, caused solely by the fault, failure or negligence of Licensee. Nothing contained herein is intended to be, nor shall it act as, a waiver of any defense, including that of sovereign immunity, that Licensee may have as to any third party.

14.3 For the purposes of these Liability and Indemnity provisions only, all persons, including the employees of Licensor (flaggers, watchmen, etc.) and of Licensee, or employees of any independent or subcontracting third parties engaged in any construction or maintenance activities at the Crossing, in any of the work described in this Agreement, shall be deemed to be the sole contractors of Licensee while so engaged.

14.4 All obligations of Licensee under this Agreement to release, indemnify and hold Licensor harmless shall also extend to companies and other legal entities that control, are controlled by, are subsidiaries of, or are affiliated with Licensor, and their respective officers, agents and employees.

14.5 Licensee shall, within (30) days notify Licensor in writing, by Certified Mail or by commercial courier of any claims made against Licensee and/or Licensor arising in any manner from the existence of this Agreement and/or the Crossing.

15. INSURANCE:

15.1 Prior to commencement of surveys, installation or occupation of the Crossing pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, a policy of Public Liability Insurance or Commercial General Liability Insurance, and covering liability assumed by Licensee under this Agreement and having coverage limits of not less than FIVE MILLION DOLLARS (\$5,000,000.) Combined Single Limit per occurrence for bodily injury liability and property. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to Licensor prior to cancellation or modification of any policy. Certificate of insurance should reference Agreement number and should be mailed each successive year to the address listed above.

15.2 If said policy does not automatically cover Licensee's contractual liability during

periods of survey, installation, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee. If said policy is written on a "claims made" basis instead of an "occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

15.3 Licenser may at any time request evidence of insurance purchased by Licensee to comply with this requirement, and may demand that Licensee purchase insurance deemed adequate by Licenser. Failure of Licensee to comply with Licenser's demand shall be a default under this Agreement.

15.4 Securing by Licensee of insurance hereunder shall not limit Licensee's liability under this Agreement, but shall be additional security therefor.

15.5 Licensee, its agents or contractors, shall procure, and shall maintain during the construction phase of this agreement, at its sole cost and expense, a policy of Railroad Protective Liability Insurance with limits of TWO MILLION DOLLARS (\$2,000,000.) per occurrence and/or aggregate limit of SIX MILLION DOLLARS (\$6,000,000).

15.6 Licensee may elect to self-insure all or any part of the insurance obligations set out in this Section 15, but no such election will relieve Licensee from providing first dollar coverage for all claims and first dollar defense of all claims that would have otherwise been available pursuant to the insurance coverage specified herein.

16. BREACH, WAIVER:

16.1 Any waiver by either party at any time of its rights as to anything herein contained shall not be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or breach is waived in writing by said party.

16.2 Neither the failure of Licenser to object to any work done, material used, or method of construction or maintenance of the Crossing, nor any approval given or supervision exercised by Licenser, shall be construed as an admission of liability or responsibility by Licenser, or as a waiver by Licenser of any of the obligations, liability and/or responsibility of Licensee.

17. NOTICE(S):

17.1 Before doing any work on Licenser's right-of-way, Licensee shall give Licenser's Railroad Superintendent, at least days' notice, except that in cases of emergency repairs such shorter notice shall be as far in advance as the nature of the emergency permits.

18. TITLE:

18.1 Licensee understands that Licenser occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Licenser's title in the area of the

Crossing. It is expressly understood that Licensor does not warrant its title in any manner, and Licensee accepts the grants and privileges recited herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to Licensor's property, and all leases, licenses and easements or other interests previously granted to others therein.

18.2 The term "license," as used herein, shall mean with regard to any portion of its Right-of-Way which is owned by Licensor in fee simple absolute, or where the applicable law of the State where the Crossing is located otherwise permits Licensor to make such grants to Licensee, a "permission to use" the Right-of-Way, with dominion and control over such portion of the Right-of-Way remaining with Licensor, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Right-of-Way occupied, used or controlled by Licensor under any other facts or rights, Licensor merely waives its exclusive right to occupy the Right-of-Way and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensor continues its own occupation, use or control. Licensor does not warrant or guarantee that the license granted hereunder provides Licensee with all of the rights necessary to occupy any portion of the Right-of-Way. Licensee further acknowledges that it may not have the right to occupy any portion of the Right-of-Way held by Licensor in less than fee simple absolute without also receiving the consent of the owner(s) of the fee simple absolute estate. Further, Licensee shall not obtain, exercise or claim any interest in the Right-of-Way that would impair Licensor's existing rights therein.

18.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right, to any claim against Licensor for damages on account of any deficiencies in title to the Right-of-Way in the event of failure or insufficiency of Licensor's title to any portion thereof arising from Licensee's use or occupancy thereof.

18.4 Licensee agrees to fully and completely indemnify and defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon Licensee's facilities placement, or the presence of Licensee's facilities in, on or along any Crossing(s), including claims for punitive or special damages.

18.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensor's property occupied by the Crossings(s), nor shall the exercise of this Agreement for any length of time give rise to any right title or interest in License to said property other than the license herein created.

19. DEVIATIONS: Deviations from the design, construction and location of the Crossing, as shown on Exhibit A hereto, shall only be by written permission and consent of Licensor.

20. GENERAL PROVISIONS:

20.1 Neither this Agreement nor any provision hereof or agreement or provision included herein by reference shall operate or be construed as being for the benefit of any third person.

20.2 This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors and assigns of Licensor, and the heirs, legal representatives, successors or assigns

of Licensee, as the case may be, but, this license is a personal privilege granted to Licensee and therefore no assignment sublease or sublicense hereof or of any rights or obligations hereunder shall be valid for any purpose without the prior written consent of Licensor.

20.3 This Agreement contains the entire understanding between the parties hereto, and cannot be changed, altered, amended or modified, except by written instrument subsequently executed by the parties hereto.

20.4 Neither the form nor any language of this Agreement shall be interpreted or construed in favor of or against either party hereto.

20.5 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law. Each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status from each other separate division for the determination of legality, so that if any separate division is determined to be void, voidable, invalid or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division herein contained, or any other combination thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, each of which shall be evidence of this Agreement but which shall constitute but one agreement, as of the day and year first above written.

Witness for Licensor:



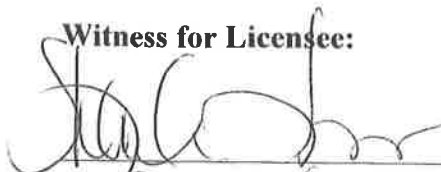
R.J. CORMAN RAILROAD COMPANY/
CENTRAL KENTUCKY LINE LLC

By: 

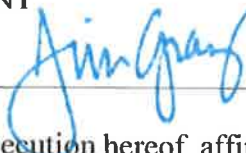
Print/Type Name: Deborah J Hawley

Print/Type Title: Director - Real Estate

Witness for Licensee:


Deputy Council Clerk

LEXINGTON FAYETTE URBAN COUNTY
GOVERNMENT

By: 

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement.

Print/Type Name: Jim Gray

Print/Type Title: Mayor

Tax Identification Number: 61-085140

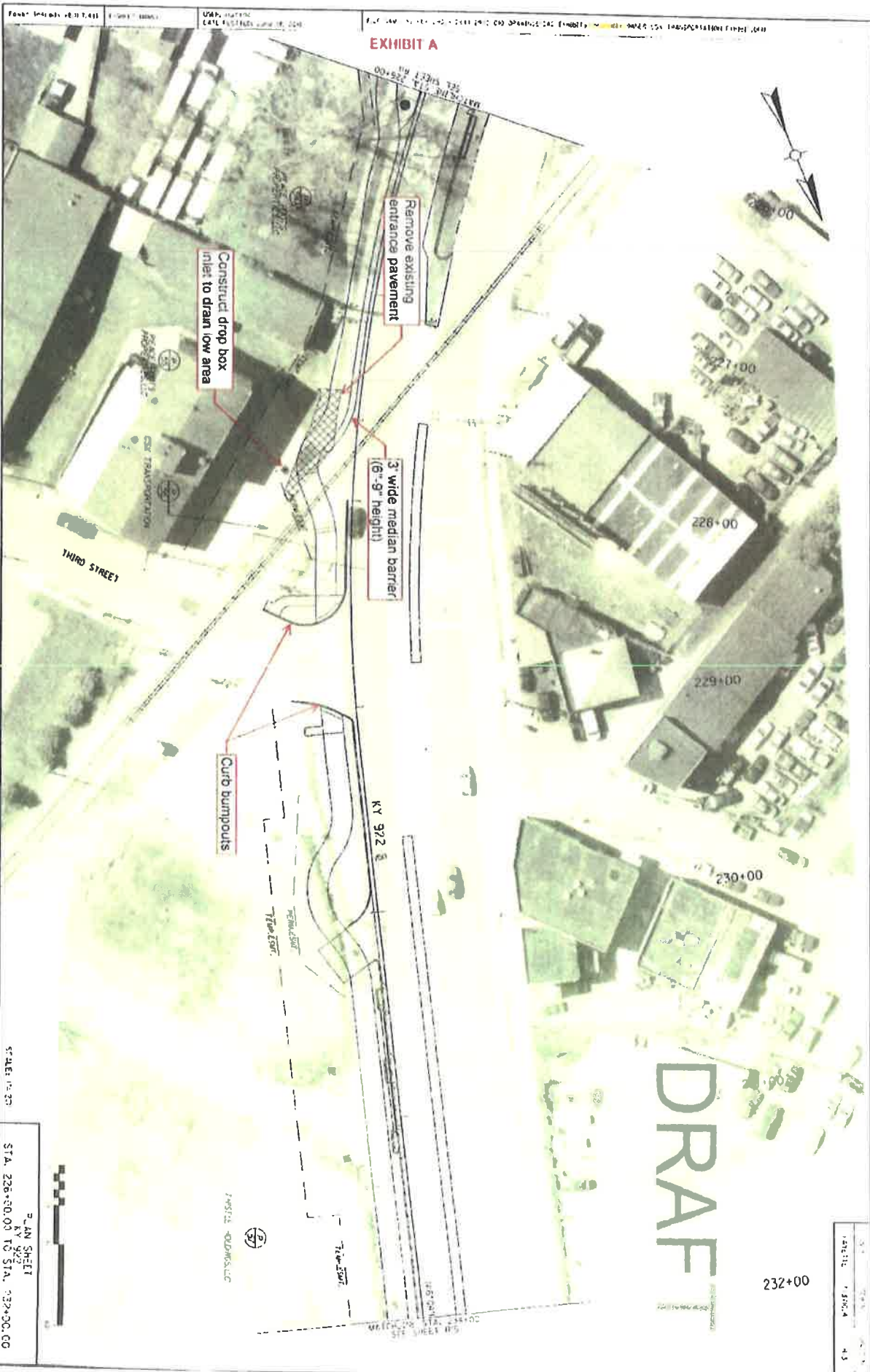


EXHIBIT A

DRAFT

PLAN SHEET
KY 922
STATE 14.37
STA. 226+00.00 TO STA. 232+00.00

DATE: 11/11/2014
TIME: 1:00 PM
BY: J. J. J.

EXHIBIT B

RJ Corman Signaling



101 RJ Corman Drive • PO Box 788 • Nicholasville, KY 40340-0788
(859) 881-7521 • 24/7 (800) 772-9091 • Fax: (859) 885-7804 • www.rjcorman.com

May 17th, 2018

Chris Clark
RJ Corman Railroad
P.O. Box 788
Nicholasville, KY 40340

Re: Proposal – Miscellaneous Materials – Town Branch Commons – Zone 7 (Newtown Pike Section)

We are pleased to offer the proposal below for your consideration:

<i>Description</i>	<i>Part #</i>	<i>QTY</i>	<i>Unit Price</i>	<i>Total</i>
40 FT GATE ARM LIGHT, LED 3-LIGHT KIT	NEG-2018-3DCLED-LC	1 EA	\$ 582.00	\$ 582.00
GATE ARM, ALUMINUM/FIBERGLASS, HI-INTENSITY, 40 FT, W/ 8 FT SLEEVE	NEG-8003HV-40S8	1 EA	\$ 245.00	\$ 245.00
INSTALLATION LABOR		2 HR	\$ 50.00	\$ 100.00
VEHICLE MOBILIZATION		2 HR	\$ 25.00	\$ 50.00

Grand Total \$ 977.00

Notes:

- Sales tax is **NOT** included (if required, to be additional).
- Payment Terms: Net 30

Ed Quillian
Chief Engineer
RJ Corman Railroad Company, LLC
Payment must be made within 30 days from invoice date.
Interest will accrue at the rate of 5% per month for late payment.
I acknowledge and agree to the terms above.

Print Name

Signature

Once proposal is signed a purchase order should be issued. Work will be performed within approximately 90 days depending on material availability.

Any changes or additional work must be done by a change order.