

REQUEST FOR LEGISLATIVE ACTION

EXECUTIVE OFFICE

Completed by County Counselor's Office:

Res/Ord No.: 19978




Sponsor(s): Dennis Wait

Date:

September 10, 2018

AUG 27 2018

<p>SUBJECT</p>	<p>Action Requested <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance</p> <p>Project/Title: A Resolution seeking Legislative approval for the County Executive to execute several signed leases with property owners encroaching on the Rock Island Rail Corridor.</p>												
<p>BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i></p>	<table border="1"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td>\$0.00</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td>\$0.00</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td>\$0.00</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td>\$0.00</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO:</td> <td>FROM ACCT</td> </tr> <tr> <td>N/A</td> <td>TO ACCT</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input checked="" type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Estimated Use: \$</p> <p>Prior Year Budget (if applicable): Prior Year Actual Amount Spent (if applicable):</p>	Amount authorized by this legislation this fiscal year:	\$0.00	Amount previously authorized this fiscal year:	\$0.00	Total amount authorized after this legislative action:	\$0.00	Amount budgeted for this item * (including transfers):	\$0.00	Source of funding (name of fund) and account code number; FROM / TO:	FROM ACCT	N/A	TO ACCT
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Source of funding (name of fund) and account code number; FROM / TO:	FROM ACCT												
N/A	TO ACCT												
<p>PRIOR LEGISLATION</p>	<p>Prior ordinances and (date):</p> <p>Prior resolutions and (date):</p>												
<p>CONTACT INFORMATION</p>	<p>RLA drafted by (name, title, & phone): Matt Davis, Program Coordinator, 503-4849 / Josh Boehm Development Director, 503-4845</p>												
<p>REQUEST SUMMARY</p>	<p>RIRCA is seeking Legislative approval for the County Executive to execute several signed leases for property owners encroaching on the Rock Island Rail Corridor. The leases included in this Resolution are minor in nature and do not impact the planned construction or operations for the shared use path.</p>												
<p>CLEARANCE</p>	<p><input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)</p>												
<p>ATTACHMENTS</p>	<p>Leases signed by encroaching property owners of: McCain & Steedly Holdings LLC, Automated Systems Inc., Elmer and Barbara Thummel Trust and Elite Valley Properties LLC.</p>												

REVIEW	Department Director: 	Date: 8/29/18
	Finance (Budget Approval): <i>If applicable</i> 	Date: 8/29/18
	Division Manager: 	Date: 8/29/18
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

LEASE OF REAL PROPERTY

THIS LEASE ("Lease") is entered into on _____, 2018, between **JACKSON COUNTY, MISSOURI** ("Lessor"), and **McCain & Steedly Holdings LLC**, whose address is 100 SW Scherer Road, Lee's Summit, MO 64082 ("Lessee").

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:Article 1. **PREMISES; USE.**

For the purposes of leasing a portion of the Rock Island Railroad Corridor ("Railroad Corridor") purchased by Jackson County in partnership with the Kansas City Area Transportation Authority ("KCATA"), Lessor leases to Lessee and Lessee leases from Lessor the premises ("Premises") at 100 SW Scherer Road, Lee's Summit, MO 64082, Missouri, shown on the attached Exhibit A, made a part hereof, subject to the provisions of this Lease and of Exhibit B attached hereto and made a part hereof. The Premises may be used for the air conditioner pads, concrete building entrance pad, gravel parking lot, flower garden, and purposes incidental thereto, only, and for no other purpose.

Article 2. **TERM.**

The term of this Lease shall commence _____, 2018 and, unless sooner terminated as provided in this Lease, shall extend for one year and thereafter shall automatically be extended from year to year.

Article 3. **FIXED RENT.**

- A. Lessee shall pay to Lessor, in advance, fixed rent of One Hundred Dollars (\$100.00) annually.
- B. Lessor shall not redetermine the rent until January 1, 2023.

Article 4. **INSURANCE.**

A. Throughout the entire term of this Lease, Lessee shall maintain the insurance coverage required under Exhibit C hereto attached and made a part hereof. Lessor shall be named as an additional insured on each insurance maintained by Lessee pursuant to the terms of this Lease.

B. Not more frequently than once every two years, Lessor may reasonably modify the required insurance coverage to reflect then-current risk management practices and underwriting practices relating to Missouri local government.

C. Upon request of Lessor, Lessee shall provide to Lessor a certificate issued by its insurance carrier evidencing the insurance coverage required under Exhibit C.

D. All insurance correspondence shall be directed to:

Jackson County, MO
Rock Island Rail Corridor Authority
415 E 12th Street
Kansas City, Missouri 64106

IN WITNESS WHEREOF, the parties have executed this lease as of the day and year first herein written.

LESSOR:

JACKSON COUNTY, MISSOURI

By _____

LESSEE:

McCain & Steedly Holdings, LLC

James S. McCain

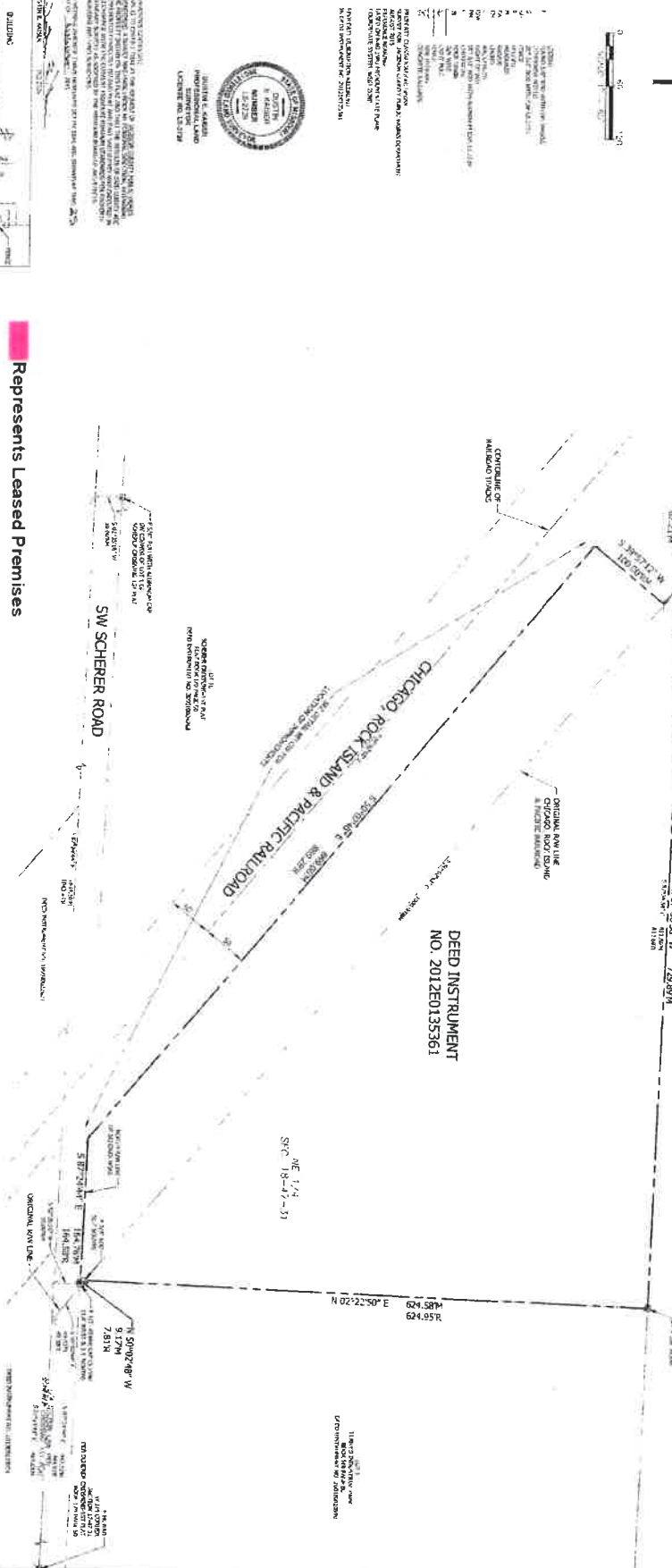
By  _____

Title Member _____

EXHIBIT A

Exhibit A

DEED INSTRUMENT NO. 2012ED135361



Represents Leased Premises

McCain & Steady Holdings LLC

LEGEND

1. BOUNDARY LINE SHOWN WITH THIS SYMBOL
2. CENTERLINE OF RAILROAD TRACK
3. ORIGINAL RAIL LINE (CHICAGO ROCK ISLAND & PACIFIC RAILROAD)
4. CENTERLINE OF ROAD
5. CENTERLINE OF ROAD
6. CENTERLINE OF ROAD
7. CENTERLINE OF ROAD
8. CENTERLINE OF ROAD
9. CENTERLINE OF ROAD
10. CENTERLINE OF ROAD

DEFINITIONS

ALL DISTANCES ARE GIVEN IN FEET AND DECIMALS THEREOF.

ALL BEARINGS ARE GIVEN IN DEGREES, MINUTES AND SECONDS.

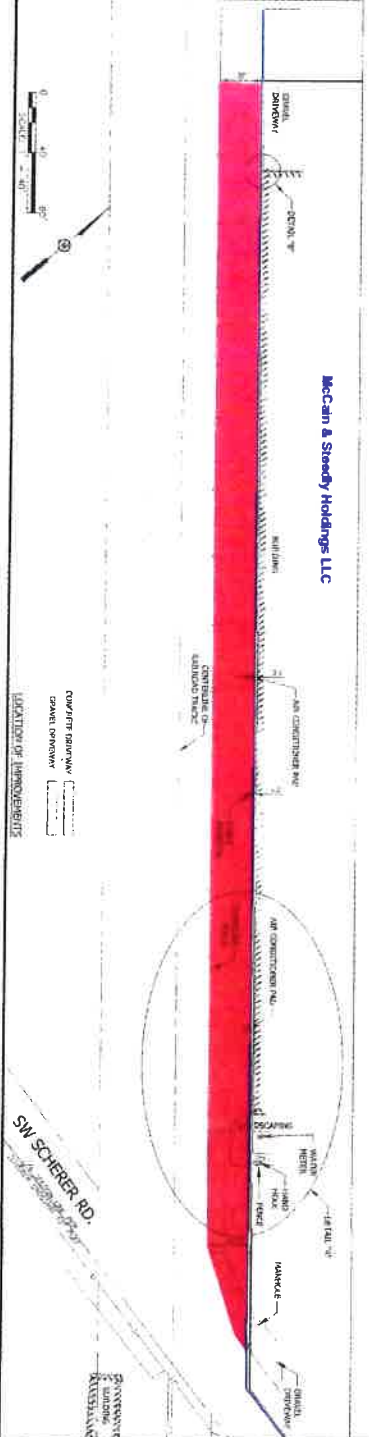
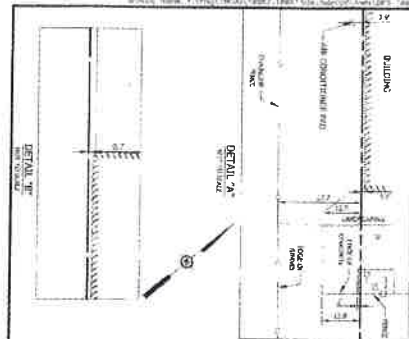
ALL CURVES ARE GIVEN BY THEIR RADIUS AND BEARINGS.

ALL CORNERS ARE GIVEN BY THEIR BEARING AND DISTANCE.

ALL POINTS ARE GIVEN BY THEIR BEARING AND DISTANCE.

ALL LINES ARE GIVEN BY THEIR BEARING AND DISTANCE.

ALL AREAS ARE GIVEN IN SQUARE FEET AND DECIMALS THEREOF.



<p>PLAT OF SURVEY ENCROACHMENT SURVEY OF THE CHICAGO, ROCK ISLAND & PACIFIC RAILROAD JACKSON COUNTY, MISSOURI</p>		<p>BARTLETT & WEST</p> <p>302 1/2 W. KANSAS ST. W. ST. LOUIS, MO. 63102</p> <p>PHONE: (314) 383-8500</p> <p>WWW.BARTLETTWEST.COM</p>
<p>18687.006</p> <p>DATE: 12/14/12</p> <p>DRAWN BY: KAREN WOLFE</p> <p>CHECKED BY: JEFFREY BERRY</p> <p>DATE: 12/14/12</p> <p>SCALE: AS SHOWN</p> <p>PROJECT: 18687</p>		

EXHIBIT B

Section 1. **IMPROVEMENTS.**

No improvements placed upon the Premises by Lessee shall become a part of the realty.

Section 2. **RESERVATION, TITLE AND PRIOR RIGHTS.**

A. Lessor reserves to itself, its agents and contractors, the right to enter the Premises at such times as will not unreasonably interfere with Lessee's use of the Premises.

B. Lessor reserves (i) the exclusive right to permit third party placement of advertising signs on the Premises, and (ii) the right to construct, maintain and operate new and existing facilities (including, without limitation, trackage, fences, communication facilities, roadways, and utilities) upon, over, across or under the Premises, and to grant to others such rights, provided that Lessee's use of the Premises is not interfered with unreasonably.

C. Lessee acknowledges that Lessor makes no representations or warranties, express or implied, concerning the title to the Premises, and that the rights granted to Lessee under this Lease do not extend beyond such right, title or interest as Lessor may have in and to the Premises. Without limitation of the foregoing, this Lease is made subject to all outstanding rights, whether or not of record. Lessor reserves the right to renew any such outstanding rights granted by Lessor or Lessor's predecessors.

D. Without limitation of Subparagraphs B. and C. above, Lessee shall not interfere in any manner with the use or operation of any signboards now or hereafter placed on the Premises or with any property uses in connection with such signboards (such as, by way of example and not in limitation, roadways providing access to such signboards). In no event may Lessee construct on the Premises any improvements that interfere in any manner with the visibility or operation of any signboards now or hereafter on the Premises or on property in proximity to the Premises.

Section 3. **PAYMENT OF RENT.**

Rent (which includes the fixed advance rent and all other amounts to be paid by Lessee under this Lease) shall be paid in lawful money of the United States of America, to Jackson County, Missouri, with a note designating that the funds are payment for lease of the Rock Island Railroad Corridor and delivered to Finance Manager, Jackson County, Missouri, 415 E 12th Street, Kansas City, Missouri 64106 without offset or deduction.

Section 4. **TAXES AND ASSESSMENTS.**

Lessee shall pay, prior to delinquency, all taxes levied during the life of this Lease on all personal property and improvements on the Premises not belonging to Lessor. If such taxes are paid by Lessor, either separately or as a part of the levy on Lessor's real property, Lessee shall reimburse Lessor in full within thirty (30) days after rendition of Lessor's bill.

Section 5. **WATER RIGHTS.**

This Lease does not include any right to the use of water under any water right of Lessor, or to establish any water rights except in the name of Lessor.

Section 6. **CARE AND USE OF PREMISES.**

- A. Lessee shall use reasonable care and caution against damage or destruction to the Premises. Lessee shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use the Premises in any way that creates a hazard to persons or property. Lessee shall keep the sidewalks and public ways on the Premises, and the walkways appurtenant to any railroad spur track(s) on or serving the Premises, free and clear from any substance which might create a hazard.
- B. Lessee shall keep the Property in good order and condition and shall make all repairs and take all other action necessary or appropriate to keep and maintain the Property in good order and condition. Lessee shall mow the Property and adhere to all municipal codes regarding exterior property. Lessor will not be liable for any labor, services, or materials furnished or to be furnished to Lessee, or to anyone holding the Property or any part thereof through or under Lessee. No mechanics' or other liens for any such labor or materials shall attach to or affect the interest of Lessor in and to the Property.
- C. Lessee shall not permit any sign on the Premises, except signs relating to Lessee's business, which must be approved by Lessor in advance of being placed upon the property. Any sign that is permitted under this section shall comply with all applicable city and County code provisions.
- D. If any improvement on the Premises other than the Lessor Improvements is damaged or destroyed by fire or other casualty, Lessee shall, within thirty (30) days after such casualty, remove all debris resulting therefrom. If Lessee fails to do so, Lessor may remove such debris, and Lessee agrees to reimburse Lessor for all expenses incurred within thirty (30) days after rendition of Lessor's bill.
- E. Lessee shall comply with all governmental laws, ordinances, rules, regulations and orders relating to Lessee's use of the Premises and this Lease, including, without limitation, any requirements for subdividing or platting the Premises.

Section 7. **HAZARDOUS MATERIALS.**

A. Without the prior written consent of Lessor, Lessee shall not use or permit the use of the Premises for the generation, use, treatment, manufacture, production, storage or recycling of any Hazardous Substances, except that Lessee may use, if Lawful, small quantities of common chemicals such as adhesives, lubricants and cleaning fluids in order to conduct business at the

Premises. Disposal and/or dumping of such small quantities of common chemicals on the property, and all other forms of contamination of the property, are strictly prohibited. The consent of Lessor may be withheld by Lessor for any reason whatsoever, and may be subject to conditions in addition to those set forth below. It shall be the sole responsibility of Lessee to determine whether or not a contemplated use of the Premises is a Hazardous Substance use.

B. In no event shall Lessee (i) release, discharge or dispose of any Hazardous Substances, (ii) bring any hazardous wastes as defined in RCRA onto the Premises, (iii) install or use on the Premises any underground storage tanks, or (iv) store any Hazardous Substances within one hundred feet (100) of the center line of any main track.

C. If Lessee uses or permits the use of the Premises for a Hazardous Substance use, with or without Lessor's consent, Lessee shall furnish to Lessor copies of all permits, identification numbers and notices issued by governmental agencies in connection with such Hazardous Substance use, together with such other information on the Hazardous Substance use as may be requested by Lessor. If requested by Lessor, Lessee shall cause to be performed an environmental assessment of the Premises upon termination of the Lease and shall furnish Lessor a copy of such report, at Lessee's sole cost and expense.

D. Without limitation of the provisions of Section 12 of this Exhibit B, Lessee shall be responsible for all damages, losses, costs, expenses, claims, fines and penalties related in any manner to any Hazardous Substance use of the Premises (or any property in proximity to the Premises) during the term of this Lease or, if longer, during Lessee's occupancy of the Premises, regardless of Lessor's consent to such use or any negligence, misconduct or strict liability of any Indemnified Party (as defined in Section 12), and including, without limitation, (i) any diminution in the value of the Premises and/or any adjacent property of any of the Indemnified Parties, and (ii) the cost and expense of clean-up, restoration, containment, remediation, decontamination, removal, investigation, monitoring, closure or post-closure. Notwithstanding the foregoing, Lessee shall not be responsible for Hazardous Substances (i) existing on, in or under the Premises prior to the earlier to occur of the commencement of the term of the Lease or Lessee's taking occupancy of the Premises, or (ii) migrating from adjacent property not controlled by Lessee, or (iii) placed on, in or under the Premises by any of the Indemnified Parties; except where the Hazardous Substance is discovered by, or the contamination is exacerbated by, any excavation or investigation undertaken by or at the behest of Lessee. Lessee shall have the burden of proving by a preponderance of the evidence that any of the foregoing exceptions to Lessee's responsibility for Hazardous Substances applies.

E. In addition to the other rights and remedies of Lessor under this Lease or as may be provided by law, if Lessor reasonably determines that the Premises may have been used during the term of this Lease or any prior lease with Lessee for all or any portion of the Premises, or are being used for any Hazardous Substance use, with or without Lessor's consent thereto, and that a release or other contamination may have occurred, Lessor may, at its election and at any time during the life of this Lease or thereafter (i) cause the Premises and/or any adjacent premises of Lessor to be tested, investigated, or monitored for the presence of any Hazardous Substance, (ii) cause any Hazardous Substance to be removed from the Premises and any adjacent lands of Lessor, (iii) cause to be performed any restoration of the Premises and any adjacent lands of Lessor, and (iv)

cause to be performed any remediation of, or response to, the environmental condition of the Premises and the adjacent lands of Lessor, as Lessor reasonably may deem necessary or desirable, and the cost and expense thereof shall be reimbursed by Lessee to Lessor within thirty (30) days after rendition of Lessor's bill. In addition, Lessor may, at its election, require Lessee, at Lessee's sole cost and expense, to perform such work, in which event, Lessee shall promptly commence to perform and thereafter diligently prosecute to completion such work, using one or more contractors and a supervising consulting engineer approved in advance by Lessor.

F. For purposes of this Section 7, the term "Hazardous Substance" shall mean (i) those substances included within the definitions of "hazardous substance," "pollutant," "contaminant," or "hazardous waste," in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et. seq., as amended or in RCRA, the regulations promulgated pursuant to either such Act, or state laws and regulations similar to or promulgated pursuant to either such Act, (ii) any material, waste or substance which is (A) petroleum, (B) asbestos, (C) flammable or explosive, or (D) radioactive; and (iii) such other substances, materials and wastes which are or become regulated or classified as hazardous or toxic under any existing or future federal, state or local law.

Section 8. **UTILITIES.**

A. Lessee will arrange and pay for all utilities and services supplied to the Premises or to Lessee.

B. All utilities and services will be separately metered to Lessee. If not separately metered, Lessee shall pay its proportionate share as reasonably determined by Lessor.

Section 9. **LIENS.**

Lessee shall not allow any lien to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Lessee's use of the Premises. Lessor shall have the right to discharge any such lien at Lessee's expense.

Section 10. **ALTERATIONS AND IMPROVEMENTS; CLEARANCES.**

A. No alterations, improvements or installations may be made on the Premises without the prior consent of Lessor. Such consent, if given, shall be subject to the need and requirements of the Lessor in the operation of its Railroad and to such other conditions as Lessor determines to impose. In all events such consent shall be conditioned upon strict conformance with all applicable governmental requirements and Lessor's then-current clearance standards.

B. All alterations, improvements or installations shall be at Lessee's sole cost and expense.

C. Lessee shall comply with Lessor's then-current clearance standards, except (i) where to do so would cause Lessee to violate an applicable governmental requirement or (ii) for

any improvement or device in place prior to Lessee taking possession of the Premises if such improvement or device complied with Lessor's clearance standards at the time of its installation.

D. Any actual or implied knowledge of Lessor of a violation of the clearance requirements of this Lease or of any governmental requirements shall not relieve Lessee of the obligation to comply with such requirements, nor shall any consent of Lessor be deemed to be a representation of such compliance.

Section 11. **AS-IS.**

Lessee accepts the Premises in its present condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Lessee acknowledges that Lessor shall have no duty to maintain, repair or improve the Premises.

Section 12. **RELEASE AND INDEMNITY.**

A. As a material part of the consideration for this Lease, Lessee, to the extent it may lawfully do so, waives and releases any and all claims against Lessor for, and agrees to indemnify, defend and hold harmless Lessor, its affiliates, and it and their officers, agents and employees ("Indemnified Parties") from and against, any loss, damage (including, without limitation, punitive or consequential damages), injury, liability, claim, demand, cost or expense (including, without limitation, attorneys' fees and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, Lessor, Lessee, or any employee of Lessor or Lessee) (i) for personal injury or property damage caused to any person while on or about the Premises, or (ii) arising from or related to any use of the Premises by Lessee or any invitee or licensee of Lessee, any act or omission of Lessee, its officers, agents, employees, licensees or invitees, or any breach of Ibis Lease by Lessee.

B. The foregoing release and indemnity shall apply regardless of any negligence, misconduct or strict liability of any Indemnified Party, except that the indemnity, only, shall not apply to any Loss determined by final order of a court of competent jurisdiction to have been caused by the sole active direct negligence of any Indemnified Party.

C. Where applicable to the Loss, the liability provisions of any contract between Lessor and Lessee covering the carriage of shipments or trackage serving the Premises shall govern the Loss and shall supersede the provisions of this Section 12.

D. No provision of this Lease with respect to insurance shall limit the extent of the release and indemnity provisions of this Section 12.

Section 13. **TERMINATION.**

A. Lessor may terminate this Lease for Lessee's default by giving Lessee notice of termination, if Lessee (i) defaults under any obligation of Lessee under this Lease and, after written notice is given by Lessor to Lessee specifying the default, Lessee fails either to immediately commence to cure the default, or to complete the cure expeditiously but in all events within thirty

(30) days after the default notice is given, or (ii) Lessee abandons the Premises for a period of one hundred twenty (120) consecutive days.

B. Notwithstanding the terms of this Lease set forth in Article II, Lessor or Lessee may terminate this Lease without cause upon thirty (30) days' written notice to the other party; provided, however, that at Lessor's election, no such termination by Lessee shall be effective unless and until Lessee has vacated and restored the Premises as required in Section 15A, at which time Lessor shall refund to Lessee, on a pro rata basis, any unearned rental paid in advance. Pursuant to the Cooperative Agreement, the Maintenance and Management Program Agreement and subsequent agreements entered by Lessor and KCATA as it relates to development of the Railroad Corridor, KCATA may trigger the termination of this Lease by providing written notice to Lessor indicating why KCATA will need this portion of the Railroad Corridor and KCATA's anticipated timeframe for needing this portion Railroad Corridor. Notwithstanding anything to the contrary in this Lease, if Lessee has not complied with the requirements of Section 15A, this Lease, together with all terms contained herein (including payment of rent) will remain in effect until the requirements of Section 15A are met, unless Lessor, in its sole discretion, elects to terminate this Lease.

Section 14. **LESSOR'S REMEDIES.**

Lessor's remedies for Lessee's default are to (a) enter and take possession of the Premises, without terminating this Lease, and relet the Premises on behalf of Lessee, collect and receive the rent from reletting, and charge Lessee for the cost of reletting, and/or (b) terminate this Lease as provided in Section 13 above and sue Lessee for damages, and/or (c) exercise such other remedies as Lessor may have at law or in equity. Lessor may enter and take possession of the Premises by self-help, by changing locks, if necessary, and may lock out Lessee, all without being liable for damages.

Section 15. **VACATION OF PREMISES; REMOVAL OF LESSEE'S PROPERTY.**

A. Upon termination howsoever of this Lease, Lessee (i) shall have peaceably and quietly vacated and surrendered possession of the Premises to Lessor, without Lessor giving any notice to quit or demand for possession, and (ii) shall have removed from the Premises all structures, property and other materials not belonging to Lessor, including all personal property and restored the surface to as good a condition as the same was in before such structures were erected, including, without limitation, the removal of foundations, the filling in of excavations and pits, and the removal of debris and rubbish.

B. If Lessee has not completed such removal and restoration prior to termination of this Lease, Lessor may, at its election, and at any time or times, (i) perform the work and Lessee shall reimburse Lessor for the cost thereof within thirty (30) days after bill is rendered, (ii) take title to all or any portion of such structures or property by giving notice of such election to Lessee, and/or (iii) treat Lessee as a holdover tenant at will until such removal and restoration is completed.

Section 16. **FIBER OPTICS.**

Prior to any digging or construction on the Premises, Lessee shall contact Lessor to determine if fiber optic cable is buried on the Premises, Lessee will contact the telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable. Lessor may change the telephone number and hours of operation by giving Lessee notice of the change. If cable is buried on the Premises, Lessee will telephone the telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable. Notwithstanding compliance by Lessee with this Section 16, the release and indemnity provisions of Section 12 above shall apply fully to any damage or destruction of any telecommunications system.

Section 17. **NOTICES.**

Any notice, consent or approval to be given under this ease shall be in writing, and personally served, by email or by reputable courier service, or sent by certified mail, postage prepaid, return receipt requested, to Lessor at:

Jackson County, MO
Rock Island Rail Corridor Authority
415 E 12th Street
Kansas City, Missouri 64106

and to Lessee at the above address, or such other address a party may designate in notice given to the other party. Mailed notices shall be deemed served five (5) days after deposit in the U.S. Mail. Notices which are faxed, emailed, are personally served or sent by courier service shall be deemed served upon receipt.

Section 18. **ASSIGNMENT.**

A. Lessee shall not sublease the Premises, in whole or in part, or assign, encumber or transfer (by operation of law or otherwise) this Lease, without the prior consent of Lessor, which consent may be denied at Lessor's sole and absolute discretion. Any purported transfer or assignment without Lessor's consent shall be void and shall be a default by Lessee.

B. Subject to this Section 18, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Section 19. **CONDEMNATION.**

If, as reasonably determined by Lessor, the Premises cannot be used by Lessee because of a condemnation or sale in lieu of condemnation then this Lease shall automatically terminate. Lessor shall be entitled to the entire award or proceeds for any total or partial condemnation or sale in lieu thereof, including, without limitation, any award or proceeds for the value of the leasehold estate created by this Lease. Notwithstanding the foregoing, Lessee shall have the right to pursue recovery from the condemning authority of such compensation as may be separately awarded to Lessee for Lessee's relocation expenses, the taking of Lessee's personal property and fixtures, and the interruption of or damage to Lessee's business.

Section 20. **RIGHTS AND OBLIGATIONS OF LESSOR.**

If any of the rights and obligations of Lessor under this Lease are substantially and negatively affected led by any changes in the law applicable to this Lease, whether statutory, regulatory or under federal or state judicial precedent, then Lessor may require Lessee to enter into an amendment to this Lease to eliminate the negative effect on Lessor's rights and obligations to the extent reasonably possible.

Section 21. **MODIFICATONS, WAIVER OF DEFAULT, ENTIRE AGREEMENT.**

No waiver, modification or amendment to this Lease, including specifically but not limited to, any indemnity and/or insurance requirement herein, shall be of any force or effect unless made in writing, signed by Lessor and Lessee and specifying with particularity the nature and extent of such waiver, modification or amendment. This Lease is the entire agreement between the parties, and supersedes all other oral or written agreements between the parties pertaining to this transaction, including, without limitation, any other lease under which all or any portion of the Premises was leased to Lessee. Notwithstanding the prior sentence, Lessee shall retain any and all obligations and liabilities which may have accrued under any other such agreements prior to the commencement of the terms of this Lease.

EXHIBIT C
Contract Insurance Requirements

Lease of Land

Lessee shall, at its sole cost and expense, procure and maintain during the life of this Lease (except as otherwise provided in this Lease) the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage). The policy must also contain the following endorsement, which must be stated on the certificate of insurance: Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Premises" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or substitute form providing equivalent liability coverage) with a combined single limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a subtitle form providing equivalent coverage) showing "Premises" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

C. **Workers Compensation and Employers Liability Insurance.** Coverage must include but not be limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Lessee is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

In any and all Claims against Lessor by any employee of Lessee, Lessee's indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under any workers compensation acts, disability benefits acts or other employee benefits act.

D. **Pollution Liability Insurance.** If permitted use as defined in this Lease includes any generation, handling, enrichment, storage, manufacture, or production of hazardous materials pollution liability insurance is required. Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 4 (or a substitute form providing equivalent liability coverage), with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If hazardous materials are disposed of from the Premises, Lessee must furnish to Lessor evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

E. **Umbrella or Excess Insurance.** If Lessee utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

F. All policy(ies) required above must include Lessor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 11 (or a substitute form providing equivalent coverage). The coverage provided to Lessor as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 11, provide coverage for Lessor's negligence whether sole or partial, active or passive, and shall not be limited by Lessee's liability under the indemnity provisions of this Lease.

G. Lessee waives all rights against Lessor and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers' liability or commercial umbrella or excess liability insurance obtained by Lessee required by this agreement.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Lease, or (b) all punitive damages are prohibited by all states in which the Premises are located.

I. All insurance policies must be written by a reputable insurance company acceptable to Lessor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the Premises are located.

J. The fact that insurance is obtained by Lessee, or by Lessor on behalf of Lessee, will not be deemed to release or diminish the liability of Lessee, including, without limitation, liability under the indemnity provisions of this Lease. Damages recoverable by Lessor from Lessee or any third party will not be limited by the amount of the required insurance coverage.

K. Lessor shall be named as an additional insured on each insurance policy described in this Lease of Real Property.

LEASE OF REAL PROPERTY

THIS LEASE ("Lease") is entered into on September 12, 2017, between **JACKSON COUNTY, MISSOURI** ("Lessor"), and **ELITE VALLEY PROPERTIES, LLC** whose address is 9616 E. 55 TH STREET, RAYTOWN MO. 64133 ("Lessee").

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:Article 1. **PREMISES; USE.**

Lessor leases to Lessee and Lessee leases from Lessor the premises ("Premises") at 9616 E. 55th Street, Raytown Missouri, shown on the attached Exhibit A, made a part hereof, subject to the provisions of this Lease and of Exhibit B attached hereto and made a part hereof. The Premises may be used for Lessee owned building encroachment of the shed containing equipment and purposes incidental thereto, only, and for no other purpose.

Article 2. **TERM.**

The term of this Lease shall commence September 12, 2017 and, unless sooner terminated as provided in this Lease, shall extend for one year and thereafter shall automatically be extended from year to year.

Article 3. **FIXED RENT.**

A. Lessee shall pay to Lessor, in advance; fixed rent of One Hundred Dollars (\$100) annually.

B. Lessor shall not redetermine the rent until January 1, 2023. After that date, not more than once every five (5) years, Lessor may redetermine the fixed rent. If Lessor redetermines the rent, Lessor shall notify Lessee of such change.

Article 4. **INSURANCE.**

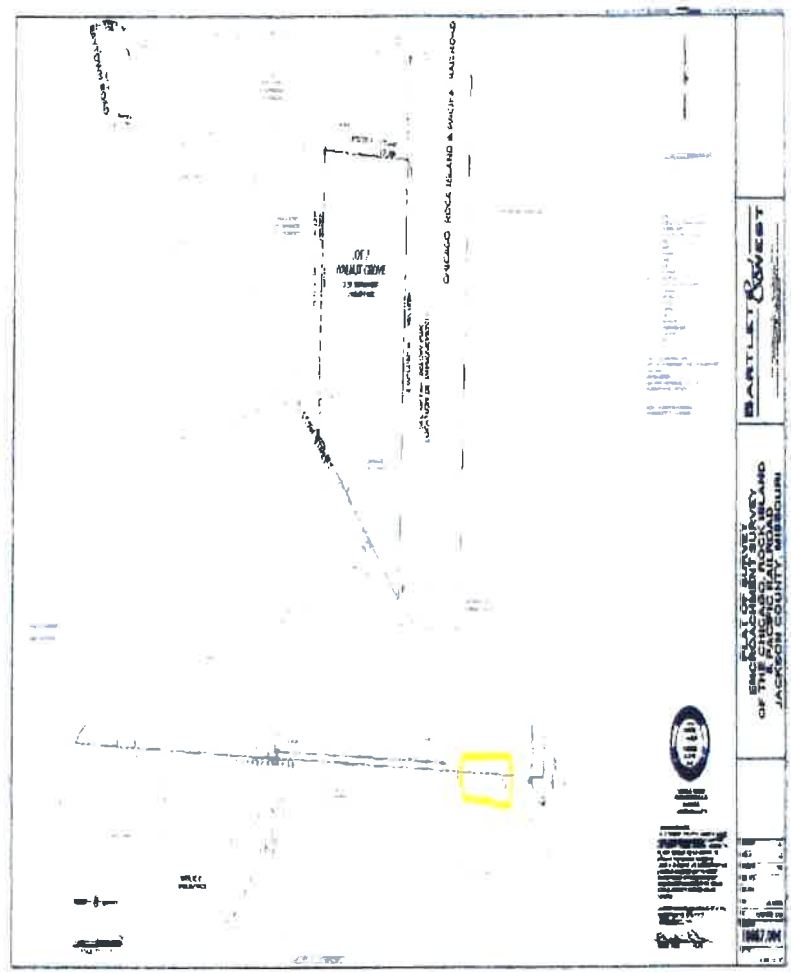
A. Throughout the entire term of this Lease, Lessee shall maintain the insurance coverage required under Exhibit C hereto attached and made a part hereof. Lessor shall be named as an additional insured on each insurance maintained by Lessee pursuant to the terms of this Lease.

B. Not more frequently than once every two years, Lessor may reasonably modify the required insurance coverage to reflect then-current risk management practices and underwriting practices relating to Missouri local government.

C. Upon request of Lessor, Lessee shall provide to Lessor a certificate issued by its insurance carrier evidencing the insurance coverage required under Exhibit C.

D. All insurance correspondence shall be directed to:

EXHIBIT A



Section 5. **WATER RIGHTS.**

This Lease does not include any right to the use of water under any water right of Lessor, or to establish any water rights except in the name of Lessor.

Section 6. **CARE AND USE OF PREMISES.**

- A. Lessee shall use reasonable care and caution against damage or destruction to the Premises. Lessee shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use the Premises in any way that creates a hazard to persons or property. Lessee shall keep the sidewalks and public ways on the Premises, and the walkways appurtenant to any railroad spur track(s) on or serving the Premises, free and clear from any substance which might create a hazard.
- B. Lessee shall keep the Property in good order and condition and shall make all repairs and take all other action necessary or appropriate to keep and maintain the Property in good order and condition. Lessor will not be liable for any labor, services, or materials furnished or to be furnished to Lessee, or to anyone holding the Property or any part thereof through or under Lessee. No mechanics' or other liens for any such labor or materials shall attach to or affect the interest of Lessor in and to the Property.
- C. Lessee shall not permit any sign on the Premises, except signs relating to Lessee's business, which must be approved by Lessor in advance of being placed upon the property. Any sign that is permitted under this section shall comply with all applicable city and County code provisions.
- D. If any improvement on the Premises other than the Lessor Improvements is damaged or destroyed by fire or other casualty, Lessee shall, within thirty (30) days after such casualty, remove all debris resulting therefrom. If Lessee fails to do so, Lessor may remove such debris, and Lessee agrees to reimburse Lessor for all expenses incurred within thirty (30) days after rendition of Lessor's bill.
- E. Lessee shall comply with all governmental laws, ordinances, rules, regulations and orders relating to Lessee's use of the Premises and this Lease, including, without limitation, any requirements for subdividing or platting the Premises.

Section 7. **HAZARDOUS MATERIALS.**

A. Without the prior written consent of Lessor, Lessee shall not use or permit the use of the Premises for the generation, use, treatment, manufacture, production, storage or recycling of any Hazardous Substances, except that Lessee may use, if Lawful, small quantities of common chemicals such as adhesives, lubricants and cleaning fluids in order to conduct business at the Premises. Disposal and/or dumping of such small quantities of common chemicals on the property, and all other forms of contamination of the property, are strictly prohibited. The consent of Lessor

and the cost and expense thereof shall be reimbursed by Lessee to Lessor within thirty (30) days after rendition of Lessor's bill. In addition, Lessor may, at its election, require Lessee, at Lessee's sole cost and expense, to perform such work, in which event, Lessee shall promptly commence to perform and thereafter diligently prosecute to completion such work, using one or more contractors and a supervising consulting engineer approved in advance by Lessor.

F. For purposes of this Section 7, the term "Hazardous Substance" shall mean (i) those substances included within the definitions of "hazardous substance," "pollutant," "contaminant," or "hazardous waste," in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et. seq., as amended or in RCRA, the regulations promulgated pursuant to either such Act, or state laws and regulations similar to or promulgated pursuant to either such Act, (ii) any material, waste or substance which is (A) petroleum, (B) asbestos, (C) flammable or explosive, or (D) radioactive; and (iii) such other substances, materials and wastes which are or become regulated or classified as hazardous or toxic under any existing or future federal, state or local law.

Section 8. **UTILITIES.**

A. Lessee will arrange and pay for all utilities and services supplied to the Premises or to Lessee.

B. All utilities and services will be separately metered to Lessee. If not separately metered, Lessee shall pay its proportionate share as reasonably determined by Lessor.

Section 9. **LIENS.**

Lessee shall not allow any lien to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Lessee's use of the Premises. Lessor shall have the right to discharge any such lien at Lessee's expense.

Section 10. **ALTERATIONS AND IMPROVEMENTS; CLEARANCES.**

A. No alterations, improvements or installations may be made on the Premises without the prior consent of Lessor. Such consent, if given, shall be subject to the need and requirements of the Lessor in the operation of its Railroad and to such other conditions as Lessor determines to impose. In all events such consent shall be conditioned upon strict conformance with all applicable governmental requirements and Lessor's then-current clearance standards.

B. All alterations, improvements or installations shall be at Lessee's sole cost and expense.

C. Lessee shall comply with Lessor's then-current clearance standards, except (i) where to do so would cause Lessee to violate an applicable governmental requirement or (ii) for any improvement or device in place prior to Lessee taking possession of the Premises if such improvement or device complied with Lessor's clearance standards at the time of its installation.

B. Notwithstanding the terms of this Lease set forth in Article II, Lessor or Lessee may terminate this Lease without cause upon thirty (30) days' written notice to the other party; provided, however, that at Lessor's election, no such termination by Lessee shall be effective unless and until Lessee has vacated and restored the Premises as required in Section 15A, at which time Lessor shall refund to Lessee, on a pro rata basis, any unearned rental paid in advance. Notwithstanding anything to the contrary in this Lease, if Lessee has not complied with the requirements of Section 15A, this Lease, together with all terms contained herein (including payment of rent) will remain in effect until the requirements of Section 15A are met, unless Lessor, in its sole discretion, elects to terminate this Lease.

Section 14. **LESSOR'S REMEDIES.**

Lessor's remedies for Lessee's default are to (a) enter and take possession of the Premises, without terminating this Lease, and relet the Premises on behalf of Lessee, collect and receive the rent from reletting, and charge Lessee for the cost of reletting, and/or (b) terminate this Lease as provided in Section 13 above and sue Lessee for damages, and/or (c) exercise such other remedies as Lessor may have at law or in equity. Lessor may enter and take possession of the Premises by self-help, by changing locks, if necessary, and may lock out Lessee, all without being liable for damages.

Section 15. **VACATION OF PREMISES; REMOVAL OF LESSEE'S PROPERTY.**

A. Upon termination howsoever of this Lease, Lessee (i) shall have peaceably and quietly vacated and surrendered possession of the Premises to Lessor, without Lessor giving any notice to quit or demand for possession, and (ii) shall have removed from the Premises all structures, property and other materials not belonging to Lessor, including all personal property and restored the surface to as good a condition as the same was in before such structures were erected, including, without limitation, the removal of foundations, the filling in of excavations and pits, and the removal of debris and rubbish.

B. If Lessee has not completed such removal and restoration prior to termination of this Lease, Lessor may, at its election, and at any time or times, (i) perform the work and Lessee shall reimburse Lessor for the cost thereof within thirty (30) days after bill is rendered, (ii) take title to all or any portion of such structures or property by giving notice of such election to Lessee, and/or (iii) treat Lessee as a holdover tenant at will until such removal and restoration is completed.

Section 16. **FIBER OPTICS.**

Prior to any digging or construction on the Premises, Lessee shall contact Lessor to determine if fiber optic cable is buried on the Premises, Lessee will contact the telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable. Lessor may change the telephone number and hours of operation by giving Lessee notice of the change. If cable is buried on the Premises, Lessee will telephone the telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable. Notwithstanding compliance by Lessee with this

regulatory or under federal or state judicial precedent, then Lessor may require Lessee to enter into an amendment to this Lease to eliminate the negative effect on Lessor's rights and obligations to the extent reasonably possible.

Section 21. **MODIFICATONS, WAIVER OF DEFAULT, ENTIRE AGREEMENT.**

No waiver, modification or amendment to this Lease, including specifically but not limited to, any indemnity and/or insurance requirement herein, shall be of any force or effect unless made in writing, signed by Lessor and Lessee and specifying with particularity the nature and extent of such waiver, modification or amendment. This Lease is the entire agreement between the parties, and supersedes all other oral or written agreements between the parties pertaining to this transaction, including, without limitation, any other lease under which all or any portion of the Premises was leased to Lessee. Notwithstanding the prior sentence, Lessee shall retain any and all obligations and liabilities which may have accrued under any other such agreements prior to the commencement of the terms of this Lease.

~~D. Pollution Liability Insurance. If permitted use as defined in this Lease includes any generation, handling, enrichment, storage, manufacture, or production of hazardous materials pollution liability insurance is required. Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 4 (or a substitute form providing equivalent liability coverage), with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.~~

If hazardous materials are disposed of from the Premises, Lessee must furnish to Lessor evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

E. Umbrella or Excess Insurance. If Lessee utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

F. All policy(ies) required above must include Lessor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 11 (or a substitute form providing equivalent coverage). The coverage provided to Lessor as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 11, provide coverage for Lessor's negligence whether sole or partial, active or passive, and shall not be limited by Lessee's liability under the indemnity provisions of this Lease.

G. Lessee waives all rights against Lessor and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers' liability or commercial umbrella or excess liability insurance obtained by Lessee required by this agreement.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Lease, or (b) all punitive damages are prohibited by all states in which the Premises are located.

I. All insurance policies must be written by a reputable insurance company acceptable to Lessor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the Premises are located.

J. The fact that insurance is obtained by Lessee, or by Lessor on behalf of Lessee, will not be deemed to release or diminish the liability of Lessee, including, without limitation, liability under the indemnity provisions of this Lease. Damages recoverable by Lessor from Lessee or any third party will not be limited by the amount of the required insurance coverage.

K. Lessor shall be named as an additional insured on each insurance policy described in this Lease of Real Property.

LEASE OF REAL PROPERTY

THIS LEASE ("Lease") is entered into on _____, 2018, between JACKSON COUNTY, MISSOURI ("Lessor"), and Automatic Systems INC, whose address is 9230 East 47th Street Kansas City, MO 64133 ("Lessee").

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

Article 1. **PREMISES; USE.**

For the purposes of leasing a portion of the Rock Island Railroad Corridor ("Railroad Corridor") purchased by Jackson County in partnership with the Kansas City Area Transportation Authority ("KCATA"), Lessor leases to Lessee and Lessee leases from Lessor the premises ("Premises") near 9230 East 47th Street Kansas City, Missouri 64133, shown on the attached Exhibit A, made a part hereof, subject to the provisions of this Lease and of Exhibit B attached hereto and made a part hereof. The Premises may be used for Lessee owned fence encroachment, material storage, employee parking, and purposes incidental thereto, only, and for no other purpose. Materials located outside of the Premises shall be removed by Lessee.

Article 2. **TERM.**

The term of this Lease shall commence _____, and, unless sooner terminated as provided in this Lease, shall extend for one year and thereafter shall automatically be extended from year to year.

Article 3. **FIXED RENT.**

A. Lessee shall pay to Lessor, in advance, fixed rent of One Hundred Dollars (\$100) annually.

B. Lessor shall not redetermine the rent until January 1, 2023.

Article 4. **INSURANCE.**

A. Throughout the entire term of this Lease, Lessee shall maintain the insurance coverage required under Exhibit C hereto attached and made a part hereof. Lessor shall be named as an additional insured on each insurance maintained by Lessee pursuant to the terms of this Lease.

B. Not more frequently than once every two years, Lessor may reasonably modify the required insurance coverage to reflect then-current risk management practices and underwriting practices relating to Missouri local government.

C. Upon request of Lessor, Lessee shall provide to Lessor a certificate issued by its insurance carrier evidencing the insurance coverage required under Exhibit C.

D. All insurance correspondence shall be directed to:

Rock Island Rail Corridor Authority
415 E 12th Street
Kansas City, Missouri 64106

IN WITNESS WHEREOF, the parties have executed this lease as of the day and year first herein written.

LESSOR:

JACKSON COUNTY, MISSOURI
d/b/a Rock Island Rail Corridor Authority

By _____

LESSEE:



CFO

By _____

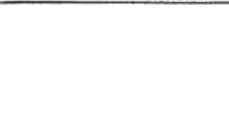
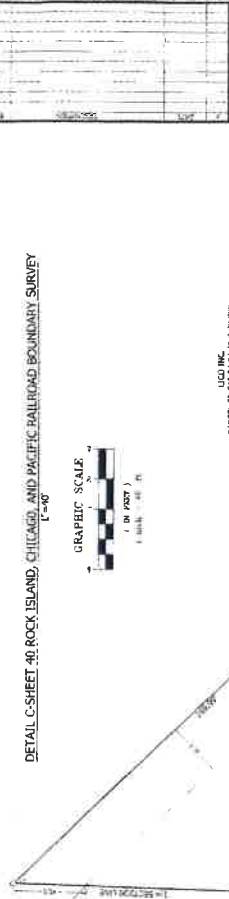
Title

EXHIBIT A

NOT TO SCALE UNLESS SPECIFICALLY NOTED OTHERWISE. 0 1" = 40'

NOT TO SCALE UNLESS SPECIFICALLY NOTED OTHERWISE. 0 1" = 40'

NOT TO SCALE UNLESS SPECIFICALLY NOTED OTHERWISE. 0 1" = 40'



BARTLETT & WEST

ENCROACHMENT SURVEY
OF THE CHICAGO, ROCK ISLAND
& PACIFIC RAILROAD
JACKSON COUNTY, MISSOURI

NOVEMBER 1, 1900
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PLAT SHEET 8072 CHICAGO, ROCK ISLAND, AND
PACIFIC RAILROAD BOUNDARY SURVEY

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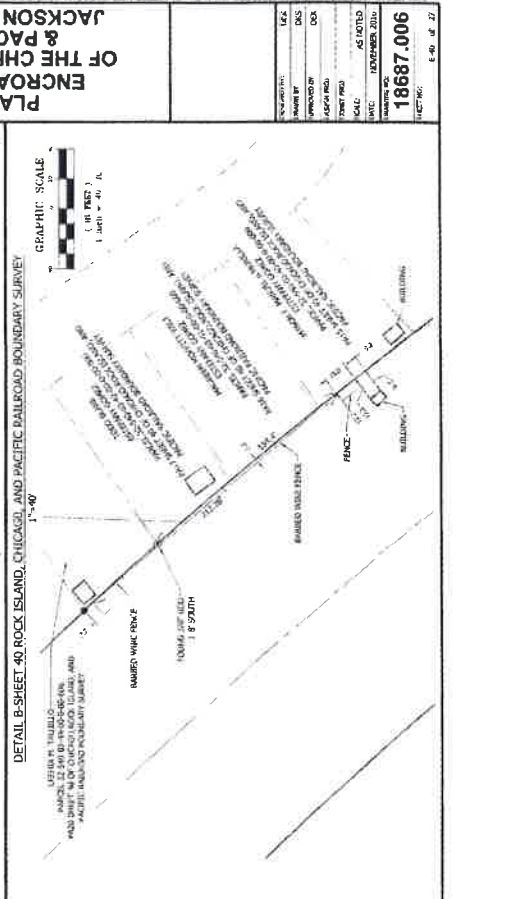
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PARCELS 32740 TO 32743

EXHIBIT B

Section 1. IMPROVEMENTS.

No improvements placed upon the Premises by Lessee shall become a part of the realty.

Section 2. RESERVATION, TITLE AND PRIOR RIGHTS.

A. Lessor reserves to itself, its agents and contractors, the right to enter the Premises at such times as will not unreasonably interfere with Lessee's use of the Premises.

B. Lessor reserves (i) the exclusive right to permit third party placement of advertising signs on the Premises, and (ii) the right to construct, maintain and operate new and existing facilities (including, without limitation, trackage, fences, communication facilities, roadways, and utilities) upon, over, across or under the Premises, and to grant to others such rights, provided that Lessee's use of the Premises is not interfered with unreasonably.

C. Lessee acknowledges that Lessor makes no representations or warranties, express or implied, concerning the title to the Premises, and that the rights granted to Lessee under this Lease do not extend beyond such right, title or interest as Lessor may have in and to the Premises. Without limitation of the foregoing, this Lease is made subject to all outstanding rights, whether or not of record. Lessor reserves the right to renew any such outstanding rights granted by Lessor or Lessor's predecessors.

D. Without limitation of Subparagraphs B. and C. above, Lessee shall not interfere in any manner with the use or operation of any signboards now or hereafter placed on the Premises or with any property uses in connection with such signboards (such as, by way of example and not in limitation, roadways providing access to such signboards). In no event may Lessee construct on the Premises any improvements that interfere in any manner with the visibility or operation of any signboards now or hereafter on the Premises or on property in proximity to the Premises.

Section 3. PAYMENT OF RENT.

Rent (which includes the fixed advance rent and all other amounts to be paid by Lessee under this Lease) shall be paid in lawful money of the United States of America, to Jackson County, Missouri, with a note designating that the funds are payment for lease of the Rock Island Railroad Corridor and delivered to Finance Manager, Jackson County, Missouri, 415 E 12th Street, Kansas City, Missouri 64106 without offset or deduction.

Section 4. TAXES AND ASSESSMENTS.

Lessee shall pay, prior to delinquency, all taxes levied during the life of this Lease on all personal property and improvements on the Premises not belonging to Lessor. If such taxes are paid by Lessor, either separately or as a part of the levy on Lessor's real property, Lessee shall reimburse Lessor in full within thirty (30) days after rendition of Lessor's bill.

Section 5. **WATER RIGHTS.**

This Lease does not include any right to the use of water under any water right of Lessor, or to establish any water rights except in the name of Lessor.

Section 6. **CARE AND USE OF PREMISES.**

- A. Lessee shall use reasonable care and caution against damage or destruction to the Premises. Lessee shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use the Premises in any way that creates a hazard to persons or property. Lessee shall keep the sidewalks and public ways on the Premises, and the walkways appurtenant to any railroad spur track(s) on or serving the Premises, free and clear from any substance which might create a hazard.
- B. Lessee shall keep the Property in good order and condition and shall make all repairs and take all other action necessary or appropriate to keep and maintain the Property in good order and condition. Lessor will not be liable for any labor, services, or materials furnished or to be furnished to Lessee, or to anyone holding the Property or any part thereof through or under Lessee. No mechanics' or other liens for any such labor or materials shall attach to or affect the interest of Lessor in and to the Property.
- C. Lessee shall not permit any sign on the Premises, except signs relating to Lessee's business, which must be approved by Lessor in advance of being placed upon the property. Any sign that is permitted under this section shall comply with all applicable city and County code provisions.
- D. If any improvement on the Premises other than the Lessor Improvements is damaged or destroyed by fire or other casualty, Lessee shall, within thirty (30) days after such casualty, remove all debris resulting therefrom. If Lessee fails to do so, Lessor may remove such debris, and Lessee agrees to reimburse Lessor for all expenses incurred within thirty (30) days after rendition of Lessor's bill.
- E. Lessee shall comply with all governmental laws, ordinances, rules, regulations and orders relating to Lessee's use of the Premises and this Lease, including, without limitation, any requirements for subdividing or platting the Premises.

Section 7. **HAZARDOUS MATERIALS.**

A. Without the prior written consent of Lessor, Lessee shall not use or permit the use of the Premises for the generation, use, treatment, manufacture, production, storage or recycling of any Hazardous Substances, except that Lessee may use, if Lawful, small quantities of common chemicals such as adhesives, lubricants and cleaning fluids in order to conduct business at the Premises. Disposal and/or dumping of such small quantities of common chemicals on the property,

and all other forms of contamination of the property, are strictly prohibited. The consent of Lessor may be withheld by Lessor for any reason whatsoever, and may be subject to conditions in addition to those set forth below. It shall be the sole responsibility of Lessee to determine whether or not a contemplated use of the Premises is a Hazardous Substance use.

B. In no event shall Lessee (i) release, discharge or dispose of any Hazardous Substances, (ii) bring any hazardous wastes as defined in RCRA onto the Premises, (iii) install or use on the Premises any underground storage tanks, or (iv) store any Hazardous Substances within one hundred feet (100) of the center line of any main track.

C. If Lessee uses or permits the use of the Premises for a Hazardous Substance use, with or without Lessor's consent, Lessee shall furnish to Lessor copies of all permits, identification numbers and notices issued by governmental agencies in connection with such Hazardous Substance use, together with such other information on the Hazardous Substance use as may be requested by Lessor. If requested by Lessor, Lessee shall cause to be performed an environmental assessment of the Premises upon termination of the Lease and shall furnish Lessor a copy of such report, at Lessee's sole cost and expense.

D. Without limitation of the provisions of Section 12 of this Exhibit B, Lessee shall be responsible for all damages, losses, costs, expenses, claims, fines and penalties related in any manner to any Hazardous Substance use of the Premises (or any property in proximity to the Premises) during the term of this Lease or, if longer, during Lessee's occupancy of the Premises, regardless of Lessor's consent to such use or any negligence, misconduct or strict liability of any Indemnified Party (as defined in Section 12), and including, without limitation, (i) any diminution in the value of the Premises and/or any adjacent property of any of the Indemnified Parties, and (ii) the cost and expense of clean-up, restoration, containment, remediation, decontamination, removal, investigation, monitoring, closure or post-closure. Notwithstanding the foregoing, Lessee shall not be responsible for Hazardous Substances (i) existing on, in or under the Premises prior to the earlier to occur of the commencement of the term of the Lease or Lessee's taking occupancy of the Premises, or (ii) migrating from adjacent property not controlled by Lessee, or (iii) placed on, in or under the Premises by any of the Indemnified Parties; except where the Hazardous Substance is discovered by, or the contamination is exacerbated by, any excavation or investigation undertaken by or at the behest of Lessee. Lessee shall have the burden of proving by a preponderance of the evidence that any of the foregoing exceptions to Lessee's responsibility for Hazardous Substances applies.

E. In addition to the other rights and remedies of Lessor under this Lease or as may be provided by law, if Lessor reasonably determines that the Premises may have been used during the term of this Lease or any prior lease with Lessee for all or any portion of the Premises, or are being used for any Hazardous Substance use, with or without Lessor's consent thereto, and that a release or other contamination may have occurred, Lessor may, at its election and at any time during the life of this Lease or thereafter (i) cause the Premises and/or any adjacent premises of Lessor to be tested, investigated, or monitored for the presence of any Hazardous Substance, (ii) cause any Hazardous Substance to be removed from the Premises and any adjacent lands of Lessor, (iii) cause to be performed any restoration of the Premises and any adjacent lands of Lessor, and (iv) cause to be performed any remediation of, or response to, the environmental condition of the

Premises and the adjacent lands of Lessor, as Lessor reasonably may deem necessary or desirable, and the cost and expense thereof shall be reimbursed by Lessee to Lessor within thirty (30) days after rendition of Lessor's bill. In addition, Lessor may, at its election, require Lessee, at Lessee's sole cost and expense, to perform such work, in which event, Lessee shall promptly commence to perform and thereafter diligently prosecute to completion such work, using one or more contractors and a supervising consulting engineer approved in advance by Lessor.

F. For purposes of this Section 7, the term "Hazardous Substance" shall mean (i) those substances included within the definitions of "hazardous substance," "pollutant," "contaminant," or "hazardous waste," in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et. seq., as amended or in RCRA, the regulations promulgated pursuant to either such Act, or state laws and regulations similar to or promulgated pursuant to either such Act, (ii) any material, waste or substance which is (A) petroleum, (B) asbestos, (C) flammable or explosive, or (D) radioactive; and (iii) such other substances, materials and wastes which are or become regulated or classified as hazardous or toxic under any existing or future federal, state or local law.

Section 8. **UTILITIES.**

A. Lessee will arrange and pay for all utilities and services supplied to the Premises or to Lessee.

B. All utilities and services will be separately metered to Lessee. If not separately metered, Lessee shall pay its proportionate share as reasonably determined by Lessor.

Section 9. **LIENS.**

Lessee shall not allow any lien to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Lessee's use of the Premises. Lessor shall have the right to discharge any such lien at Lessee's expense.

Section 10. **ALTERATIONS AND IMPROVEMENTS; CLEARANCES.**

A. No alterations, improvements or installations may be made on the Premises without the prior consent of Lessor. Such consent, if given, shall be subject to the need and requirements of the Lessor in the operation of its Railroad and to such other conditions as Lessor determines to impose. In all events such consent shall be conditioned upon strict conformance with all applicable governmental requirements and Lessor's then-current clearance standards.

B. All alterations, improvements or installations shall be at Lessee's sole cost and expense.

C. Lessee shall comply with Lessor's then-current clearance standards, except (i) where to do so would cause Lessee to violate an applicable governmental requirement or (ii) for

any improvement or device in place prior to Lessee taking possession of the Premises if such improvement or device complied with Lessor's clearance standards at the time of its installation.

D. Any actual or implied knowledge of Lessor of a violation of the clearance requirements of this Lease or of any governmental requirements shall not relieve Lessee of the obligation to comply with such requirements, nor shall any consent of Lessor be deemed to be a representation of such compliance.

Section 11. **AS-IS.**

Lessee accepts the Premises in its present condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Lessee acknowledges that Lessor shall have no duty to maintain, repair or improve the Premises.

Section 12. **RELEASE AND INDEMNITY.**

A. As a material part of the consideration for this Lease, Lessee, to the extent it may lawfully do so, waives and releases any and all claims against Lessor for, and agrees to indemnify, defend and hold harmless Lessor, its affiliates, and it and their officers, agents and employees ("Indemnified Parties") from and against, any loss, damage (including, without limitation, punitive or consequential damages), injury, liability, claim, demand, cost or expense (including, without limitation, attorneys' fees and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, Lessor, Lessee, or any employee of Lessor or Lessee) (i) for personal injury or property damage caused to any person while on or about the Premises, or (ii) arising from or related to any use of the Premises by Lessee or any invitee or licensee of Lessee, any act or omission of Lessee, its officers, agents, employees, licensees or invitees, or any breach of this Lease by Lessee.

B. The foregoing release and indemnity shall apply regardless of any negligence, misconduct or strict liability of any Indemnified Party, except that the indemnity, only, shall not apply to any Loss determined by final order of a court of competent jurisdiction to have been caused by the sole active direct negligence of any Indemnified Party.

C. Where applicable to the Loss, the liability provisions of any contract between Lessor and Lessee covering the carriage of shipments or trackage serving the Premises shall govern the Loss and shall supersede the provisions of this Section 12.

D. No provision of this Lease with respect to insurance shall limit the extent of the release and indemnity provisions of this Section 12.

Section 13. **TERMINATION.**

A. Lessor may terminate this Lease for Lessee's default by giving Lessee notice of termination, if Lessee (i) defaults under any obligation of Lessee under this Lease and, after written notice is given by Lessor to Lessee specifying the default, Lessee fails either to immediately commence to cure the default, or to complete the cure expeditiously but in all events within thirty

(30) days after the default notice is given, or (ii) Lessee abandons the Premises for a period of one hundred twenty (120) consecutive days.

B. Notwithstanding the terms of this Lease set forth in Article II, Lessor or Lessee may terminate this Lease without cause upon thirty (30) days' written notice to the other party; provided, however, that at Lessor's election, no such termination by Lessee shall be effective unless and until Lessee has vacated and restored the Premises as required in Section 15A, at which time Lessor shall refund to Lessee, on a pro rata basis, any unearned rental paid in advance. Pursuant to the Cooperative Agreement, the Maintenance and Management Program Agreement and subsequent agreements entered by Lessor and KCATA as it relates to development of the Railroad Corridor, KCATA may trigger the termination of this Lease by providing written notice to Lessor indicating why KCATA will need this portion of the Railroad Corridor and KCATA's anticipated timeframe for needing this portion Railroad Corridor. Notwithstanding anything to the contrary in this Lease, if Lessee has not complied with the requirements of Section 15A, this Lease, together with all terms contained herein (including payment of rent) will remain in effect until the requirements of Section 15A are met, unless Lessor, in its sole discretion, elects to terminate this Lease.

Section 14. **LESSOR'S REMEDIES.**

Lessor's remedies for Lessee's default are to (a) enter and take possession of the Premises, without terminating this Lease, and relet the Premises on behalf of Lessee, collect and receive the rent from reletting, and charge Lessee for the cost of reletting, and/or (b) terminate this Lease as provided in Section 13 above and sue Lessee for damages, and/or (c) exercise such other remedies as Lessor may have at law or in equity. Lessor may enter and take possession of the Premises by self-help, by changing locks, if necessary, and may lock out Lessee, all without being liable for damages.

Section 15. **VACATION OF PREMISES; REMOVAL OF LESSEE'S PROPERTY.**

A. Upon termination howsoever of this Lease, Lessee (i) shall have peaceably and quietly vacated and surrendered possession of the Premises to Lessor, without Lessor giving any notice to quit or demand for possession, and (ii) shall have removed from the Premises all structures, property and other materials not belonging to Lessor, including all personal property and restored the surface to as good a condition as the same was in before such structures were erected, including, without limitation, the removal of foundations, the filling in of excavations and pits, and the removal of debris and rubbish.

B. If Lessee has not completed such removal and restoration prior to termination of this Lease, Lessor may, at its election, and at any time or times, (i) perform the work and Lessee shall reimburse Lessor for the cost thereof within thirty (30) days after bill is rendered, (ii) take title to all or any portion of such structures or property by giving notice of such election to Lessee, and/or (iii) treat Lessee as a holdover tenant at will until such removal and restoration is completed.

Section 16. **FIBER OPTICS.**

Prior to any digging or construction on the Premises, Lessee shall contact Lessor to determine if fiber optic cable is buried on the Premises, Lessee will contact the telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable. Lessor may change the telephone number and hours of operation by giving Lessee notice of the change. If cable is buried on the Premises, Lessee will telephone the telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable. Notwithstanding compliance by Lessee with this Section 16, the release and indemnity provisions of Section 12 above shall apply fully to any damage or destruction of any telecommunications system.

Section 17. **NOTICES.**

Any notice, consent or approval to be given under this ease shall be in writing, and personally served, by email or by reputable courier service, or sent by certified mail, postage prepaid, return receipt requested, to Lessor at:

Rock Island Rail Corridor Authority
415 E 12th Street
Kansas City, Missouri 64106

and to Lessee at the above address, or such other address a party may designate in notice given to the other party. Mailed notices shall be deemed served five (5) days after deposit in the U.S. Mail. Notices which are faxed, emailed, are personally served or sent by courier service shall be deemed served upon receipt.

Section 18. **ASSIGNMENT.**

A. Lessee shall not sublease the Premises, in whole or in part, or assign, encumber or transfer (by operation of law or otherwise) this Lease, without the prior consent of Lessor, which consent may be denied at Lessor's sole and absolute discretion. Any purported transfer or assignment without Lessor's consent shall be void and shall be a default by Lessee.

B. Subject to this Section 18, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors an assigns.

Section 19. **CONDEMNATION.**

If, as reasonably determined by Lessor, the Premises cannot be used by Lessee because of a condemnation or sale in lieu of condemnation then this Lease shall automatically terminate. Lessor shall be entitled to the entire award or proceeds for any total or partial condemnation or sale in lieu thereof, including, without limitation, any award or proceeds for the value of the leasehold estate created by this Lease. Notwithstanding the foregoing, Lessee shall have the right to pursue recovery from the condemning authority of such compensation as may be separately awarded to Lessee for Lessee's relocation expenses, the taking of Lessee's personal property and fixtures, and the interruption of or damage to Lessee's business.

Section 20. **RIGHTS AND OBLIGATIONS OF LESSOR.**

If any of the rights and obligations of Lessor under this Lease are substantially and negatively affected led by any changes in the law applicable to this Lease, whether statutory, regulatory or under federal or state judicial precedent, then Lessor may require Lessee to enter into an amendment to this Lease to eliminate the negative effect on Lessor's rights and obligations to the extent reasonably possible.

Section 21. **MODIFICATONS, WAIVER OF DEFAULT, ENTIRE AGREEMENT.**

No waiver, modification or amendment to this Lease, including specifically but not limited to, any indemnity and/or insurance requirement herein, shall be of any force or effect unless made in writing, signed by Lessor and Lessee and specifying with particularity the nature and extent of such waiver, modification or amendment. This Lease is the entire agreement between the parties, and supersedes all other oral or written agreements between the parties pertaining to this transaction, including, without limitation, any other lease under which all or any portion of the Premises was leased to Lessee. Notwithstanding the prior sentence, Lessee shall retain any and all obligations and liabilities which may have accrued under any other such agreements prior to the commencement of the terms of this Lease.

EXHIBIT C
Contract Insurance Requirements

Lease of Land

Lessee shall, at its sole cost and expense, procure and maintain during the life of this Lease (except as otherwise provided in this Lease) the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage). The policy must also contain the following endorsement, which must be stated on the certificate of insurance: Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Premises" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or substitute form providing equivalent liability coverage) with a combined single limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a subtitle form providing equivalent coverage) showing "Premises" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

C. **Workers Compensation and Employers Liability Insurance.** Coverage must include but not be limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Lessee is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

In any and all Claims against Lessor by any employee of Lessee, Lessee's indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under any workers compensation acts, disability benefits acts or other employee benefits act.

D. **Pollution Liability Insurance**. If permitted use as defined in this Lease includes any generation, handling, enrichment, storage, manufacture, or production of hazardous materials pollution liability insurance is required. Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 4 (or a substitute form providing equivalent liability coverage), with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If hazardous materials are disposed of from the Premises, Lessee must furnish to Lessor evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

E. **Umbrella or Excess Insurance**. If Lessee utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

F. All policy(ies) required above must include Lessor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 11 (or a substitute form providing equivalent coverage). The coverage provided to Lessor as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 11, provide coverage for Lessor's negligence whether sole or partial, active or passive, and shall not be limited by Lessee's liability under the indemnity provisions of this Lease.

G. Lessee waives all rights against Lessor and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers' liability or commercial umbrella or excess liability insurance obtained by Lessee required by this agreement.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Lease, or (b) all punitive damages are prohibited by all states in which the Premises are located.

I. All insurance policies must be written by a reputable insurance company acceptable to Lessor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the Premises are located.

J. The fact that insurance is obtained by Lessee, or by Lessor on behalf of Lessee, will not be deemed to release or diminish the liability of Lessee, including, without limitation, liability under the indemnity provisions of this Lease. Damages recoverable by Lessor from Lessee or any third party will not be limited by the amount of the required insurance coverage.

K. Lessor shall be named as an additional insured on each insurance policy described in this Lease of Real Property.

BEAUTIFICATION LEASE

THIS LEASE ("Lease") is entered into on _____, 20____, between **JACKSON COUNTY, MISSOURI** ("Lessor"), and Elmer and Barbara Thummel, Trustees for the Elmer and Barbara Thummel Trust, whose address is 11701 E 73rd Street, Kansas City, Missouri 64133 ("Lessee").

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

Article 1. **PREMISES; USE.**

For the purposes of beautifying the Rock Island Railroad Corridor ("Railroad Corridor") purchased by Jackson County in partnership with the Kansas City Area Transportation Authority ("KCATA") and other uses outlined below, Lessor leases to Lessee and Lessee leases from Lessor the premises ("Premises") at 11701 E 73rd Street, Kansas City, Missouri 64133, Missouri, shown on the attached Exhibit A, made a part hereof, subject to the provisions of this Lease and of Exhibit B attached hereto and made a part hereof. Premises may be used for Lessee owned driveway, material storage and purposes incidental thereto, only, and for no other purpose.

Article 2. **TERM.**

The term of this Lease shall commence _____, and, unless sooner terminated as provided in this Lease, shall extend for one year and thereafter shall automatically be extended from year to year.

Article 3. **FIXED RENT.**

A. Lessee shall pay to Lessor, in advance, fixed rent of ten Dollars (\$10) annually.

B. Lessor shall not redetermine the rent until ____ (5 years out). After that date, not more than once every five (5) years, Lessor may redetermine the rent. If Lessor redetermines the rent, Lessor shall notify Lessee of such change.

Article 4. **INSURANCE.**

A. Throughout the entire term of this Lease, Lessee shall maintain the insurance coverage approved by Lessor.

IN WITNESS WHEREOF, the parties have executed this lease as of the day and year first herein written.

LESSOR:

JACKSON COUNTY, MISSOURI
d/b/a Rock Island Rail Corridor Authority

LESSEE:

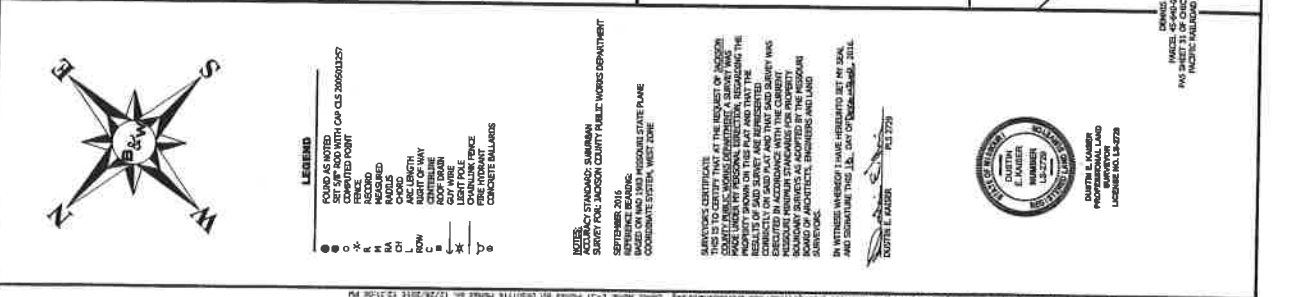
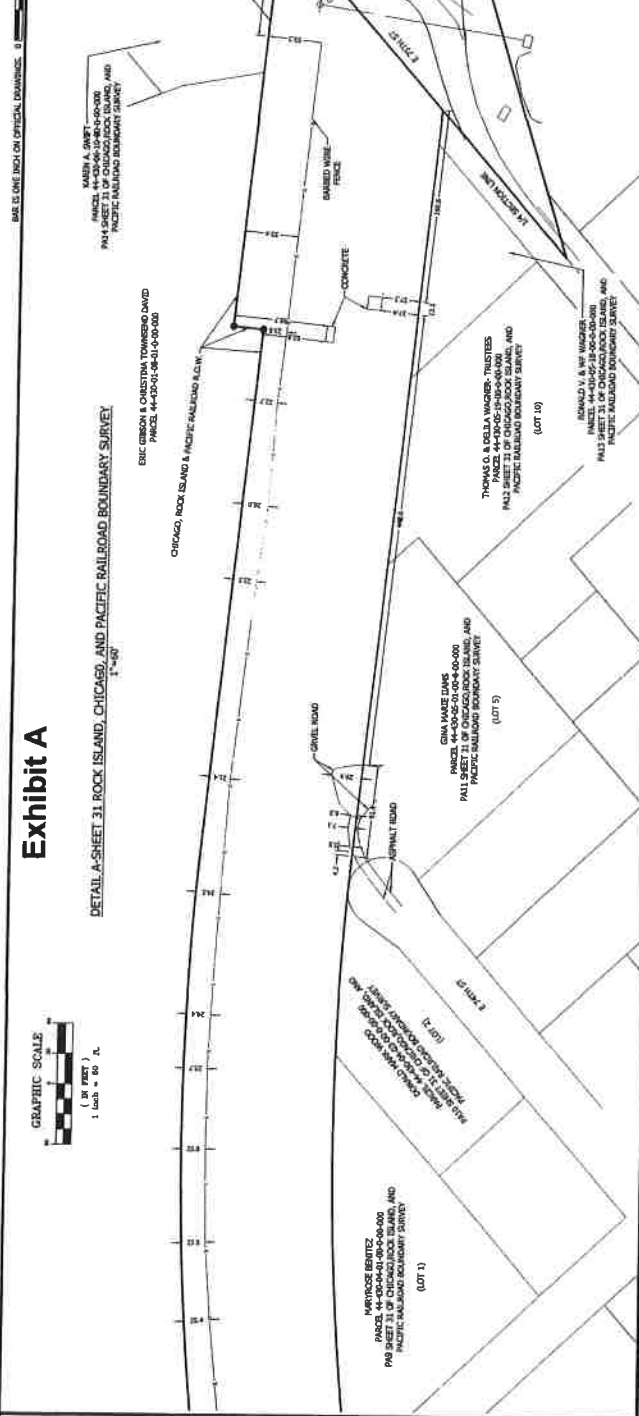
*Elmer and Barbara Thummel - Trustees
of the Elmer & Barbara
Thummel Trust
7-3-18*

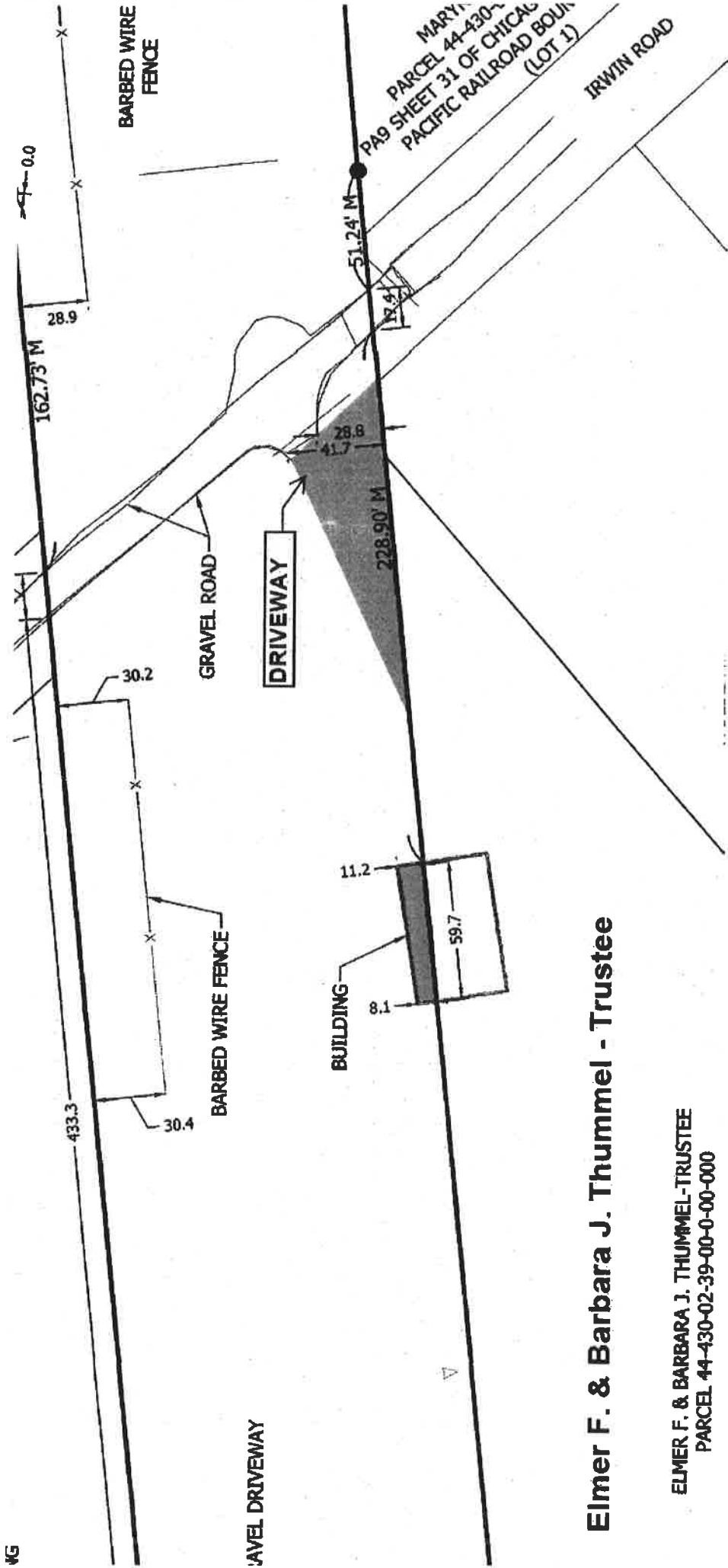
By _____

By

Eloy Humel
Bonbang Hummel -
Trustee of the Elmer
& Bonbang Hummel Trust
7-3-18

EXHIBIT A





Elmer F. & Barbara J. Thummel - Trustee

ELMER F. & BARBARA J. THUMMEL-TRUSTEE
 PARCEL 44-430-02-39-00-0-00-000

EXHIBIT B

Section 1. **IMPROVEMENTS.**

No improvements placed upon the Premises by Lessee shall become a part of the realty.

Section 2. **RESERVATION**

A. Lessor reserves to itself, its agents and contractors, the right to enter the Premises at such times as will not unreasonably interfere with Lessee's use of the Premises.

Section 3. **PAYMENT OF RENT.**

Rent (which includes fixed advance rent and all other amounts to be paid by Lessee under this Lease) shall be paid in lawful money of the United States of America, to Jackson County, Missouri, with a note designating that the funds are payment for lease of the Rock Island Railroad Corridor and delivered to Finance Manager, Jackson County, Missouri, 415 E 12th Street, Kansas City, Missouri 64106 without offset or deduction.

Section 4. **CARE AND USE OF PREMISES.**

A. Lessee shall keep the Property in good order and condition and shall make all repairs and take all other action necessary or appropriate to keep and maintain the Property in good order and condition.

Section 5. **HAZARDOUS MATERIALS.**

A. Without the prior written consent of Lessor, Lessee shall not use or permit the use of the Premises for the generation, use, treatment, manufacture, production, storage or recycling of any Hazardous Substances.

Section 6. **LIENS.**

Lessee shall not allow any lien to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Lessee's use of the Premises. Lessor shall have the right to discharge any such lien at Lessee's expense.

Section 7. **AS-IS.**

Lessee accepts the Premises in its present condition with all faults, and without warranties or covenants. Lessor shall have no duty to maintain or improve Premises.

Section 8. **RELEASE AND INDEMNITY.**

A. As a material part of the consideration for this Lease, Lessee, to the extent it may lawfully do so, waives and releases any and all claims against Lessor for, and agrees to indemnify, defend and hold harmless Lessor, its affiliates, and it and their officers, agents and employees ("Indemnified Parties") from and against, any loss, damage (including, without limitation, punitive or consequential damages), injury, liability, claim, demand, cost or expense (including, without limitation, attorneys' fees and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, Lessor, Lessee, or any employee of Lessor or Lessee) (i) for personal injury or property damage caused to any person while on or about the Premises, or (ii) arising from or related to any use of the Premises by Lessee or any invitee or licensee of Lessee, any act or omission of Lessee, its officers, agents, employees, licensees or invitees, or any breach of this Lease by Lessee.

Section 9. **TERMINATION.**

A. Lessor may terminate this Lease for Lessee's default by giving Lessee notice of termination, if Lessee (i) defaults under any obligation of Lessee under this Lease and, after written notice is given by Lessor to Lessee specifying the default, Lessee fails either to immediately commence to cure the default, or to complete the cure expeditiously but in all events within thirty (30) days after the default notice is given, or (ii) Lessee abandons the Premises for a period of one hundred twenty (120) consecutive days.

B. Notwithstanding the terms of this Lease set forth in Article II, Lessor or Lessee may terminate this Lease without cause upon thirty (90) days' written notice to the other party; provided, however, that at Lessor's election, no such termination by Lessee shall be effective unless and until Lessee has vacated and restored the Premises. Pursuant to the Cooperative Agreement, the Maintenance and Management Program Agreement and subsequent agreements entered by Lessor and KCATA as it relates to development of the Railroad Corridor, KCATA may trigger the termination of this Lease by providing written notice to Lessor indicating why KCATA will need this portion of the Railroad Corridor and KCATA's anticipated timeframe for needing this portion Railroad Corridor.

Section 10. **LESSOR'S REMEDIES.**

Lessor's remedies for Lessee's default are to (a) enter and take possession of the Premises, without terminating this Lease, and relet the Premises on behalf of Lessee, collect and receive the rent from reletting, and charge Lessee for the cost of reletting, and/or (b) terminate this Lease as and sue Lessee for damages, and/or (c) exercise such other remedies as Lessor may have at law or in equity. Lessor may enter and take possession of the Premises by self-help, by changing locks, if necessary, and may lock out Lessee, all without being liable for damages.

Section 11. **VACATION OF PREMISES; REMOVAL OF LESSEE'S PROPERTY.**

A. Upon termination of this Lease, Lessee (i) shall have peaceably and quietly vacated and surrendered possession of Premises to Lessor, without Lessor giving any notice or demand for possession, and (ii) shall have removed from Premises all structures and materials not belonging

to Lessor, and restored the surface to as good a condition as the same was in before such structures were erected.

B. If Lessee has not completed such removal and restoration prior to termination of this Lease, Lessor may, at its election, and at any time or times, (i) perform the work and Lessee shall reimburse Lessor for the cost thereof within thirty (30) days after bill is rendered, (ii) take title to all or any portion of such structures or property by giving notice of such election to Lessee, and/or (iii) treat Lessee as a holdover tenant at will until such removal and restoration is completed.

Section 12. **FIBER OPTICS.**

Prior to any digging or construction on the Premises, Lessee shall contact Lessor to determine if fiber optic cable is buried on the Premises. Lessee will contact telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable.

Section 13. **NOTICES.**

Any notice, consent or approval given under this lease shall be in writing, and personally served, by email or by reputable courier, or sent by certified mail, postage prepaid, return receipt requested, to Lessor at:

Jackson County,
Rock Island Rail Corridor Authority
415 E 12th Street
Kansas City, MO 64016

and to Lessee at the above address, or such other address a party may designate in notice given to the other party. Mailed notices shall be deemed served five (5) days after deposit in the U.S. Mail. Notices which are faxed, emailed, are personally served or sent by courier service shall be deemed served upon receipt.

Section 14. **ASSIGNMENT.**

A. Lessee shall not sublease the Premises, in whole or in part, or assign, encumber or transfer (by operation of law or otherwise) this Lease, without the prior consent of Lessor, which consent may be denied at Lessor's sole and absolute discretion.

B. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Section 15. **CONDEMNATION.**

If, as reasonably determined by Lessor, the Premises cannot be used by Lessee because of a condemnation or sale in lieu of condemnation then this Lease shall automatically terminate. Lessor shall be entitled to the entire award or proceeds for any total or partial condemnation or sale in lieu thereof, including, without limitation, any award or proceeds for the value of the leasehold estate

created by this Lease. Notwithstanding the foregoing, Lessee shall have the right to pursue recovery from the condemning authority of compensation as may be separately awarded to Lessee.

Section 16. **MODIFICATONS, WAIVER OF DEFAULT, ENTIRE AGREEMENT.**

This Lease is the entire agreement between the parties, and supersedes all other oral or written agreements between the parties pertaining to this transaction, including, without limitation, any other lease under which all or any portion of the Premises was leased to Lessee.