

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement"), effective as of the _____ day of _____, 2021, is between FLORIDA EAST COAST RAILWAY, L.L.C., a Florida limited liability company hereinafter called "RAILWAY", and the CITY OF HOLLYWOOD, a political subdivision of the State of Florida, hereinafter called "CITY".

WITNESSETH:

WHEREAS, the CITY desires to construct, use, maintain, repair, renew and ultimately remove an at-grade public road crossing across and over the tracks, right-of-way and property of the RAILWAY, at the RAILWAY'S Milepost 348.27 (+1410') DOT# 272584V, also known as Johnson Street, more particularly described in Exhibit A attached hereto and incorporated herein by reference, hereinafter referred to as the "CROSSING SITE"; and

WHEREAS, the RAILWAY is agreeable to permitting the CITY to construct, use, maintain, repair, renew and ultimately remove the CROSSING SITE under the terms and conditions set forth herein.

WHEREAS, the RAILWAY and CITY entered into and are party to an existing License Agreement dated November 9, 1977 for the CROSSING SITE, in which said agreement will no longer cover all aspects and footprint of the herein stated work to be performed, requiring this new License Agreement to be executed to include all aspects and footprint of the CROSSING SITE herein proposed.

NOW, THEREFORE, for the covenants contained herein and other good and valuable consideration, the parties agree as follows:

1. The RAILWAY hereby permits the CITY to construct use, maintain, repair, renew and ultimately remove the CROSSING SITE under the terms and conditions set forth herein.

2. The CROSSING SITE includes but is not limited to any railroad warning signs, crossing surfaces, track structures, and automatic crossing warning devices which are, or might be, located within or adjacent to the above-described location, provided that, the construction of the CROSSING SITE shall be completed by the RAILWAY as provided in this License Agreement, hereinafter referred to as "AGREEMENT", and further provided that, notwithstanding rights to the CITY granted herein, the RAILWAY reserves the right to perform all work required on the RAILWAY'S property including construction, drainage, lighting and vegetation management, in which event the CITY shall pay the RAILWAY the entire cost and expense of labor, materials and equipment furnished by the RAILWAY in performing such work. The status of the CITY is that of a licensee and not lessee, granting the CITY the right to use the CROSSING SITE as specified herein.

3. The CROSSING SITE shall be used for public at-grade road crossing purposes only and no utility, including telecommunications facilities, pipes, wires, cables, or other lines or structures shall be placed in, on, under, or over the CROSSING SITE without the previous consent in writing of the RAILWAY. The CITY further agrees that it will at all times keep the CROSSING SITE, together with the additional portions of the RAILWAY'S right-of-way within 325 feet of the northerly and southerly limits or boundaries of the CROSSING SITE clear of any vegetation or other growth greater than two (2) feet in height on each side of the tracks at the sole expense of the CITY and without cost to the RAILWAY or lien upon the RAILWAY'S property.

4. This AGREEMENT is for an initial term of one (1) year and shall continue in effect thereafter from year to year, subject to termination by the RAILWAY or the CITY upon sixty (60) days prior written notice.

5. The CITY shall pay an annual license fee in advance to RAILWAY of \$ 9,000.00 (Nine Thousand Dollars), for use of the CROSSING SITE. The license fee shall be increased each year on the anniversary date of this AGREEMENT, commencing on the anniversary date of the second year of this AGREEMENT, by the product of the annual license fee in effect for the preceding year multiplied by one hundred percent (100%) of the percentage increase, if any, in the Consumer Price Index, (1967=100), issued by the Bureau of Labor Statistics of the U.S. Department of Labor ("CPI"), or 3%, whichever is greater. The base CPI will be the CPI for the month of the year preceding the applicable anniversary date of this AGREEMENT by ninety (90) days. No adjustment will be made for decreases in the CPI.

6. The provisions and stipulations of this AGREEMENT are a part of the consideration of the licensing of the CROSSING SITE, and in the event the CITY shall fail to comply with any of the covenants and conditions, then, at the option of the RAILWAY, this AGREEMENT shall be terminated with full legal rights and remedies retained by the RAILWAY, including but not limited to the right to reenter, repossess, and remove all facilities within the CROSSING SITE if it shall elect to do so.

7. The CITY shall grant forthwith to the RAILWAY necessary permits for the installation, construction, erection, repair and maintenance of any of the RAILWAY owned or maintained facilities described in this AGREEMENT. If the CITY fails to promptly grant the RAILWAY the necessary permits, the CITY shall bear all additional expense incurred by the

RAILWAY attributable to such failure, including costs due to slow ordering of trains. The CITY shall promptly pay such amounts upon billing by the RAILWAY.

8. Unless otherwise specified, the cost of and liability for installation, construction, maintenance, replacement and removal of all facilities at the CROSSING SITE, including but not limited to any railroad warning signs, crossing surfaces, track structure, and automatic crossing warning devices, whether performed by the CITY or the RAILWAY, shall be the sole responsibility of the CITY.

9. The RAILWAY shall install, modify, or retain the warning devices, including the fixed signs, flashing lights, bells and gates, hereinafter collectively referred to as "WARNING DEVICES", at the CROSSING SITE at the sole cost of the CITY. The WARNING DEVICES are a Type IV Class VI installation as defined in the Florida Department of Transportation Schedule of Signal Installations by Type and Class attached hereto as Exhibit C and incorporated by reference. Installation costs are estimated to be \$0.00 (zero) as shown on the estimates for signal installation attached hereto as Exhibit B and incorporated by reference.

- a. In addition, the CITY shall pay unto the RAILWAY annually the annual cost of maintenance of said WARNING DEVICES as provided in the Florida Department of Transportation's SCHEDULE OF ANNUAL COST OF AUTOMATIC HIGHWAY GRADE CROSSING TRAFFIC CONTROL DEVICES, as may in the future be revised or amended, a copy of which is attached as Exhibit C and incorporated herein by reference.
- b. The WARNING DEVICES will be owned by the RAILWAY and shall remain at the CROSSING SITE until the RAILWAY decides that they are no

longer needed or should be replaced, or until other legal requirements are imposed which shall eliminate or substantially change their operations.

10. The RAILWAY shall replace, modify, or retain the existing 74 foot wide Type T-modified on the East Track, and 74 foot wide Omni Type grade crossing surface, hereinafter referred to as the "SURFACE", along with other improvements as shown on the drawing attached hereto as Exhibit A, are in accordance with Florida Department of Transportation Standard Specifications for Road and Bridge Construction, Index No. 560, as may be amended, at the sole cost of the CITY. Installation costs are estimated to be \$0.00 (zero) as shown on the estimates for crossing installation attached hereto as Exhibit B and incorporated by reference. When the RAILWAY determines that the replacement of the SURFACE is more economical than its continued maintenance, the RAILWAY shall have the exclusive option to replace the SURFACE with a comparable or improved structure. The replacement costs of the SURFACE shall be the sole responsibility of the CITY. The CITY shall, at its sole expense, maintain and replace the remainder of the road inside the RAILWAY'S right-of-way, plus any paving which may be located between the ends of the ties. If such work is required due to replacement of the SURFACE, the CITY shall perform such work in accordance with the time and operational requirements of the RAILWAY. The CITY will give prior notice to the RAILWAY of all work to be performed by the CITY at or near the CROSSING SITE, and no such work shall be performed by the CITY without the prior approval of the RAILWAY. All work performed by the CITY shall be conducted at such times and in such manner as to not interfere or impeded the operations of the RAILWAY. The RAILWAY shall provide a construction watchman at said CROSSING SITE while work is being performed by the CITY under the provisions of this AGREEMENT, at the sole expense of the CITY.

11. The CITY agrees, acknowledges and understands that the RAILWAY reserves the right to make any changes at any future time in its existing tracks or other facilities, including the installation, maintenance and operation of any additional track or tracks or other facilities on its right-of-way at the CROSSING SITE. The CITY agrees to bear the total expense of any changes or additions to the pavement and traffic signal devices, the SURFACE, the WARNING DEVICES or other railroad signalization equipment or new track structure at the CROSSING SITE, whether these changes or additions are required by law or order of any public or judicial authority, done voluntarily by the RAILWAY, or requested by the CITY.

12. The CITY agrees that it will install, maintain and replace all necessary drainage facilities to prevent the accumulation of surface water due to the existence of the CROSSING SITE. Such facilities must first be approved by the RAILWAY and any governing bodies having jurisdiction thereof and operation of the facilities shall also be subject at all time to their approval. An additional license agreement may be required by the RAILWAY, depending upon the location of such drainage facilities and type, size, depth and other specifications of the proposed facilities, as submitted to the RAILWAY.

13. Lighting facilities adequate to comply with the requirements of the laws of the State of Florida covering illumination of roads shall be installed, maintained and replaced at or near this CROSSING SITE by and at the sole cost of CITY.

14. Facilities at or near the CROSSING SITE that are not specifically covered by this AGREEMENT, including but not limited to pedestrian walkways, may not be constructed by the CITY at or near the CROSSING SITE without the prior written approval of the RAILWAY, which approval is the RAILWAY'S sole discretion. The cost and liability for such facilities,

including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of the CITY.

15. If at any time the RAILWAY, at the CITY'S request, performs work required to be performed by the CITY hereunder, the cost and liability for such work, including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of the CITY.

16. The CITY further covenants to pay the RAILWAY, within thirty (30) days after presentation of the same, all bills submitted by the RAILWAY, including maintenance bills as set forth in Paragraph 9 above and all bills for electricity of the CROSSING SITE if same are provided by the RAILWAY.

17. At the termination of this AGREEMENT for any cause, or upon termination of the CITY'S use of the CROSSING SITE as herein described, all rights of the CITY shall terminate and the CITY shall remove, under the RAILWAY'S supervision and direction, at the CITY'S entire cost and expense, said road and all non-RAILWAY owned improvements placed upon the RAILWAY'S right-of-way and restore the CROSSING SITE to its original condition.

18. The CITY shall indemnify, defend and hold harmless the RAILWAY for assessments or other charges of any kind whatsoever against the RAILWAY at any time for any portion of public improvements installed on or within two hundred (200) feet, OR the RAILWAY'S right-of-way, whichever is greater, of the CROSSING SITE arising out of the existence of the CROSSING SITE.

19. The CITY shall not in any way, or at any time, interfere with or obstruct the RAILWAY'S right-of-way, the movement of the RAILWAY'S trains and other railroad

operations, or interfere with the RAILWAY'S use thereof, or the use thereof by the RAILWAY'S assigns, invitees, lessees or other licensees.

20. The CITY shall indemnify, defend and hold harmless the RAILWAY, its affiliates, officers, directors and employees from any and all suits, claims, liability, losses, damages, expenses and costs (including reasonable attorneys fees) incurred by or asserted against the RAILWAY whether for personal injury or death or damage to property of any person or persons whomsoever, relating to, resulting from or arising out of the construction, installation, maintenance or replacement of the CROSSING SITE by the RAILWAY, the performance of work by the RAILWAY required to be performed by the CITY hereunder, or the use of the CROSSING SITE or the CITY facilities, including but not limited to pedestrian walkways, at or near the CROSSING SITE and **regardless of whether such injury or damage is caused or alleged to be caused, in whole or in part, by the negligence of the RAILWAY.** Notwithstanding the foregoing, the CITY shall have no indemnification obligation for the intentional, wrongful acts of the RAILWAY.

- i. The CITY will include in any contract, which it may let for the whole or part of any work to be performed hereunder by or for the CITY, each and every one of the terms and conditions included on the document entitled "FLORIDA EAST COAST RAILWAY, L.L.C. INSURANCE REQUIREMENTS" attached hereto, and made a part hereof as Exhibit D.

21. (a) The CITY, at its own cost and expense, when performing any work in connection with the CROSSING SITE shall request the RAILWAY to furnish any necessary construction watchmen for the protection of the RAILWAY'S employees, property and train

operations. The RAILWAY shall be notified at least one (1) week in advance of the performance of any work in connection with the CROSSING SITE.

- i. (b) In addition to, but not in limitation of any of the foregoing provisions, if at any time the RAILWAY should deem it necessary to place construction watchmen for the protection of any person or property, during the construction, maintenance, repair, alteration, renewal, or removal at the CROSSING SITE, the RAILWAY shall have the right to place such construction watchmen, or other persons at the sole cost and expense of the CITY. Upon receipt of a bill from RAILWAY, the CITY shall promptly pay the RAILWAY the full cost and expense of such construction watchmen. The furnishing or failure to furnish construction watchmen, or other persons by the RAILWAY under this paragraph, however, shall not release the CITY from any and all other liabilities assumed by the CITY under the terms of this AGREEMENT, including its obligations under Paragraph 20 hereof. The CITY shall give the RAILWAY one (1) week's advance written notice when it or its contractor or anyone claiming under this AGREEMENT proposes to enter upon the CROSSING SITE to perform work under this AGREEMENT in order that proper warning may be provided for trains. In emergency situations, the CITY shall give the RAILWAY telephonic notice. The CITY further agrees that at all times its personnel or agents are on the RAILWAY property, they will be accompanied by a RAILWAY representative and any cost involved will be borne by the CITY.

22. After the SURFACE and WARNING DEVICES have been installed and all other work to be performed by the RAILWAY under this AGREEMENT has been completed and found to be in satisfactory working order by the RAILWAY, the RAILWAY shall furnish to the CITY an invoice showing the final total cost of material, labor and equipment furnished by the RAILWAY, in accordance with the estimate of said cost to the CITY to be \$0.00 (Zero) set forth in Exhibit B and the CITY shall pay such invoice no later than thirty (30) days from the date thereof.

23. Installation, maintenance, and replacement of any and all railroad advance warning signs and pavement markings on any road approaching the CROSSING SITE shall be the sole responsibility and cost of the CITY, and at its sole expense.

24. The CITY shall promptly pay the RAILWAY all charges for replacement, repair or otherwise of the CROSSING SURFACE and RAILROAD DEVICES within thirty (30) days of the date of invoice. Failure to promptly pay to the RAILWAY amounts billed as due under this AGREEMENT shall constitute default by the CITY.

25. The CITY hereby acknowledges that it has been notified that its personnel will or may be working in an area containing active fiber-optic transmission cable as well as other cables and other facilities.

26. If any provision or provisions of this AGREEMENT shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

27. This AGREEMENT will be governed by the laws of the State of Florida. It constitutes the complete and exclusive statement of the agreement between the parties, which supersedes all proposals, oral or written, and all other communications between the parties

related to the subject matter of this AGREEMENT. It is understood by and between the respective parties hereto that this License Agreement cancels and supersedes any other License Agreements between the RAILWAY and CITY with respect to the matters contained herein, and more specifically, the existing License Agreement between the RAILWAY and CITY dated November 9, 1992, Any future change or modification of this AGREEMENT must be in writing and signed by both parties.

28. The CITY, upon final execution and submittal of this agreement, will submit accompanying payment to RAILWAY in the total amount shown on Exhibit B, in which payment from CITY to RAILWAY can be in the form of check, executed purchase order, or electronic transfer of funds to RAILWAY, or in lieu of the above mentioned methods present to RAILWAY documented proof by CITY of funds allocated to, and designated to an account specific to this project for the entire amount shown on Exhibit B, in which this payment by CITY to RAILWAY will be considered the official CITY authorization to RAILWAY to proceed with the project work.

The remainder of this page has been intentionally left blank.

IN WITNESS WHEREOF, the RAILWAY and the CITY have caused this instrument to be executed in their corporate names and respective seals to be hereunto affixed in duplicated the day first hereinafter written by their undersigned officials thereunto lawfully authorized.

Signed and
Delivered in the presence of:

Witnesses as to RAILWAY

FLORIDA EAST COAST RAILWAY L.L.C.
a Limited Liability Company

By: _____

ATTEST: _____

DATE: _____

Witnesses as to CITY

CITY of HOLLYWOOD, a political
subdivision of the State of Florida

By: _____

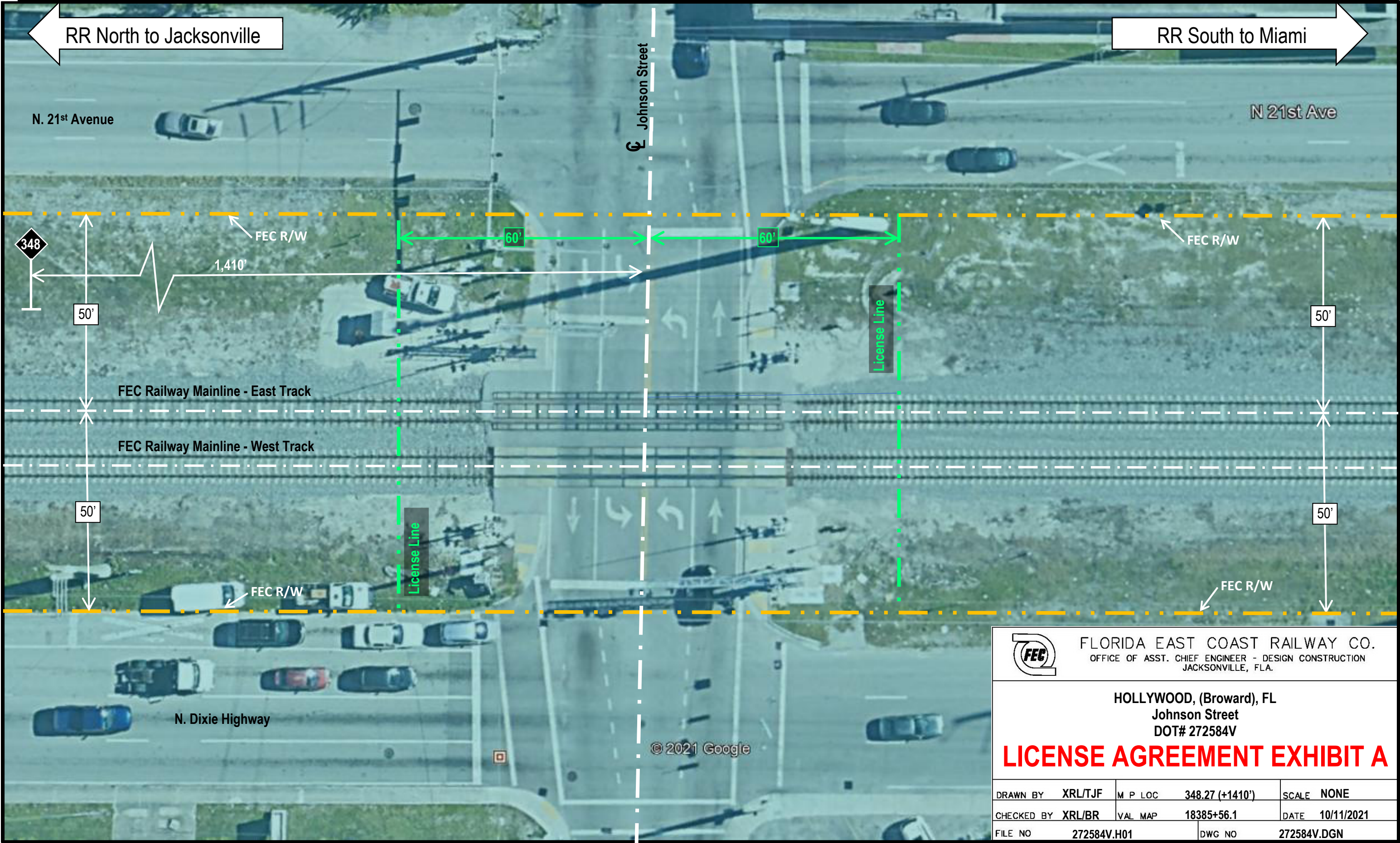
Title: _____

Attest: _____

Title: _____

Date: _____

Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the Parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.



FLORIDA EAST COAST RAILWAY CO.
OFFICE OF ASST. CHIEF ENGINEER - DESIGN CONSTRUCTION
JACKSONVILLE, FLA.

HOLLYWOOD, (Broward), FL
Johnson Street
DOT# 272584V

LICENSE AGREEMENT EXHIBIT A

DRAWN BY	XRL/TJF	M P LOC	348.27 (+1410')	SCALE	NONE
CHECKED BY	XRL/BR	VAL MAP	18385+56.1	DATE	10/11/2021
FILE NO	272584V.H01	DWG NO	272584V.DGN		

LICENSE AREA – GRADE CROSSING

October 11, 2021

File: 348.27/39/1410

JOHNSON STREET – MP 348.27 (+1410') – FDOT # 272584V

A PARCEL OF LAND WITH UNIFORM TOTAL WIDTH OF ONE HUNDRED TWENTY (120) FEET TOTAL AND EXTENDING EASTERLY AND WESTERLY ACROSS THE RIGHT-OF-WAY AND TRACK OF THE RAILWAY AT THE LOCATION OF THE CROSSING OF JOHNSON STREET NEAR NEW HOLLYWOOD, BROWARD COUNTY, FLORIDA, WITH LONGITUDINAL CENTERLINE OF SAID PARCEL LOCATED ONE THOUSAND FOUR HUNDRED TEN (1,410) FEET SOUTHERLY FROM THE RAILWAY'S MILE POST NO. 348, AS MEASURED FROM JACKSONVILLE, FLORIDA, WITH SAID RAILWAY RIGHT-OF-WAY HAVING A TOTAL WIDTH OF ONE HUNDRED (100) FEET AT THIS LOCATION BEING FIFTY (50) FEET IN WIDTH ON THE EAST AND WEST SIDE OF THE CENTERLINE OF THE EAST MAIN TRACK, WITH SAID LICENSE AREA HAVING A TOTAL WIDTH OF ONE HUNDRED TWENTY (120) FEET AT THIS LOCATION BEING SIXTY (60) FEET IN WIDTH ON THE NORTH AND SOUTH SIDE OF THE CENTERLINE OF THE ROADWAY CENTERLINE.

SAID PARCEL CONSISTING OF TWELVE THOUSAND (12,000 SF) SQUARE FEET TOTAL, OR APPROXIMATELY 0.275 ACRES MORE OR LESS. ALL AS SHOWN ON THE ATTACHED DRAWING NO. 272584V.DGN, LAST REVISED OCTOBER 11, 2021, ATTACHED HERETO AND MADE A PART HEREOF.

EXHIBIT A



Estimate No.: 272584V - 10/08/2021

Florida East Coast Railway
(FEC)
HOLLYWOOD, (Broward), FL
Johnson Street

DOT# : 272584V
RR MP.: 348.27 (+1410')

RAILROAD # : N/A
XORAIL# : N/A

Summary

CROSSING WARNING SYSTEM (Includes all design, requisition, labor, materials, shop wiring, and installation)	\$0.00
CROSSING SURFACE/RESURFACE (Includes all design, requisition, labor, materials, and installation)	\$0.00
TRACK GRADE AND REHABILITATION (Includes all design, requisition, labor, materials, and installation)	\$0.00
RAILROAD ENGINEERING (Includes RAILROAD Labor for Reviewing Engineering Authorizations, Field Inspections and Administrative Labor)	\$0.00
PRELIMINARY ENGINEERING (Phase 1) (Includes CONTRACT Labor for all Engineering, Agency Coordination, and Project Management)	\$0.00
AGREEMENTS & APPROVALS (Phase 2) (Includes CONTRACT Labor for all Engineering, Agency Coordination, and Project Management)	\$0.00
CONSTRUCTION ENGINEERING (Phase 3) (Includes CONTRACT Labor for all Engineering, Agency Coordination, and Project Management)	\$0.00
CONSTRUCTION ENGINEERING INSPECTION (CEI) (Estimated Construction Engineering Inspection cost based on 0 days @ \$1500 per day)	\$0.00
AC POWER SERVICE (Includes all Power Service Charges not included in other costs)	\$0.00
OTHER (Description Required)	\$0.00
SUBTOTAL	\$0.00
CONTINGENCY (15%)	\$0.00
PRE PAID - Preliminary Engineering	\$0.00
TOTAL ESTIMATE COST	\$0.00 (USD)

DATE: 10/08/2021

RESPONSIBLE PARTY:

Name: **City of Hollywood, FL**
Number: **N/A**
Contact: **Ms. Faith Miller**

NOTE : This Estimate has been prepared based on site conditions, anticipated work duration periods, material prices, labor rates, manpower, resource availability, and other factors known as of the date prepared. The actual cost for Railroad work may differ based upon the agency's requirements, their contractors work procedures, and/or other conditions that become apparent once construction commences or during the progress of the work. If any extended time elapses from the date of this Estimate, the Railroad will reserve the right to update the estimate to current price values, and require agency's approval before any work by Railroad will commence.

This Estimate DOES NOT include Railroad Watchman/Flagging Cost. Due to the unknown duration or schedule of the Roadway Contractor, this cost is NOT Included and must be considered and will be the responsibility of the Funding/Responsible Agency.

ORDER OF MAGNITUDE (OOM) ESTIMATE ONLY

EXHIBIT B

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
RAILROAD GRADE CROSSING TRAFFIC CONTROL DEVICES
ANNUAL MAINTENANCE COSTS

725-090-41
RAIL
06/21

FINANCIAL PROJECT NO.	ROAD NAME OR NUMBER	COUNTY NAME	PARCEL & R/W NUMBER	FAP NUMBER

COMPANY NAME: _____

A. FDOT/AAR XING NO.: _____ RR MILE POST TIE: _____

B. TYPE SIGNALS PROPOSED: _____ CLASS: _____ DOT INDEX: _____

**SCHEDULE OF ANNUAL COST OF AUTOMATIC
HIGHWAY GRADE CROSSING TRAFFIC CONTROL DEVICES**

Annual Maintenance Cost Exclusive of Installation

<u>CLASS</u>	<u>DESCRIPTION</u>	<u>COST*</u>
I	2-Quadrant Flashing Lights with One Track	\$2,608.00
II	2-Quadrant Flashing Lights with Multiple Tracks	\$3,451.00
III	2-Quadrant Flashing Lights and Gates with One Track	\$3,934.00
IV	2-Quadrant Flashing Lights and Gates with Multiple Tracks	\$4,940.00
V	3 or 4-Quadrant Flashing Lights and Gates with One Track	\$7,777.00
VI	3 or 4-Quadrant Flashing Lights and Gates with Multiple Tracks	\$9,759.00

AUTHORITY: FLORIDA ADMINISTRATIVE RULE 14-57.011
Public Railroad-Highway Grade Crossing Costs

EFFECTIVE DATE: July 22, 1982

GENERAL AUTHORITY: 334.044, F.S.

SPECIFIC LAW IMPLEMENTED: 335.141, F.S.

*This schedule will become effective July 1, 2021 and will be reviewed every 5 years and revised as appropriate based on the Consumer Price Index for all Urban Consumers published by the U.S. Department of Labor.

EXHIBIT C

FLORIDA EAST COAST RAILWAY, L.L.C. INSURANCE REQUIREMENTS

A. Liability Insurance. During the Term of this Contract, Contractor shall purchase and maintain: (i) Commercial General Liability Insurance ("CGL"), with contractual liability covering obligations assumed in this Contract (including any agreements entered into between the parties pursuant hereto) by Contractor, providing for available limits of not less than \$6,000,000 single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons in each occurrence and for damage to or destruction of property, including the loss of use thereof, in each occurrence, including Federal Employers Liability Act claims ("FELA") against the FECR, or other liability arising out of or incidental to railroad operations; (ii) at FECR's option, Contractor will obtain a policy of Railroad Protective Liability with liability limits of \$2,000,000 per occurrence, \$6,000,000 aggregate with FECR as the only named insured; (iii) Statutory Workers' Compensation, Employer's Liability Insurance with available limits of not less than \$1,000,000 and Occupational Disease Insurance; (iv) if any motor vehicles are used in connection with the Services to be performed hereunder (or in connection with any agreements entered into between the parties pursuant hereto), Business Automobile Liability Insurance with limits of not less than \$1,000,000 single limit, bodily injury and/or property damage combined, for damages to or destruction of property including the loss of use thereof, in any one occurrence; and (v) if professional services are being rendered by Contractor, Professional Liability coverage in an amount not less than \$1,000,000. If, in FECR's opinion, a higher limit of liability is necessary for any insurance policy required hereunder, FECR shall so notify Contractor and Contractor shall, within thirty (30) days of receipt of such notice, provide a copy of the endorsement to the appropriate policy increasing the liability coverage to the required limit. Such insurance will include a minimum of two years' tail coverage necessary to cover claims occurring during the Term but which may not be brought until after termination of this Contract.

B. Policy Requirements. All insurance required hereunder shall be affected by valid and enforceable policies issued by insurer(s) of financial responsibility and authorized to do business in all necessary states, all subject to the reasonable prior approval of FECR. Contractor's liability insurance policies shall name FECR, its parent, affiliates and subsidiaries as additional insureds and will not have any exclusion for liability relating to railroad operations or contractual liability for construction or demolition within fifty (50) feet of FECR's tracks by endorsement. Contractor's Workers' Compensation and property insurance policies shall include waivers of subrogation rights endorsements in favor of FECR. All policies shall contain a provision for thirty (30) days' written notice to FECR prior to any expiration or termination of, or any change in, the coverage provided. Contractor shall provide FECR with at least thirty (30) days' written notice prior to such expiration, termination or change in any insurance coverage. Insurance Company must be issued by a casualty company/insurance company authorized to do business in the State of Florida that has a "Best's" rating of A or A+ and a financial category size of Class XII or higher. Prior to any entry upon FECR property pursuant to this Contract and upon FECR's request thereafter, Contractor shall provide or shall cause its insurer or insurance agent to provide FECR with a certificate of insurance certifying the liability insurance policies in effect for the Term of this Contract. The liability assumed by Contractor under this Contract, including, but not limited to, Contractor's indemnification obligations, shall not be limited to the insurance coverage stipulated herein.

EXHIBIT "D"