



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

5/7/2019

Please submit all inquiries and bids to:  
Bradley McLennan, Funded Projects Administrator  
Bradley.McLennan@rjcorman.com, 859-881-2352 phone

R.J. Corman Railroad Company / Cleveland Line has received funding from the Ohio Rail Development Commission and invites you to bid on the following items:

**Asphalt Paving (see list below)**

- Require pricing PER TON – **\*\*ESTIMATED** quantity needed: 168 tons of asphalt. State approved asphalt mix designs are to be used.
- Require 6"-8" compaction at each crossing in three separate compacted lifts (2 base 2-3 inches each and a surface lift). All lifts compacted with a vibratory roller. Must be able to key edge where determined.
- RJ Corman intends to make a flush saw cut at each crossing but reserves the right to request paving contractor to mill and sweep if conditions so require. Please include pricing as a separate line item on a per foot basis for this portion.
- Concrete crossings will have an approximate area of 3 feet for each side of the concrete to be paved. Asphalt typical depth will be 8 inches throughout.
- Must be an **ODOT-certified asphalt contractor**.
- Anticipated project start date of July 2019.
- Subcontractors will be subject to the provisions and requirements of Attachment A (see attached).
- The Subcontractor must comply with 49 CFR Part 219, Control of Alcohol and Drug Use: Coverage of Maintenance of Way (MOW) and Retrospective Regulatory Review-Based Amendments which become into effect June 12, 2017. Contact Heidi Caudill with any questions: 859-881-6624 or heidi.caudill@rjcorman.com. (See Attachment B).
- Will be required to enter into subcontract agreement. (See Attachment C)
- RJ Corman reserves the right to reject any or all proposals.

**\*\* Bid due by 5/22/2019 at 5PM EST \*\***  
**Reference Job: Asphalt Paving 2019 RJCL**  
**Please hold bids valid for 90 days**

**Vendor must provide certificate of insurance with the following coverage:**

- A. Commercial General Liability coverage at their sole cost and expense with limits of not less than \$2,000,000 in combined single limits for bodily injury and/or property damage per occurrence. Policy should not have any exclusion for work being done within 50' of a railroad track.
- B. Statutory Worker's Compensation and Employers Liability Insurance
- C. Commercial automobile liability insurance with limits of not less than \$500,000 combined single limit for bodily injury and/or property damage per occurrence.
- D. Such policies shall designate RJ Corman Railroad Company/Cleveland Line as an additional insured.

<u>Road Name</u>	<u>County</u>	<u>MP</u>	<u>DOT</u>
South Tuscarawas Ave.	Tuscarawas	29.12	502987W

R. J. Corman Equipment Company, LLC • R. J. Corman Railroad/Ashland, LLC • R. J. Corman Railroad Company/Allentown Lines, Inc.  
R. J. Corman Railroad Company/Bardstown Line • R. J. Corman Railroad Company/Carolina Lines, LLC • R. J. Corman Railroad Company/Central Kentucky Lines, LLC  
R. J. Corman Railroad Company/Cleveland Line, Inc. • R. J. Corman Railroad Company/Material Sales • R. J. Corman Railroad Company/Memphis Line  
R. J. Corman Railroad Company/Pennsylvania Lines, Inc. • R. J. Corman Railroad Company/Tennessee Terminal, LLC • R. J. Corman Railroad Company/Texas Lines, LLC  
R. J. Corman Railroad Company/Western Ohio Line, Inc. • R. J. Corman Railroad Services, LLC • R. J. Corman Distribution Centers, LLC • R. J. Corman Railroad Group, LLC  
R. J. Corman Railroad Switching Company, LLC • R. J. Corman Real Estate, LLC • R. J. Corman Restaurant Corporation • R. J. Corman Signaling, LLC

## ATTACHMENT A

### Pertinent Non-Discrimination Authorities:

- (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects).
- (c) Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.) (prohibits discrimination on the basis of sex).
- (d) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27.
- (e) The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age).
- (f) The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of Federal-Aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not).
- (g) Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities).
- (h) The Federal Aviation Administration's Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- (i) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations).
- (j) Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).

During the performance of this solicitation, the Subcontractor for itself, its assignees and successors in interest further agrees as follows:

(k) Compliance with Regulations: The Subcontractor (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration ("FHWA"), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

(l) Non-discrimination: The Subcontractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Subcontractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.



Dear Valued Contractor,

As you may know, the Federal Railroad Administration (FRA) recently revised its drug and alcohol testing rule (49 CFR Part 219) to cover railroad employees and contractors (including subcontractors) whose employees perform Maintenance of Way (MOW) work. Pursuant to Part 219, a MOW employee is defined as a Roadway Worker, which the FRA has determined shall include:

*Any employee of a railroad, or of a contractor to a railroad, whose duties include inspection, construction maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track or with the potential of fouling a track, and flagmen and watchmen/lookouts as defined in this section*

You are receiving this letter because our records indicate that your employees, which may include employees of your subcontractors, perform maintenance of way work for one or more of the operating subsidiaries of R. J. Corman Railroad Group, LLC (collectively "R. J. Corman") under conditions making them subject to Part 219. The regulation can be found in the Federal Register at the following citation: 81 Federal Register 37894 (June 10, 2016) or <https://www.federalregister.gov/d/2016-13058>.

**The revised Part 219 becomes effective on June 12, 2017. After that date, RJC will only be able to utilize contractors and subcontractors who have complied with Part 219 to perform MOW work.**

Contractors whose employees perform MOW work are required to conduct post-accident, reasonable suspicion, reasonable cause, and random drug and alcohol testing of employees who perform MOW works for RJC. You should review Part 219 to become familiar with all the requirements, but please note the following:

- Before an employee can be assigned to perform MOW work for RJC, the contractor must verify to RJC that the employee has a negative DOT drug test on file with the contractor: and
- A contractor whose employees perform MOW work for RJC must have a compliance program (including a random drug and alcohol testing program) that meets the requirements of the regulation. A contractor can choose to establish its own program or contract with a consortium to administer its program. FRA has developed model drug and alcohol plans. The model program for contractors is currently available on the FRA web site.
- Keep in mind that your subcontractors whose employees perform MOW work for RJC must also meet the requirements of Part 219. R. J. Corman will ask that you submit a list of subcontractors that you would like to use to perform MOW work for, or on behalf of, R. J. Corman.

Thank you,

Heidi Caudill  
Certified Designated Employer Representative  
859-881-6624

## **SUBCONTRACT AGREEMENT**

THIS AGREEMENT made \_\_\_\_\_, 20\_\_ by and between R.J. CORMAN RAILROAD COMPANY/CLEVELAND LINE, LLC ("CONTRACTOR"), with an address of PO Box 788, Nicholasville, KY 40340 and \_\_\_\_\_ ("SUBCONTRACTOR"), with an address of \_\_\_\_\_

WHEREAS, CONTRACTOR has entered into a contract ('the "Contract") with the Ohio Rail Development Commission, to perform, primarily through its own forces, certain rehabilitation and improvements on its right-of-way through the grant of a Rail Improvement Program, Control Number 2017-13 (the "Project").

WHEREAS, CONTRACTOR desires to contract with SUBCONTRACTOR for SUBCONTRACTOR to provide all equipment, labor, materials, supplies, and supervision to complete a portion of the Project in accordance with the plans, specifications and requirements of the Contract and more particularly to the Scope of Work set out below.

WHEREAS, SUBCONTRACTOR desires to contract with CONTRACTOR for SUBCONTRACTOR to provide all equipment, labor, materials, supplies, and supervision to complete a portion of the Project in accordance with the plans, specifications and requirements of the Contract and more particularly to the Scope of Work set out below.

NOW THEREFORE, the parties hereto agree as follows:

**1. SCOPE OF WORK:**

The Scope of Work (the "Work") to be performed by SUBCONTRACTOR is \_\_\_\_\_ . All Work and material installation is to be performed in accordance with the Contract and CONTRACTOR'S Invitation to Bid (ITB), a copy of which is Exhibit A and is made part of this Agreement.

**2. PAYMENT TERMS:**

CONTRACTOR shall pay the undisputed portions of each of SUBCONTRACTOR'S invoices with required deliverables within 30 days of receipt of same. All payments will be based upon the applicable unit quantity rates or lump sum amount set out in SUBCONTRACTOR'S Bid made in response to CONTRACTOR'S Invitation to Bid, a copy of which is Exhibit B and is made part of this Agreement, provided, however that the total amount payable under this Agreement shall not exceed the bid.

**3. SCHEDULE OF WORK:**

\_\_\_\_\_  
\_\_\_\_\_

**4. WARRANTY:**

4.1 CONTRACTOR warrants for the longer of CONTRACTOR'S warranty under the Contract or a period of one year following the date of acceptance of the Project, that the Work will comply with the requirements set forth in the Contract and related plans, that all workmanship, fabrication, material, installation and erection will be free from defects, of merchantable quality, and, for materials furnished by SUBCONTRACTOR which the Contract does not specify by product name and/or manufacturer, suitable for the intended purpose.

4.2 All workmanship, fabrication, material and installation which breaches this warranty will be repaired, replaced or otherwise corrected by SUBCONTRACTOR at the work site or at such location

as may be designated by CONTRACTOR without any cost or expense to CONTRACTOR within 30 days from notice to SUBCONTRACTOR of such breach.

**5. SAFETY AND REGULATORY COMPLIANCE:**

All services provided by SUBCONTRACTOR shall be in compliance with all applicable state and federal laws and regulations. Personal protective equipment, including but not limited to, safety glasses, hardhats, steel toed boots and reflector vests must be worn by all personnel on the Project site as required by said laws and regulations. SUBCONTRACTOR must be FRA Qualified – 49 CFR Part 214, Railroad Workplace Safety.

**6. CLEAN UP:**

SUBCONTRACTOR shall remove all trash, debris, scrap, packing, shipping and similar materials generated by but not incorporated into the Work each day before leaving the Project site. All such materials not removed within 24 hours following notice to do so is given to SUBCONTRACTOR by CONTRACTOR will be removed by CONTRACTOR at the cost of and charged to SUBCONTRACTOR.

**7. INSURANCE:**

SUBCONTRACTOR shall maintain the following insurance and shall also be fully compliant with all applicable Workers Compensation requirements:

- i. Worker's Compensation Insurance as required by law.
- ii. Automobile liability insurance in the amount of FIVE HUNDRED THOUSAND AND NO/100 (\$500,000.00) per occurrence; and
- iii. Commercial General Liability insurance in the amount of TWO MILLION AND NO/100 (\$2,000,000.00) per occurrence, with no exclusion of railroad liability, contractual or otherwise, from its coverage.
- iv. R.J. Corman Railroad Company shall be named as an additional insured.
- v. If SUBCONTRACTOR'S insurance does not have railroad liability coverage a Railroad Protective Liability policy must be purchased with limits of TWO MILLION AND NO/100 (\$2,000,000.00) per occurrence and SIX MILLION AND NO/100 (\$6,000,000.00) aggregate naming R.J. Corman Railroad Company, LLC as the insured.

SUBCONTRACTOR will be required to provide proof of insurance.

**8. INDEMNIFICATION:**

SUBCONTRACTOR will defend, indemnify and hold harmless CONTRACTOR from and against any and all loss, cost, expense, claim and liability (including but not limited to attorney's fees) resulting from the loss of life or personal injury to any person or loss of or damage to any property arising from, incident to or occurring in connection with the performance of the Work by SUBCONTRACTOR., excepting only such claims as are based in whole or in part on CONTRACTOR'S gross negligence or willful wrongful act or omission.

**9. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS:**

SUBCONTRACTOR will comply with all applicable federal, state, and local laws in the conduct of the Work. SUBCONTRACTOR is fully and solely responsible for payment of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all persons and entities engaged by SUBCONTRACTOR in the performance of the Work.

**10. CONTROL OF ALCOHOL AND DRUG USE:**

SUBCONTRACTOR shall comply, and shall be fully and solely responsible for compliance by all individuals present on the Project site by or through engagement by SUBCONTRACTOR, with all applicable state and federal statutes and regulations in any manner relating to drug or alcohol use before or during presence on the Project site, including, but not limited to 49 CFR Part 219 including Retrospective Regulatory Review-Based Amendments which came into effect June 12, 2017 and all

regulations of similar purpose and import, as then currently enforced and applied. Contact Heidi Caudill with any questions: 859-881-6624.

**11. DISCRIMINATION:**

Discrimination in employment (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability) is prohibited. SUBCONTRACTOR agrees that, in connection with any aspect of the performance of the Work:

- i. SUBCONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. SUBCONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. SUBCONTRACTOR will post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- ii. SUBCONTRACTOR will, in all solicitations or advancements for employees placed by or on behalf of SUBCONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- iii. SUBCONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with SUBCONTRACTOR'S legal duty to furnish information.
- iv. SUBCONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by USDOT contracting officer, advising the labor union or workers' representative of the SUBCONTRACTOR'S commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. SUBCONTRACTOR will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. SUBCONTRACTOR will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of SUBCONTRACTOR'S noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and SUBCONTRACTOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order

No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

viii. Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 CFR § 35.101 et seq., SUBCONTRACTOR understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, SUBCONTRACTOR agrees to comply with the "General Prohibitions Against Discrimination," 28 CFR § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act which are applicable to the benefits, services, programs, and activities provided by CONTRACTOR.

**12. TERMINATION:**

This Agreement may be terminated by either party upon fifteen (15) days written notice of termination in the event of either party's default of the terms of this Agreement.

**13. INDEPENDENT CONTRACTOR:**

Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture or employment relationship between CONTRACTOR and SUBCONTRACTOR. Neither CONTRACTOR nor SUBCONTRACTOR shall be liable, except as otherwise expressly provided in this Agreement, for any obligations or liabilities incurred by the other. Notwithstanding any other provision in this Agreement, SUBCONTRACTOR is solely responsible for the conduct of its operations and employees and CONTRACTOR shall have no right to control or supervise any of SUBCONTRACTOR'S operations or employees.

**14. CHANGES:**

Changes to the Work shall be made only by written Change Order, executed by both CONTRACTOR and SUBCONTRACTOR, and any change in SUBCONTRACTOR'S compensation by reason of any change in the Work shall be as stated in the Change Order directing that change.

**15. BINDING EFFECT:**

This Agreement shall insure to the benefit of and be binding upon the parties hereto and their respective successors, assigns and personal representatives.

**16. SEVERABILITY:**

If any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement shall not be affected thereby.

**17. LIENS**

SUBCONTRACTOR shall promptly pay all further SUBCONTRACTORS, and CONTRACTOR may require proof of such payment and/or lien waivers as a condition of making any payment which would otherwise be payable to SUBCONTRACTOR under this Agreement. At CONTRACTOR'S option, CONTRACTOR may pay any of SUBCONTRACTOR'S further SUBCONTRACTORS who remain unpaid and deduct the amount of any such payment(s) from any payments which would otherwise be payable to SUBCONTRACTOR under this Agreement.

**18. PROJECT RECORDS**

SUBCONTRACTOR will permit CONTRACTOR and any state or federal agency providing funding for the Project to inspect all work, materials, payrolls, and other data and records with regard to the Project and to audit all books, records, and accounts pertaining to the Project including books, documents, papers, accounting records, and such other evidence either in hard copy or electronic form as may be appropriate to substantiate costs incurred under this Agreement. Further, SUBCONTRACTOR shall make such materials available at its office at all reasonable times during the contract period, and for three (3) years respectively or until all audit exceptions have been resolved, whichever is longer, from the



date of final payment under this project specific Agreement, for inspection and audit by any such agency SUBCONTRACTOR shall permit any such agency full access to the Project site at all times during which SUBCONTRACTOR has access to the site.

**19. GOVERNING LAW:**

The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State in which the Project is located and by all federal laws and regulations applicable to the Work or the performance of the same.

IN WITNESS OF WHICH, the parties hereto have executed this Agreement as of the date first set forth above.

Witness:

\_\_\_\_\_

R.J. CORMAN RAILROAD COMPANY/CLEVELAND  
LINE, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Witness:

\_\_\_\_\_

[NAME OF SUBCONTRACTOR]

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_