



**BUILDING AMERICA®**

**CONSENT LETTER – SAFETY IMPROVEMENTS  
RAILROAD CONTRIBUTION**

August 15, 2017

Mike Frisbie, PE Director TCI  
City of San Antonio  
114 W. Commerce Street  
San Antonio, TX 78205

RE: Safety improvements recommended by Union Pacific Railroad Company ("**Railroad**") at existing at-grade public road crossings at or near San Antonio, Texas, Bexar County ("**Crossings**") to be performed by the City of San Antonio ("**Licensee**")

Dear Mr. Frisbie:

This letter serves as the Railroad's limited consent, subject to each and all of the terms, provisions and conditions contained herein, for Licensee to enter upon Railroad's property only as necessary for the Licensee's performance of work related to the certain improvements at the Crossings that are depicted and described on **Exhibit A**.

The license hereby granted to Licensee shall commence on the date of this Consent Letter, and continue for six (6) months, or until such time as Licensee has completed its work set forth in this Consent Letter on Railroad's property, whichever is earlier.

It is understood and recognized that safety and continuity of the Railroad's operations and communications must be adequately safeguarded, protected and assured. Licensee shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "**Railroad Representative**").

Brandon Kasper  
Manager Special Projects  
Industry and Public Projects  
(281) 350-7637  
[bmkasper@up.com](mailto:bmkasper@up.com)

The Licensee represents and warrants that any and all of the work to be performed by Licensee and its contractor(s) on or near the Crossings will be performed in accordance with the terms and conditions of this letter and minimum safety requirements set forth in **Exhibit B**, which is attached hereto and made a part hereof. Further, it is understood and recognized that any and all work performed by Licensee pursuant to this Consent Letter shall be done to the satisfaction of Railroad.

Each and every agreement made and/or consent granted by the Railroad pursuant to this instrument are made and/or granted on the condition that Licensee adheres strictly to the terms, provisions, conditions, limitations, and covenants set forth herein and in **Exhibit B**.

If Licensee hires any contractor(s) to perform any work on any portion of the Railroad's property, then Licensee shall require each contractor to execute Railroad's then current form of Contractor's Right of Entry Agreement (the "**CROE**"). Under no circumstances will the Licensee's contractor be allowed onto the Railroad's premises without first executing the CROE, providing proof of the insurance required in the CROE, and abiding by the advance notice required in the CROE.

In consideration of the Licensee's cooperation and agreement to comply with the terms and conditions of this Consent Letter, any flagging or inspection work to be performed by the Railroad will be done at the Railroad's sole cost and expense.

Additionally, the Railroad agrees to contribute to the Licensee **Five Thousand Nine Hundred and Six Dollars (\$5,906)** in connection with the Licensee's work set forth in this Consent Letter, as depicted and described on **Exhibit A**. The Licensee, after taking all actions necessary to complete the work, will submit a written notice of completion and a billing statement for said amount, addressed to the undersigned at the Railroad. After receipt of the above mentioned notice of completion and billing statement, the Railroad and Licensee shall inspect the Crossings and confirm completion of the work described in **Exhibit A**. If said work is completed to the satisfaction of both parties based on Licensee's Traffic Engineering Standards and the standards of the Texas Manual on Uniform Traffic Control Devices, the Railroad's contribution to Licensee will be due and payable to the Licensee within thirty (30) days after the later of: (i) the date of completion of the work described in **Exhibit A**; and (ii) the date that the Licensee submits to Railroad its notice of completion and billing statement. Railroad shall not be required to contribute any additional funding to the Licensee.

Licensee hereby confirms that funds have been appropriated for the work set forth in this Consent Letter.

The person signing this Consent Letter on behalf of Licensee hereby confirms that he/she is authorized under Licensee policies and procedures to execute this Consent Letter and to bind Licensee to the obligations contained herein.

Whenever you or your representatives are on Railroad's property, a copy of this fully-executed document must be available at the site to be shown on request to any Railroad employee or official.

**City of San Antonio**

**Union Pacific Railroad Company**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Kevin D. Hicks  
AVP-Engineering Design

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

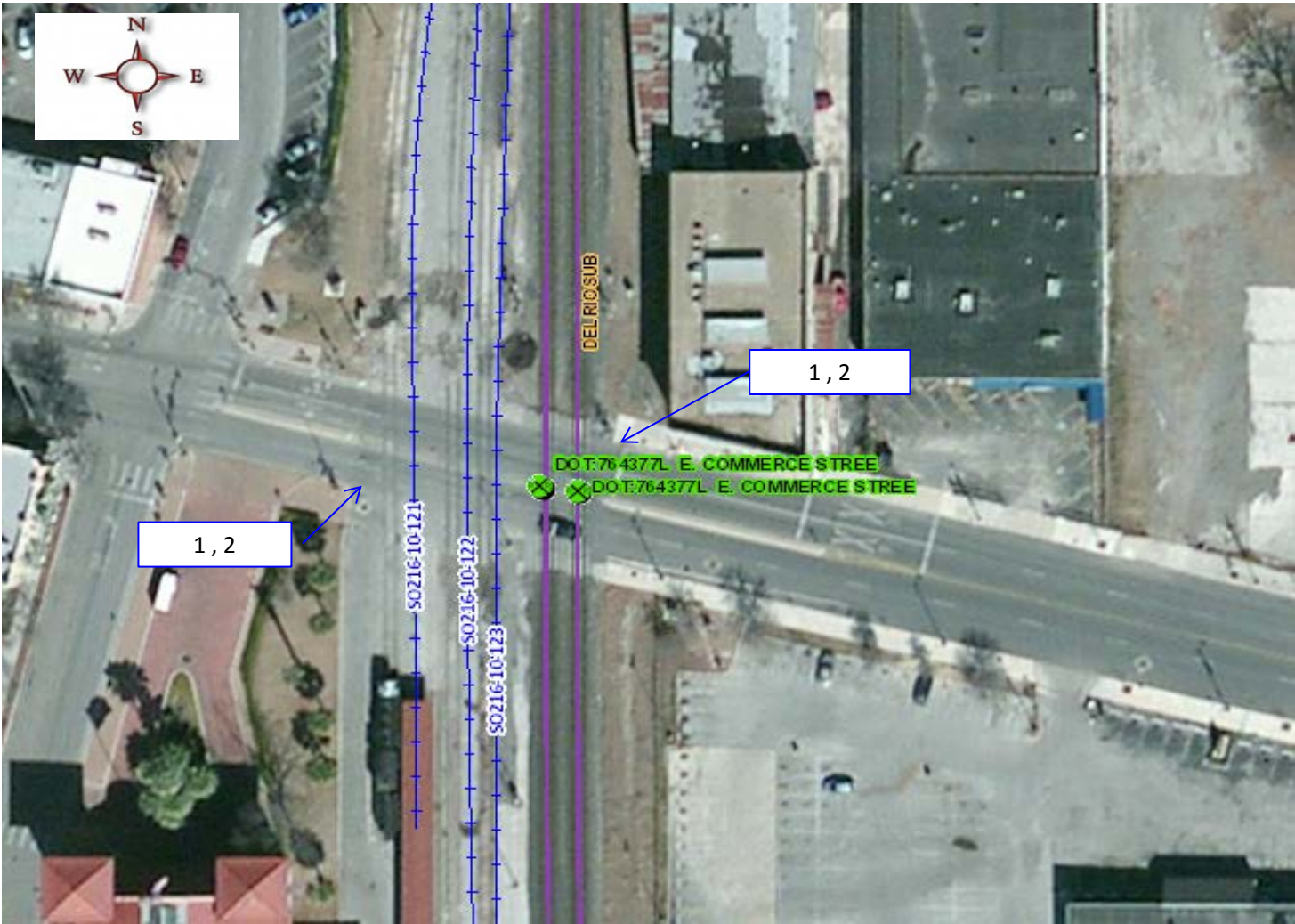
**EXHIBIT A  
(Cover Page)**

**Description of Crossing Improvements**

DOT	SUBDIVISION	MP	STATE	COUNTY	CITY	STREET
764377L	Del Rio	209.27	TX	Bexar	San Antonio	E. Commerce

KEY DRIVER STATISTICS:	11 Vehicle on Track Reports
	42 Trains per Day

13.0 Lack of or worn roadway striping/markings may contribute to improper queuing or traversal of crossing



RECOMMENDATIONS:	
	1 Refresh RR Stop Lines
	2 Refresh Lane Lines and RXR for EB and WB traffic



DOT	SUBDIVISION	MP	STATE	COUNTY	CITY	STREET
432572U	Laredo	261.58	TX	Bexar	San Antonio	Harriman Place

<b>KEY DRIVER STATISTICS:</b>	<a href="#">28 Vehicle on Track Reports</a>
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8.0 Lack of signage may contribute to improper traversal of crossing
9.0 Driver not checking ground clearance before proceeding, causing vehicle to become stuck on tracks
13.0 Lack of or worn roadway striping/markings may contribute to improper queuing or traversal of crossing



**RECOMMENDATIONS:**

1	<a href="#">Refresh Stop Line RR and Traffic, Lane Lines, Edge Lines, and Median Lines for NB traffic</a>

DOT	SUBDIVISION	MP	STATE	COUNTY	CITY	STREET
432560A	Laredo	260.58	TX	Bexar	San Antonio	S. Brazos

KEY DRIVER STATISTICS: [28 Vehicle on Track Reports](#)

13.0 Lack of or worn roadway striping/markings may contribute to improper queuing or traversal of crossing



RECOMMENDATIONS:

- 1 Refresh RR Stop Bar
- 2 Refresh Edge Line, Lane Line, and Median Line for NB and SB traffic



DOT	SUBDIVISION	MP	STATE	COUNTY	CITY	STREET
432566R	LAREDO SUB	260.73	TX	BEXAR	SAN ANTONIO	PENDLETON
TIER	SIGNAL TICKETS	MOST RESTRICTIVE WARNING DEVICE				INCIDENTS
1	1	1 - Gates				0
AVERAGE DAILY TRAIN COUNT		AVERAGE DAILY TRAFFIC COUNT			PREEMPTED TRAFFIC SIGNALS	
41		3837			N	
VEHICLE ON TRACK COUNT		UNSAFE MOTORIST EVENTS			ROUGH CROSSING EVENTS	
11		5			0	
CROSSING STATEMENT						

11 Vehicle on Track Events, 5 Unsafe Motorist Events

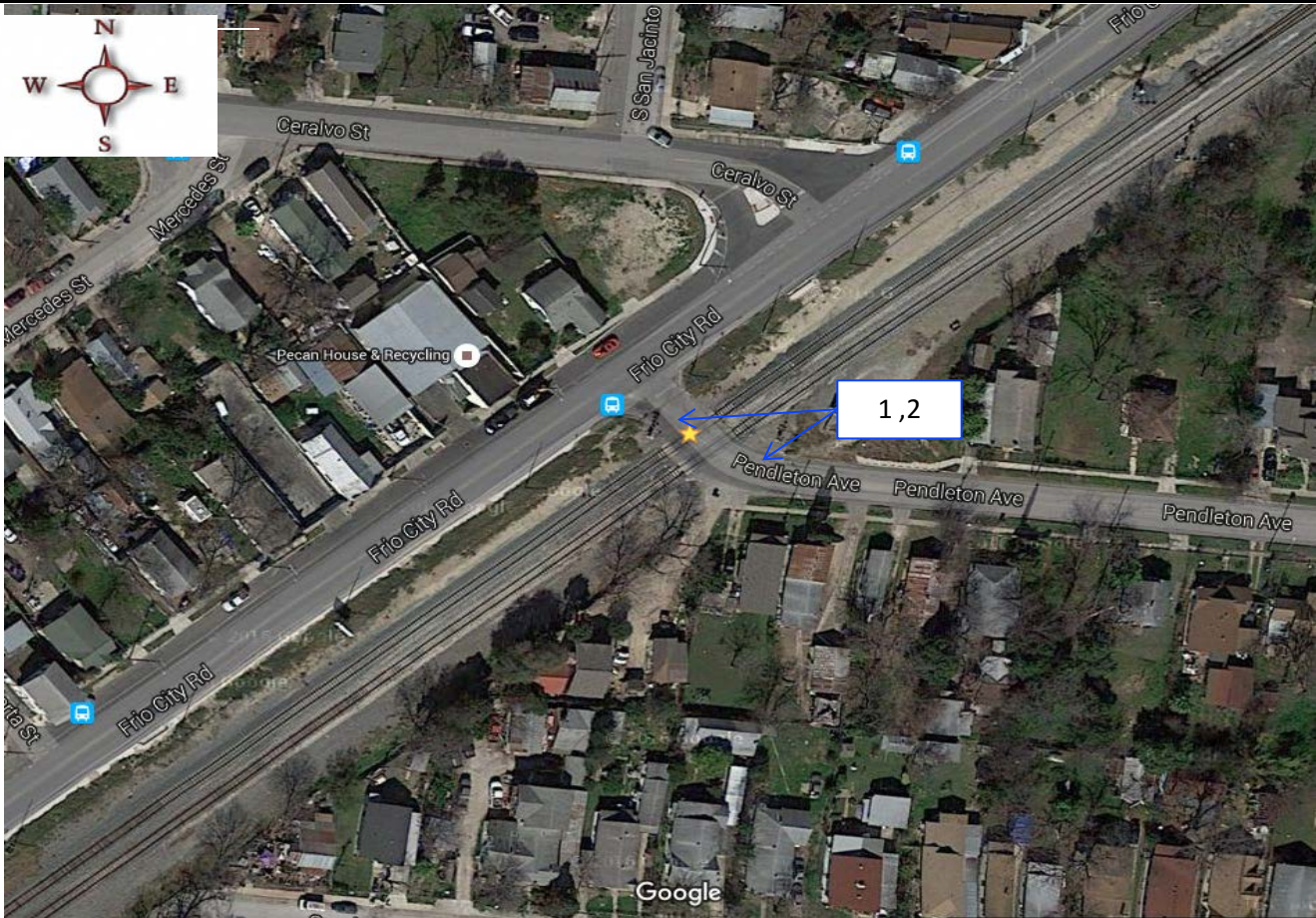
### CROSSING OBSERVATIONS

6.0 Motorist queue on crossing due to "STOP" or "YIELD" sign or condition downstream of crossing

7.0 Existing signage may contribute to improper traversal of crossing

8.0 Lack of signage may contribute to improper traversal of crossing

13.0 Lack of or worn roadway striping/markings may contribute to improper queuing or traversal of crossing



### RECOMMENDATIONS:

- 1 Refresh Stop line - RR markings; WB,EB
- 2 Refresh Median line markings; EB

## **EXHIBIT B**

### **Minimum Safety Requirements**

The term "**employees**" as used herein refer to all employees of Licensee as well as all employees of any subcontractor or agent of Licensee.

#### **I. Clothing**

- A.** All employees of Licensee will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Licensee's employees must wear:

- (i) Waist-length shirts with sleeves.
  - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
  - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B.** Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C.** Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

#### **II. Personal Protective Equipment**

Licensee shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Licensee's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
  - 100 feet of a locomotive or roadway/work equipment
  - 15 feet of power operated tools
  - 150 feet of jet blowers or pile drivers
  - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.



### **III. On Track Safety**

Licensee is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Licensee must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Licensee will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

### **IV. Equipment**

- A. It is the responsibility of Licensee to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Licensee's equipment is unsafe for use, Licensee shall remove such equipment from Railroad's property. In addition, Licensee must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
  - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
  - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
  - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

### **V. General Safety Requirements**

- A. Licensee shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Licensee shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.

- C. All track work performed by Licensee meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
  - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
  - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
  - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
  - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
  - (v) Before stepping over or crossing tracks, look in both directions first.
  - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.