

UNION PACIFIC RAILROAD  
1400 Douglas Street Omaha, Nebraska 68179

February 05, 2015

Ed Hadley  
Walton Development and Management USA, Inc.  
4800 N. Scottsdale Road, Suite 4000  
Scottsdale, AZ 85251

**Re: Letter of Understanding Regarding Walton Development  
Rail-Served Industrial Park at Sunshine Blvd., M.P. 933.66 to 935.28  
Gila Subdivision, Eloy, Arizona**

Dear Ed,

Union Pacific Railroad Company ("Union Pacific") and Walton Development and Management ("Company") have held discussions and meetings regarding future transportation services for a rail-served industrial park located in Eloy, Arizona (the "Industrial Park"). This Letter of Understanding ("LOU") sets forth the understanding of the parties to date regarding these services.

**I. Purpose and Scope.**

Company has submitted to Union Pacific a 10% conceptual plan dated October 20, 2014 marked "14-10 Rail Layout 011", a copy of which is attached hereto (the "Documentation"). Union Pacific has reviewed the Documentation and agrees to work with Company to develop rail service to the Industrial Park subject to the following terms and conditions.

**II. Initial Infrastructure Requirements.**

Union Pacific and Company agree that the final infrastructure requirements necessary to provide service to tenants of the Industrial Park cannot be determined at this time. However, Union Pacific and Company has determined the initial infrastructure requirements that will be constructed upon final approval by Union Pacific ("Initial Infrastructure Requirements"). The Initial Infrastructure Requirements are as follows:

- A. Union Pacific recommends developing either the Eloy or the Toltec industrial park initially. If Company decides to develop both the Eloy and Toltec industrial parks simultaneously Union Pacific may require additional infrastructure to be provided.



- B. Union Pacific recommends that the west switch of the Industrial Park be extended through Sunshine Blvd. to facilitate any future infrastructure, such as a running track, that may be required.
- C. Company must arrange to construct new tracks A, B and C as part of the Initial Infrastructure Requirements as illustrated on the Documentation.
- D. Company must arrange for the installation of a No. 15 power operated mainline connection and turnouts as illustrated on the Documentation which will include design and installation of new maintenance-of-way signals as required by Union Pacific.

### III. Future Infrastructure Requirements

Union Pacific and Company understand and agree that the Initial Infrastructure Requirements are not sufficient for Union Pacific to provide rail service to tenants of the Industrial Park. Union Pacific will require additional infrastructure as Company develops the Industrial Park and brings in tenants that require rail service ("Future Infrastructure Requirements"). Union Pacific will notify Company of Future Infrastructure Requirements after evaluating each tenant's request for new rail service. Company understands that Union Pacific will not provide any new rail service to the Industrial Park prior to satisfaction of the Future Infrastructure Requirements. While all Future Infrastructure Requirements cannot be determined at this time, they will include, but are not limited to, the following:

- A. Company, at its expense, must construct tracks within the Industrial Park capable of holding one week's supply of rail cars as required to serve rail users located within the Industrial Park. The specific amount of track and other required equipment will be determined on an ongoing basis as Company brings new tenants into the Industrial Park.
- B. Union Pacific and Company shall enter into a car storage agreement using Union Pacific's customary terms, conditions and rates if applicable.

### IV. UP Track Authorization Process

Company understands and agrees that in addition to satisfying the Initial Infrastructure Requirements and the Future Infrastructure Requirements, Union Pacific requires that all new Industrial Park rail service requests undergo Union Pacific's Track Authorization Process. The steps of that process are as follows:

- A. Company will require proposed new tenants of the Industrial Park to work with Union Pacific's Marketing and Sales representative to prepare a Customer Service Plan, when applicable, and determine the rail service



the proposed new tenants would receive and corresponding rail freight rates. Additionally, the Union Pacific Marketing and Sales representative will coordinate with other Union Pacific departments to determine any other requirements necessary for Union Pacific to provide service to Company's proposed new tenants.

- B. Company must prepare the Industrial Park's track design/construction drawings for each tenant and submit them to Union Pacific via the Engineering Document Exchange (web application) for approval.
- C. Company must execute an Industrial Track Agreement with Union Pacific covering construction, maintenance and operation of the industry track(s) on standard Union Pacific terms and conditions. Company must also require that each tenant receiving rail service execute a Joint Use Agreement or other appropriate documentation as required by Union Pacific.

#### **V. Additional Terms & Conditions:**

Union Pacific shall only authorize construction upon execution of an Industrial Track Agreement. Union Pacific shall keep confidential all design/construction drawings, plans and other materials related to the Industrial Park that Company provides to Union Pacific during the Track Authorization Process.

Company understands that Union Pacific will not agree to provide rail service to the Industrial Park until the entire Track Authorization Process is complete.

Company understands that at no time prior to authorization of track construction is Union Pacific agreeing to provide rail service within the Industrial Park. Further, Company understands that Union Pacific will not operate on the industry tracks within the Industrial Park until Union Pacific has approved the Industrial Park's track design and construction drawings, and Company has executed an Industrial Track Agreement with Union Pacific. Additionally, Company understands that all of Union Pacific's approvals and requirements are based on Company's estimation of Industrial Park traffic. Any substantial changes to these estimates may change Union Pacific's requirements to provide service to the Industrial Park.

#### **VI. Termination.**

This LOU shall be valid for a period of 12 months from its execution date. The LOU may be extended upon written approval by Union Pacific. This LOU may be terminated by either party at any time by written notice.



VII. Confidentiality.

This provision shall survive the termination of the LOU.

Each party agrees that it will not, without the other party's prior written consent, disclose any of the terms of this LOU or any confidential information delivered to it by the other party or jointly developed by the parties in the course of this LOU.

VIII. Assignment.

This LOU may not be assigned without the prior written consent of both parties.

Union Pacific looks forward to working with Company on finalizing the details of rail access to the Industrial Park. Please contact Steve Burke at (402) 233-3542 with any questions regarding this matter. If this LOU meets with your approval, please sign in the space provided below and return the original to me.

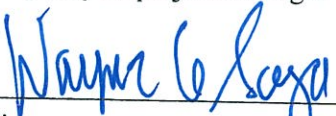
Sincerely,  
UNION PACIFIC RAILROAD

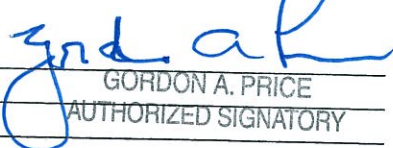


Paul MacDonald  
Regional Director – Network & Industrial Development

Accepted and Agreed:

Walton Development & Management (USA), Inc.,  
in its capacity as project manager

By:   
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
WAYNE G. SOUZA  
AUTHORIZED SIGNATORY

By:   
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
GORDON A. PRICE  
AUTHORIZED SIGNATORY

Date: 3/3/15







