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**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Economic Development Agency **SUBMITTAL DATE:** September 23, 2003

SUBJECT: Agreement with Union Pacific Railroad

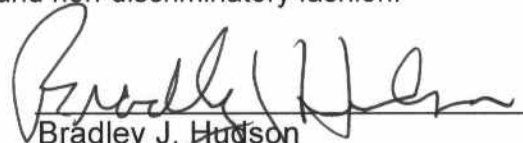
RECOMMENDED MOTION: That the Board of Supervisors approve the attached Agreement by and between the County of Riverside (County) and Union Pacific Railroad (UPRR) relating to the expansion of the Mira Loma facility.

BACKGROUND: The Agreement before your Board provides for specified County regulation of the construction and operation of a new UPRR transloading facility in Mira Loma. The project consists of approximately 100 acres on which several railcar unloading and storage tracks, and temporary parking for 5,500 cars is currently under construction. It is anticipated that the construction phase of the project will be completed within a few months.

Federal regulation contained within 49 U.S.C. § 10501(b) provides the Surface Transportation Board with exclusive jurisdiction over transportation by rail carriers. This rather recent legislation limits the County's ability to regulate rail carriers through the County's zoning and land use provisions; however, local authority is allowed with respect to building, electrical, and plumbing codes as long as such authority is not used unfairly to halt a project. As stated in one recent Surface Transportation Board decision, "It is difficult to imagine a broader statement of Congress's intent to preempt regulatory authority over railroad operations." As a result of this Federal preemption, and the County's ability to regulate the building code elements of the project, this Agreement was negotiated to ensure that County concerns well beyond our ability to regulate are addressed. For its part, UPRR will receive certainty that permits, inspections, and other ministerial County acts will be provided in a timely and non-discriminatory fashion.

(Continued to Page 2.)

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Bradley J. Hudson
Assistant County CEO/EDA

FINANCIAL DATA:

CURRENT YEAR COST: \$0
NET COUNTY COST: \$0
BUDGET ADJUSTMENT: 0
COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: NO
SOURCE OF FUNDS: N/A

ANNUAL COST \$0
IN CURRENT YEAR BUDGET: N/A
FOR FY:

C.E.O. RECOMMENDATIONS:

APPROVE

County Executive Officer Signature: 

Department Recommendation: Consent Policy
Per Executive Office: Consent Policy

Prev. Agn. Ref.
N/A

Dist.
2

AGENDA NO.

3.18

BACKGROUND (Continued):

The primary features of this Agreement are as follows:

1. UPRR to comply with all planning, building, flood, fire, and inspection requirements and pay customary processing and inspection fees;
2. UPRR to pay impact fees totaling \$2,194,356;
3. UPRR agrees to comply with several construction measures including road and landscaping improvements;
4. UPRR agrees to comply with several operational measures including traffic and air quality provisions; and,
5. UPRR agrees to convert two off-site diesel powered locomotives to an alternative clean fuel source by December 31, 2005.

The Agreement has been reviewed and approved by County Counsel and we strongly recommend approval.