

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

454A



FROM: TLMA - Transportation Department

SUBMITTAL DATE:
June 30, 2010

SUBJECT: Approve the Memorandum of Understanding between Union Pacific Railroad Company and the County of Riverside for the reimbursement of funds associated with the construction of railroad crossing safety improvements and road widening at 4th Street between Grapefruit Boulevard and Hammond Road, in the community of Mecca.

RECOMMENDED MOTION: That the Board of Supervisors approve and authorize the Chairman to execute the Memorandum of Understanding between Union Pacific Railroad Company and the County of Riverside for the reimbursement of funds associated with the construction of railroad crossing safety improvements and road widening at 4th Street between Grapefruit Boulevard and Hammond Road, in the community of Mecca.

Juan C. Perez
Director of Transportation

(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 230,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/2011
SOURCE OF FUNDS: CPUC Section 130 Improved Crossing Protection funds (90%), Measure A/Coachella Valley funds (10%)				Positions To Be Deleted Per A-30 <input type="checkbox"/> Requires 4/5 Vote <input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY:
Tina Grande

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS
DATE: 7/26/10
Departmental Concurrence

Dep't Recomm.: Consent Policy

Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.

District: 4

Agenda Number:

The Honorable Board of Supervisors

RE: Approve the Memorandum of Understanding between Union Pacific Railroad Company and the County of Riverside for the reimbursement of funds associated with the construction of railroad crossing safety improvements and road widening at 4th Street between Grapefruit Boulevard and Hammond Road, in the community of Mecca.

June 30, 2010

Page 2 of 2

BACKGROUND: Caltrans authorized grants of CPUC Section 130 funds to the County of Riverside (County) and to Union Pacific Railroad Company (UPRR) for the construction of raised median safety improvements at the 4th Street at-grade railroad crossing located between Grapefruit Boulevard and Hammond Road, in the community of Mecca. Separate grants were made to the County for road-related improvements and to UPRR for rail-related improvements.

In an effort to reduce costs and streamline the construction process, UPRR and the County requested and received concurrence from Caltrans to combine the scope of rail and road improvements into one construction contract to be administered by UPRR. The attached Memorandum of Understanding (MOU) between UPRR and the County sets forth the terms by which the County would reimburse UPRR for the County's share of Section 130 road-related costs for the raised median safety improvements.

In anticipation of the future transportation needs along 4th Street, the Riverside County Transportation Department (RCTD) has recommended that additional work related to pavement widening be added to the work to be performed by UPRR. This additional work would be outside the scope of the Section 130 safety improvements project and would be funded by local Measure A funds. The attached MOU additionally sets forth the terms by which the County would reimburse UPRR for the County's share of road-related costs for the additional road widening.

Staff recommends that the Board of Supervisors approve the Memorandum of Understanding between UPRR and the County.

County Counsel has reviewed and approved the Memorandum of Understanding as to form.

Project No. B5-0647

**MEMORANDUM OF UNDERSTANDING
REGARDING COST OF GRADE CROSSING RAISED MEDIAN SAFETY IMPROVEMENTS
AT 4TH STREET IN MECCA, CALIFORNIA**

This Memorandum of Understanding ("MOU") dated as of _____, 2010 is entered into by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation (the "Railroad") and RIVERSIDE COUNTY, a political subdivision of the State of California (the "County"), with reference to the following Recitals:

RECITALS

- A. The County and the Railroad are participating in a pending project (the "Project") to make median safety improvements and road widening improvements to the roadway surface and other features of the grade crossing located on 4th Street in Mecca, California (Mile Post 623.90) (the "Crossing") as generally depicted on the preliminary drawing attached hereto as Exhibit A. The Project is being done at no cost to the Railroad with Federal funds made available through a contract dated June 15, 2008 between the County and the California Department of Transportation ("CalTrans") under the provisions of 23 U.S.C. §130 (the "Service Contract") for improvements related to the raised median, and with Local funds made available through the County for improvements related to additional road widening.
- B. There is currently one railroad track at the Crossing. The Railroad intends to construct a second track at this location soon as part of its Sunset Route Double-Track Project. The Railroad and the County have received authority from Caltrans to apply Section 130 funds for improvements at the Crossing that are related to the installation of the second track to the extent that the costs do not exceed the funding already allocated to the Project in the Section 130 service contract. The parties have identified the installation of median safety improvements as an element of the work to be done that meets these requirements.
- C. The Railroad and the County desire to enter into this MOU for the purpose of memorializing the rights and responsibilities of each party with respect to reimbursing the Railroad for the cost of installation of the Project, including paving, curbs and other related improvements.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Railroad and the County hereby agree as follows:

Section 1. PROJECT SCOPE AND DESCRIPTION

- (a) As set forth in the Service Contract, the Project shall consist of improvements related to the construction of a raised median at or near the Crossing, including pavement widening, grading of shoulders, construction of concrete raised medians, reconstruction of existing pavement, relocation of railroad crossing protection equipment, installation of signs, and application of markings.
- (b) In addition, the Project shall consist of increasing the width of the street pavement on the north side of 4th Street on each side of the crossing by approximately six (6) feet and grading to provide a level dirt surface from the pavement edge to the north line of the 4th Street road easement, including extensions of the existing storm drain pipes.
- (c) Railroad will be the lead agency in completing the Project, including preparing engineering plans, obtaining any environmental clearance, constructing all improvements, and controlling traffic during construction.
- (d) The Railroad or its contractor shall obtain an encroachment permit from the County at least 60 days in advance of closing a lane or road in relation to work on the Project. The County waives all fees for the permit.
- (e) The County shall provide all construction surveys necessary for the Project at no cost to the Railroad.

Section 2. COST OF MEDIAN IMPROVEMENTS.

- (a) The County shall reimburse the Railroad 100% of the Railroad's actual costs related to the design and construction of the raised median at the Crossing, including related paving and curbs. Notwithstanding any other provision, the amount that the County may be required to reimburse the Railroad under this MOU shall not exceed \$180,000 of the funds allocated to the Project under the Service Contract.
- (b) The County shall reimburse the Railroad 100% of the Railroad's actual costs related to the design and construction of the additional road widening, including pavement, grading and storm drain. The parties estimate that the cost of this work will be

approximately \$50,000. This estimate is provided for planning purposes only and does not affect the County's obligation to pay the Railroad's actual costs.

- (c) The Railroad's recoverable costs for work done under this Agreement include actual costs for preliminary engineering completed prior to execution of the Agreement.
- (d) Costs associated with the Railroad's installation of the second track that are outside the scope of the Service Contract and outside the scope of the County's proposed additional road widening are not subject to reimbursement by the County.
- (e) Within sixty (60) days following completion of the Project, Railroad shall submit its final invoice to the County. The County shall issue payment to the Railroad within one-hundred twenty (120) days after receipt of the final invoice.

Section 3. SCOPE OF AGREEMENT.

This MOU concerns only the rights and responsibilities of the parties as they relate to reimbursing the Railroad for the cost of the raised median safety improvements as part of the Project. This MOU is not intended to be, and shall not be deemed to be, approval of any plans for work to be done within the Railroad right-of-way. The County agrees to obtain a Right of Entry from the Railroad prior to entering or encroaching on the Railroad's property for any purpose related to this MOU or the Project described in the Service Contract.

Section 4. MISCELLANEOUS.

(a) Governing Law. This MOU shall be governed by and construed in accordance with the laws of the State of California.

(b) Headings. The article and section headings in this MOU are for convenience only and shall not be used in the interpretation or considered part of this MOU.

(c) Severability. If any clause or provision of this MOU is illegal, invalid, or unenforceable under applicable present or future laws, then it is the intention of the parties that the remainder of this MOU shall not be affected but shall remain in full force and effect.

(d) Attorney's Fees. In the event of any litigation between the parties to enforce any provision of this MOU, to enforce any remedy available upon default under this MOU, or seeking a declaration of the rights of either party under this MOU, the

prevailing party shall be entitled to recover from the other such party attorneys' fees and costs as may be reasonably incurred.

(e) Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed an original but all of which, taken together, shall constitute one in the same MOU. Executed documents delivered by telecopier shall be accepted as if they were originals, but the deliverer of such documents shall deliver originals as soon thereafter as reasonably practicable.

(f) Indemnification Each party to this Agreement shall be responsible for its own acts and omissions and the acts and omissions of its employees, agents, contractors, and assigns in relation to the performance of the Agreement and construction of the Project, including, without limitation, death or injury to employees or third parties and damage to property. The party responsible for such a loss shall indemnify, defend, and hold harmless the other party from and against any and all lawsuits, claims, and expenses, including but not limited to attorney fees (both in-house and outside counsel) and costs of litigation (including costs of experts and consultants) arising from such a loss, except to the extent that such a lawsuit, claim, or expense arises out of the acts or omissions of the party seeking indemnity.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the date first above written.

UNION PACIFIC RAILROAD COMPANY

By: _____

Title: _____

Printed Name: _____

APPROVALS

COUNTY Approvals

APPROVED BY

TRANSPORTATION DEPARTMENT



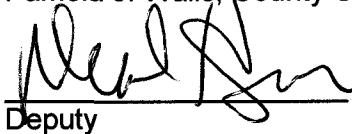
Juan C. Perez,
Director

APPROVAL BY

THE BOARD OF SUPERVISORS

Marion Ashley, Chairman
Riverside County Board of Supervisors

APPROVED AS TO FORM:
Pamela J. Walls, County Counsel



Deputy

ATTEST:

Kecia Harper-Ihem
Clerk of the Board

LIST OF PERMANENT ROADWAY SIGNING / PAVEMENT MARKINGS /			
ITEM	CALTRANS / MUTCD	SIZE	COE
RAILROAD CROSSING	W10-1	36" DIA.	
HWY-RAIL GRADE CROSSING ADVANCE WARNING	W10-2R	36" X 36"	
ROAD NAME - "66TH AVE"	W16-8	VAR X 9"	
STOP	R1-1	30" X 30"	
SPEED LIMIT	R2-1	24" X 30"	
DO NOT STOP ON TRACKS	R8-8	24" X 30"	
CROSS BUCKS	R15-1	48" X 9"	
2 TRACKS	R15-2	VAR X 9"	
DO NOT STOP ON TRACKS (SYMBOL)	R15-6	24" X 24"	
2 TRACKS	W48(CA)	VAR X 9"	
4" WHITE			
8" WHITE			
24" WHITE			
4" DBL YELLOW			
RAILROAD MARKINGS			

RIVERSIDE COUNTY

- 1.) EXISTING STRIPING UNLESS OTHERWISE INDICATED IS CURRENTLY IN GOOD CONDITION. (TO REMAIN)
- 2.) ALL SIGNING AND MARKING WITH THE NOTATION 'BY RIVERSIDE' ARE TO BE FURNISHED & INSTALLED BY RIVERSIDE COUNTY.
- 3.) ALL SIGNING AND MARKING WITH THE NOTATION 'BY CALTRANS' ARE TO BE FURNISHED & INSTALLED BY CALIFORNIA STATE HIGHWAY.

CLOSURES REQUIRED:

- 1.) ONE WEEK FULL CLOSURE FOR MAJOR ROADWAY WORK w/DETOUR.
- 2.) FOUR NIGHT CLOSURE FOR SETTING RAIL 4 MONTHS AFTER FULL CLOSURE)
- 3.) EIGHT HOUR NIGHT CLOSURE FOR SETTLEMENT EQUIVALENT TO TRAINS RUNNING ON ACTIVE TRACK 1 MONTHS AFTER CLOSURE FOR SETTING RAIL)

GRADING
DRAIN

NOTE: ALL SIGNING AND PAVEMENT MARKINGS SHALL BE CONSTRUCTED/ INSTALLED IN ACCORDANCE WITH THE LATEST EDITION OF THE CALIFORNIA MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES AND CALTRANS STANDARDS

ADDITIONAL A.C. PAVING

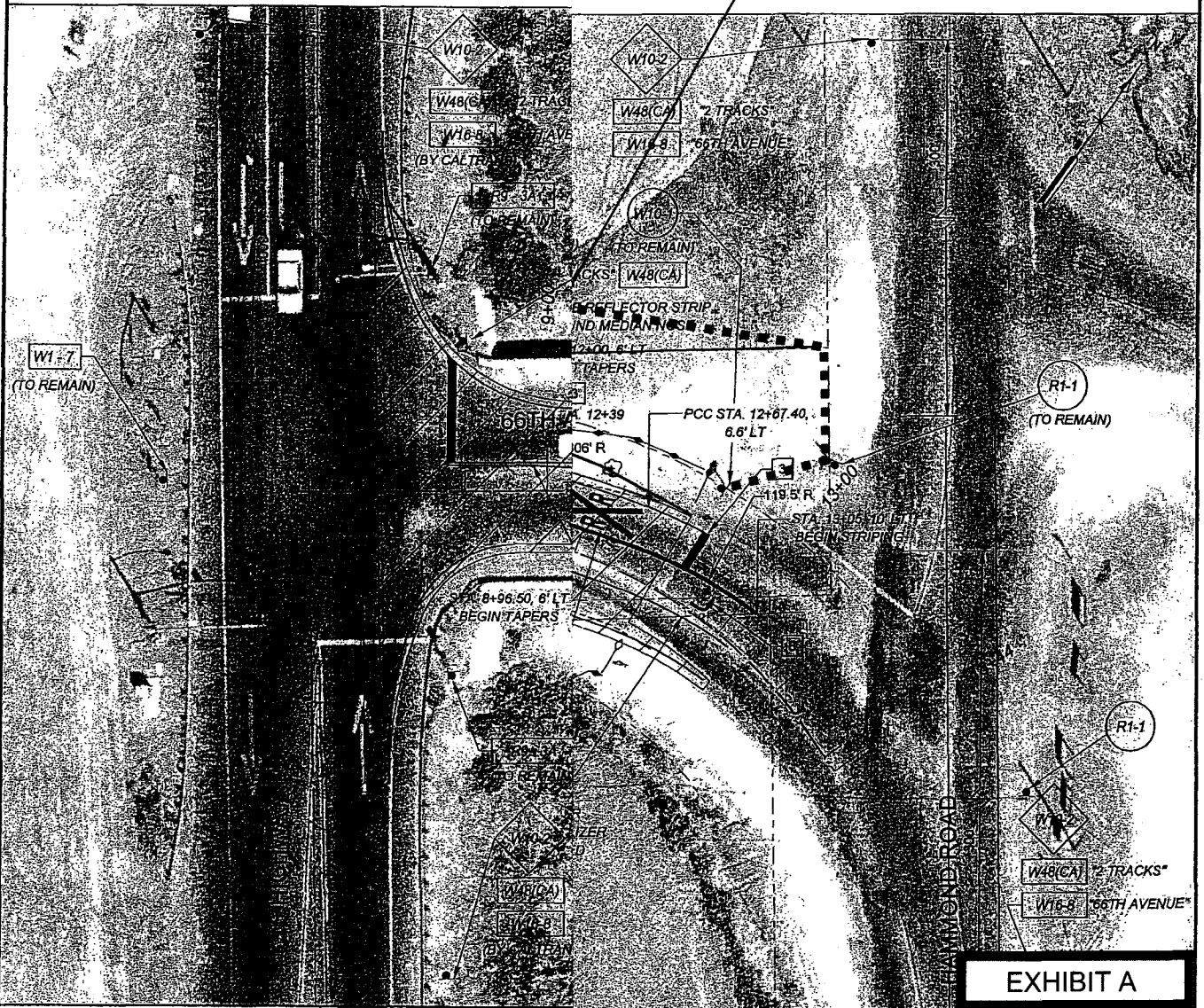


EXHIBIT A

UPRR:tbl
p:letting.tbl
52_VOL_R623-90_SM_66THAVE(SR95).dgn
6/19/2008

RIVERSIDE COUNTY TRANSPORTATION DEPARTMENT		DATE	PROJECT
LAWRENCE TAI - COUNTY TRAFFIC ENGINEER	DATE	KHALID NASIM - PROJECT	
LAURIE DOBSON CORREA - ENVIRONMENTAL	DATE	C. SCOTT STALEY - ENG'G	
MARK BERNAS - HIGHWAY OPERATIONS	DATE	JUAN C. PEREZ - DEPUTY	
HUGH SMITH - CONSTRUCTION INSPECTION	DATE	GEORGE JOHNSON - DIRECTOR	

UNION PACIFIC RAILROAD	Office of Assistant Vice President Engineering Design
LOCATION:	SUNSET ROUTE - SEGMENT 2 - VOLUME 1
DWG TITLE:	ROADWAY SIGNING & PAVEMENT MARKING 66TH AVENUE/SR 195 (MP 623.90) DOT # 760732J