



**TULARE COUNTY
REDEVELOPMENT
AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF DIRECTORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: March 23, 2010

Public Hearing Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>						
CONTACT PERSON: Celeste Perez PHONE: 559-624-7000						

SUBJECT: Railroad Grade Separation Agreement with Union Pacific Railroad Company for the Betty Drive Phase 2B Project

REQUEST(S):
That the Board of Directors:

1. Approve the Railroad Grade Separation Agreement with Union Pacific Railroad Company for the Betty Drive Phase 2B Project to allow for construction of a new overhead grade separation and long term maintenance, subject to County Counsel review and approval as to form.
2. Authorize the Chairman of the Board of Directors to sign the Agreement.

SUMMARY:
The County is in the process of securing funds for the construction of a new overhead grade separation in the Community of Goshen. The overhead grade separation will ultimately realign Betty Drive/Avenue 312 and will allow for traffic to go over the Union Pacific Railroad Company (UPRR) tracks. Under this agreement, UPRR will be granting right of way entrance rights to Tulare County Redevelopment Agency (TCRA) to facilitate the construction of a new overhead structure. This agreement is a mandatory requirement of UPRR and is subject to UPRR review and approval.

This Agreement was drafted by Omni-Means, Ltd, TCRA's contracted engineer and is based on a template provided and required by UPRR. Omni-Means is currently working with UPRR to get final approval of the plans and approval of the agreement.

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This Agreement deviates from the County's boilerplate language. It is important to note the following:

- 1) The Railroad Grade Separation Agreement includes a Right of Entry Agreement that must be executed by TCRA's construction contractor. The Right of Entry Agreement allows the construction contractor to enter UPRR property to do work. The construction bid documents for the project must inform the bidder that he must execute the agreement and provide the necessary insurance required by UPRR.
- 2) The Right of Entry Agreement signed by the construction contractor states that the laws governing the agreement and venue are in Nebraska. This agreement is a required part of the Railroad Grade Separation Agreement. Litigation between the construction contractor and UPRR may require TCRA to participate in the action in Nebraska.
- 3) Article 8 of the Railroad Grade Separation Agreement requires that TCRA must start construction within 12 months after the execution of the Agreement and Exhibit B states that construction must be completed within three years after execution of the Agreement, unless extended by UPRR. UPRR can terminate the Agreement and recover its costs from TCRA if either requirement is not met. It is anticipated that construction on the Betty Drive Phase 2B Project will start by December 2010.
- 4) Section 9 of Exhibit A of the Right of Entry Agreement requires a one way indemnification to UPRR. UPRR is not willing to provide indemnification back to TCRA.

The Railroad Grade Separation Agreement will also define and set maintenance responsibilities between UPRR and TCRA for the long term maintenance of the railroad overpass. Along with this Agreement a one time license fee of \$1,500 is required.

FISCAL IMPACT/FINANCING:

The one-time entry fee of \$1,500 and any costs associated with this project will be provided by TCRA Goshen Redevelopment Project Area Budget No. RM3-RM3-2600, Measure R and the City of Visalia. There is no net County cost to the General Fund.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Safety and Security – This Agreement will be instrumental in helping to provide for the safety and security of the public by improving the transportation infrastructure for both the general population in the region and the motorists using Betty Drive.

Economic Well Being – This Agreement will assist in promotion of economic development opportunities, effective growth management and a better quality

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standard of living with improved transportation infrastructure connecting local businesses and residents.

Quality of Life – This Agreement will lead to the promotion of public health and welfare and continued improvement of environmental quality by the improvement of the transportation infrastructure by the construction of the Betty Drive Project.

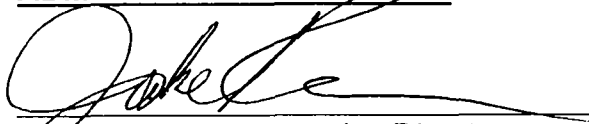
ALTERNATIVES:

The Board may choose not to approve this Agreement; however doing so would jeopardize this project and the associated funding sources.

INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

Union Pacific Railroad Company to grant Right of Way; Tulare County Auditor/Controller for accounting and funds disbursement; Tulare County Counsel to review all documents; and Tulare County Transportation Authority to provide oversight for the expenditure of Measure R funds.

ADMINISTRATIVE SIGN-OFF:



Jake Raper Jr., Executive Director

cc: Auditor/Controller
County Counsel
County Administrative Office (2)

Attachment(s) Railroad Grade Separation Agreement

**BEFORE THE BOARD OF DIRECTORS
TULARE COUNTY REDEVELOPMENT AGENCY
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVAL OF THE)
RAILROAD GRADE SEPARATION) RESOLUTION NO. _____
AGREEMENT WITH UNION PACIFIC) AGREEMENT NO. _____
RAILROAD COMPANY FOR THE BETTY)
PHASE 2B PROJECT)

UPON MOTION OF DIRECTOR _____, SECONDED BY DIRECTOR _____, THE FOLLOWING WAS ADOPTED BY THE BOARD OF DIRECTORS, AT AN OFFICIAL MEETING HELD MARCH 23, 2010, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
SECRETARY OF THE
BOARD OF DIRECTORS

BY: _____
Deputy Clerk

* * * * *

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2. Authorized the Chairman of the Board of Directors to sign the Agreement.