

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

914B



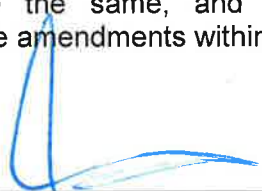
FROM: TLMA - Transportation Department

SUBMITTAL DATE:
May 23, 2012

SUBJECT: Cooperative Agreement for State Route 91 Express Lanes and Corridor Improvements between Riverside County Transportation Commission (RCTC) and the County of Riverside (County).

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the County and the Riverside County Transportation Commission, and;
2. Authorize the Chairman to execute the same, and authorize the Director of Transportation to execute administrative amendments within the funding amounts.


Juan C. Perez
Director of Transportation

PR:yc
(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	N/A	Budget Adjustment:	No
	Annual Net County Cost:	N/A	For Fiscal Year:	2012/2013
SOURCE OF FUNDS: N/A				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: MARSHAL VICTOR DATE: 5/23/12

Departmental Concurrence

Dep't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref. N/A

District: 2/2

Agenda Number:

2.15

The Honorable Board of Supervisors

RE: Cooperative Agreement for State Route 91 Express Lanes and Corridor Improvements
between Riverside County Transportation Commission and the County of Riverside

May 23, 2012

Page 2 of 2

BACKGROUND: The Riverside County Transportation Commission (RCTC) is currently working on the State Route 91 Corridor Improvement Project (SR-91 CIP). This will extend two SR-91 tolled Express Lanes and construct one general purpose lane on an eight mile segment from Orange County to I-15 in Riverside County.

The SR-91 CIP project will impact County roads and County residents during construction. The County and RCTC will be working cooperatively to ensure the success of this project, with the least amount of disruption to County residents, and have negotiated an agreement outlining the terms and conditions necessary to complete the project.

This effort will require minimal County staff time to review plans and meet with RCTC staff. The County Transportation Department will absorb this cost.

This Cooperative Agreement was approved by RCTC at their May 9, 2012 Commission meeting.

**COOPERATIVE AGREEMENT
FOR STATE ROUTE 91 EXPRESS LANES
AND CORRIDOR IMPROVEMENTS
BETWEEN RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND
THE COUNTY OF RIVERSIDE**

This Cooperative Agreement for State Route 91 Express Lanes and Corridor Improvements ("Cooperative Agreement") is made and entered into this _____ day of _____ 2012, by and between the Riverside County Transportation Commission ("RCTC") and the County of Riverside (the "County"). RCTC and the County are sometimes referred to herein individually as "Party", and collectively as the "Parties".

RECITALS

WHEREAS, the Orange County Transportation Authority operates and maintains the existing SR-91 Express Lanes in Orange County under a franchise agreement with the State of California.

WHEREAS, RCTC is studying the extension of the SR-91 Express Lanes on the existing State Route 91 between the Riverside/Orange County line and the Interstate 15 interchange, including transition areas anticipated to commence as far north as Hidden Valley Parkway on Interstate 15, as far south as Cajalco Road on Interstate 15, as far east as Pierce Street on State Route 91, and as far west as Gypsum Canyon on State Route 91 (the "Project").

WHEREAS, the potential Project may include improvements to County streets and other related improvements that will ultimately be owned by the County, and may include certain additional improvements requested by the County.

WHEREAS, because the Project, if constructed, may impact County owned and/or maintained facilities, coordination between the Parties prior to and during construction of the Project is crucial to provide for mitigation of potential impacts that construction may have on the County, and to ensure that improvements within the County comply with applicable standards.

WHEREAS, the Parties acknowledge that, if a Project is constructed, it is RCTC's intent to utilize the design-build method of Project procurement and construction.

WHEREAS, it is the intent of the Parties in entering into this Cooperative Agreement to establish certain opportunities for cooperation and coordination and to set forth various responsibilities of the Parties, all as further set forth herein.

WHEREAS, the Parties acknowledge that full compliance with the California Environmental Quality Act (CEQA), the National Environmental Policy Act (NEPA) and other laws are a precondition to any approval or construction of the Project.

WHEREAS, the Parties acknowledge and agree that nothing in this Cooperative Agreement commits RCTC to approving or constructing the Project.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, it is mutually understood and agreed by RCTC and the County as follows:

TERMS

1. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Cooperative Agreement as though fully set forth herein.

2. Definitions.

2.1 **Caltrans.** As used in this Cooperative Agreement, the term “Caltrans” shall mean and refer to the California Department of Transportation.

2.2 **County Standards.** As used in this Cooperative Agreement, the term “County Standards” shall mean and refer to the County’s standards, policies, guidelines, and ordinances, including Ordinance 461, design criteria, construction details, and testing/inspection requirements, and amendments and supplements thereto, for work within the County’s Jurisdiction, approved by the County and in effect before the date of issuance of the final addendum to the RFP.

2.3 **County’s Jurisdiction.** As used in this Cooperative Agreement, the term “County’s Jurisdiction” shall mean and refer to the areas within the Project limits either owned and/or maintained by the County. As used herein, the term “County’s Jurisdiction” expressly excludes the State highway right of way.

2.4 **Contractor.** As used in this Cooperative Agreement, the term “Contractor” shall mean and refer to the design-build contractor selected by RCTC for the Project pursuant to its Request for Proposal process.

2.5 **Project.** As used in this Cooperative Agreement, the term “Project” shall mean and refer to the proposed RCTC State Route 91 Express Lanes and Corridor Improvement project as further described in the second recital of this Cooperative Agreement.

2.6 **Request for Proposals.** As used in this Cooperative Agreement, the term “Request for Proposals” shall mean and refer to RCTC’s request for proposals for the design-build contractor for the Project.

3. Term.

3.1 This Cooperative Agreement shall be effective as of the date first set forth above, and shall continue in effect until the Project is complete, as evidenced by RCTC’s issuance to the Contractor of a notice of completion pursuant to the terms of RCTC’s contract with the Contractor (“Notice of Completion”).

3.2 Notwithstanding any other provision of this Cooperative Agreement, if the “no build” alternative is selected as a result of the completion of environmental review for the Project, this Cooperative Agreement shall immediately terminate without liability to either Party.

4. General Agreement to Cooperate. The Parties agree to mutually cooperate in order to help ensure that the Project is successfully completed with minimum impact to both Parties, the Contractor and the public.

5. Obligations of RCTC.

5.1 RCTC shall incorporate the County Standards for work within the County’s Jurisdiction into the Request for Proposals, and shall require that improvements within the County’s Jurisdiction be completed pursuant to such standards.

5.2 No less than sixty (60) calendar days prior to release of the final Request for Proposals, RCTC shall provide the County an opportunity to review and comment on those sections of the Request for Proposals that pertain to work to be completed within the County’s Jurisdiction.

5.3 RCTC shall require its Contractor to obtain encroachment permits from County for construction of any Project work within the County’s Jurisdiction.

5.4 RCTC shall include, in its contract with the Contractor, a requirement that the Contractor include the County as an additional insured and as an indemnified party under said agreement.

5.5 As between the RCTC and the County, RCTC shall be responsible for design, reviews, approvals, and inspection of the Project work within the County’s Jurisdiction to ensure conformance with the County Standards during completion of the Project design following selection of the Contractor, and during Project construction and maintenance periods.

5.6 Except in the case of an unforeseen circumstance, RCTC shall require its Contractor to provide at least a fifteen (15) day notification to County prior to any full or partial closure of any streets within County’s Jurisdiction exceeding one (1) day in duration. Short term closures less than one (1) day in duration shall require forty eight (48) hours prior notice.

5.7 RCTC will institute a public outreach campaign to keep the residents of the County and the general public apprised of the Project work, and any street closures and other impacts to use of the County right of way that may result from the Project.

5.7 RCTC shall provide as-built plans for Project work within County’s Jurisdiction within 120 days of Notice of Completion.

6. Obligations of the County.

6.1 The County shall review the sections of the Request for Proposals that pertain to work to be completed within the County’s Jurisdiction, and shall provide comments to RCTC, if

any, within thirty (30) calendar days of the County's receipt from RCTC of the Request for Proposals.

6.2 The County shall timely process the required encroachment permits to cover the Contractor's work on the Project within the County right of way. Encroachment permits shall be processed in no more than five (5) working days after receipt of a complete encroachment permit application from Contractor. The County shall not issue any encroachment permits to any other contractors if the proposed work thereunder has the potential to delay or impact the Project, without first coordinating the same with the Contractor and RCTC. All required encroachment permits to be issued by County shall be issued in the name of RCTC.

6.3 The County shall have appropriate representatives regularly attend meetings of the Contractor's task forces formed for public information, traffic management and detours, local street construction, and related construction work impacting the County, and shall provide input at such meetings related to Project work that may impact County residents.

6.4 The County shall waive any and all charges and fees related to plan review and inspections for the Project.

6.5 The County shall waive any street trenching restrictions/moratoriums currently in place within the County limits as respect to the Project work.

6.6 Following completion of the Project work within the County Jurisdiction and prior to final acceptance thereof, the County shall timely review and approve the work. The County shall assume responsibility of the Project facilities completed within the County's Jurisdiction upon acceptance of the work. Such acceptance shall be evidenced by the recordation of the deed for the new Frontage Road.

6.7 The County shall timely, so as not to delay the Project, review, approve, and execute any necessary agreements or amendments to agreements with RCTC, Caltrans and/or the Contractor related to the Project work, or any Project facilities within the County's Jurisdiction.

6.8 The County shall not allow any encroachment within the County's right of way if such encroachment may interfere with the Project or the Project construction, without first coordinating the same with the Contractor and RCTC.

6.9 The County shall install, maintain, operate, and repair its facilities in a manner which avoids or minimizes, to the extent possible and reasonable, any impact to the Project.

6.10 The County will make its best efforts to perform all obligations of the County related to the Project in such a manner as to allow the Project to progress as scheduled.

7. Mutual Agreement Regarding Project Plans and Construction.

7.1 Other than reviews related to final inspection and County acceptance of the Project facilities within the County's Jurisdiction, the Parties agree that RCTC shall be the party responsible for conducting reviews of the Contractor's designs and plans, and for performance of any required field inspections to document that the work performed conforms to County

Standards. RCTC shall provide the County copies of all designs plans for improvements within County's Jurisdiction, for review and comment during development by the Contractor of the final design for the Project. Approval of the Contractor's in-process designs and plans shall remain within the sole discretion of RCTC. The above does not preclude the County from performing inspections or reviews of any County facility.

8. Right of Way Acquisition/Relinquishment.

8.1 The Parties acknowledge and agree that Frontage Road along the corridor of the Project within the County's jurisdiction, as shown on Exhibit A, may require relinquishment consisting of vacating and quitclaiming right of way by County to RCTC in order to allow for construction of the Project.

8.2 RCTC shall acquire, at its sole cost, new, replacement right of way for the County in exchange for the Frontage Road right of way to be vacated by the County, and shall deed such replacement Frontage Road right of way to the County in fee concurrently with the vacation and quitclaim of the Frontage Road vacated by County. The County shall timely accept such new right of way from RCTC.

8.3 RCTC and the County agree that RCTC acquired replacement right of way for any relocated Frontage Road will be just compensation for the vacated Frontage Road right of way required for the Project.

8.4 The County shall, in a timely manner, following notification of completion of the new Frontage Road by RCTC and acceptance by the County thereof, vacate and quitclaim the existing Frontage Road property. Exhibit A shows the existing Frontage Road alignment along with a proposed realignment alternative. The final alignment of Frontage Road will be subject to County approval, which approval shall not be unreasonably withheld or delayed.

9. Dispute Resolution. Unless otherwise specified herein, the Parties shall comply with the following procedures in the case of a dispute, claim or controversy arising under or in relation to this Cooperative Agreement. If one of the procedures below has already been completed pursuant to another section of this Cooperative Agreement, the matter shall immediately be submitted to the subsequent procedure.

9.1 *Submission to RCTC Executive Director and Transportation Director.* The dispute shall be referred for negotiation to the RCTC Executive Director and the Director of the County Transportation Department ("Transportation Director"). The RCTC Executive Director and the Transportation Director agree to undertake good faith attempts to resolve said dispute, claim or controversy within ten (10) calendar days after the receipt of written notice from the Party alleging that a dispute, claim or controversy exists. The Parties additionally agree to cooperate with the other Party in scheduling negotiation sessions. However, if said matter is not resolved within thirty (30) calendar days after conducting the first negotiating session, either Party may then request that the matter be submitted to further dispute resolution procedures, as may be agreed upon by the Parties.

9.2 *Legal Action.* If a matter is not resolved within thirty (30) calendar days after the first negotiating session between the RCTC Executive Director and the Transportation Director,

unless otherwise agreed upon in writing by the Parties, either Party may proceed with any other remedy available in law or in equity.

10. Indemnification.

10.1 RCTC shall indemnify, defend and hold the County, its directors, officials, officers, employees, agents, consultants and contractors free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or in equity, to property or persons, including wrongful death, in any manner arising out of or incident to any breach of contract, negligent acts, omissions or breach of law, or willful misconduct of RCTC, its officials, officers, employees, agents, consultants or contractors in the performance of RCTC's obligations under this Cooperative Agreement, including the payment of all reasonable attorneys fees.

10.2 The County shall indemnify, defend and hold RCTC, its directors, officials, officers, employees, agents, consultants and contractors free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or in equity, to property or persons, including wrongful death, in any manner arising out of or incident to any breach of contract, negligent acts, omissions or breach of law, or willful misconduct of the County, its officials, officers, employees, agents, consultants or contractors in the performance of the County's obligations under this Cooperative Agreement, including the payment of all reasonable attorneys fees.

10.3 The indemnification provisions set forth in this Section 10 shall survive any expiration or termination of this Cooperative Agreement.

11. Force majeure. The failure of performance by either Party (except for payment obligations) hereunder shall not be deemed to be a default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, railroad, or suppliers; acts of the other Party; acts or failure to act of any other public or governmental agency or entity (other than that acts or failure to act of the Parties); or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform or relief from default. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Cooperative Agreement may also be extended in writing by mutual agreement between the Parties.

12. Amendments. This Cooperative Agreement may be amended at any time by the mutual consent of the Parties by an instrument in writing; however, no amendments or other modifications of this Cooperative Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors or assigns.

13. Assignment of Cooperative Agreement. Neither Party may assign or transfer its respective rights or obligations under this Cooperative Agreement without the express written consent of the other Party. Any purported assignment or transfer by one Party without the express written consent of the other Party shall be null and void and of no force or effect.

14. Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of either Party shall be deemed to waive or render unnecessary such Party's consent to or approval of any subsequent act of the other Party. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Cooperative Agreement.

15. Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Cooperative Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Cooperative Agreement, which shall be interpreted to carry out the intent of the parties hereunder.

16. Third Party Beneficiaries. The Contractor is an intended third-party beneficiary of this Cooperative Agreement. Except for the Contractor, there are no third-party beneficiaries to this Cooperative Agreement.

[Signatures on following page]

**SIGNATURE PAGE
TO COOPERATIVE AGREEMENT
FOR STATE ROUTE 91 EXPRESS LANES
AND CORRIDOR IMPROVEMENTS**

RIVERSIDE COUNTY
TRANSPORTATION COMMISSION

By: 
Anne E. Mayer
Executive Director

COUNTY OF RIVERSIDE

By: _____
John F. Tavaglione
Chairman of the Board

Attest:

By: _____
County Clerk

Approved as to form:

BEST BEST & KRIEGER LLP


General Counsel for RCTC

Approved as to form:

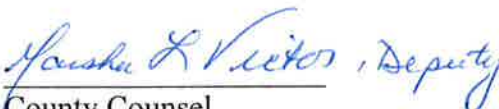
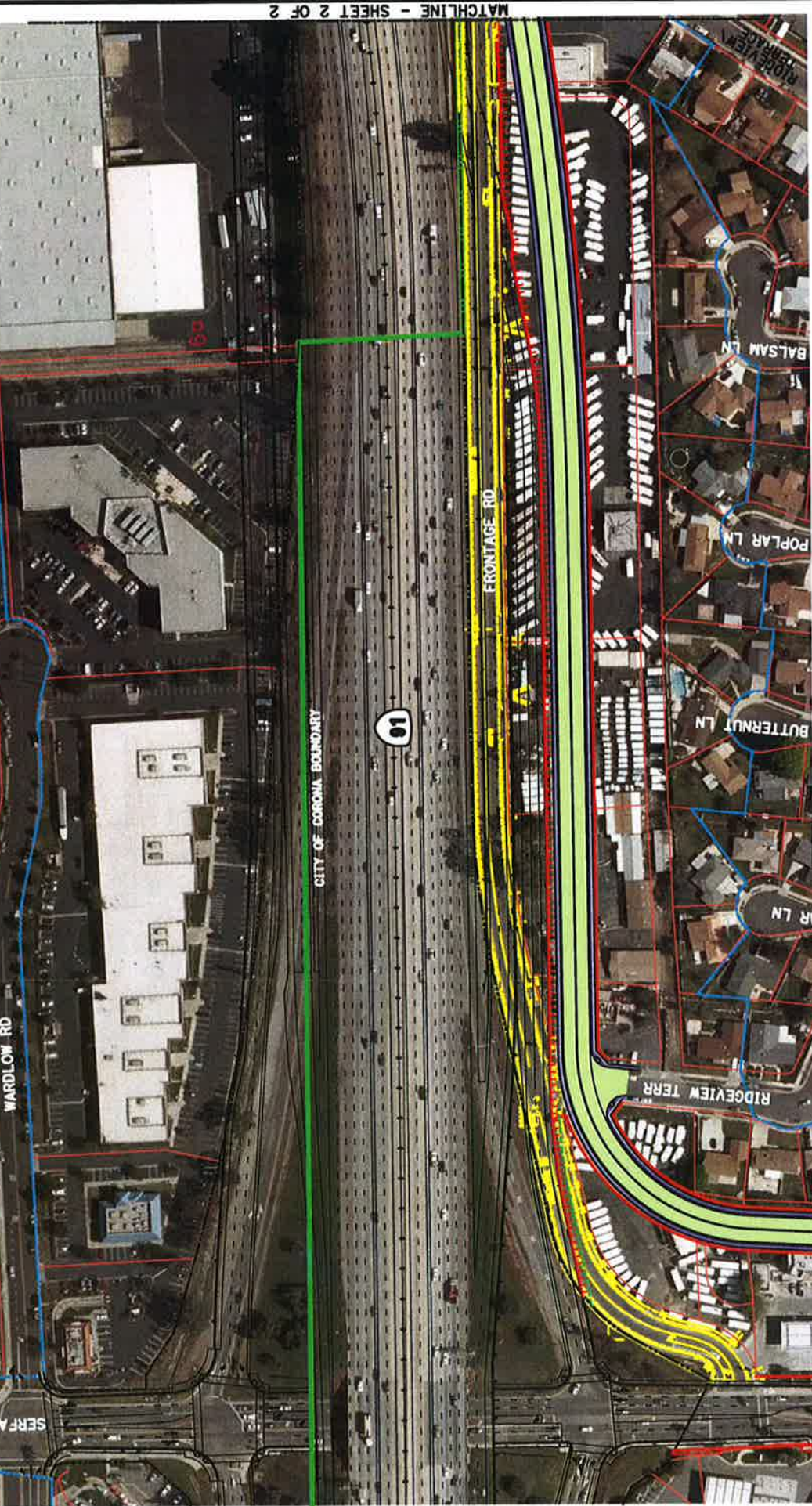
 Deputy 5/22/12
County Counsel

Exhibit A
FRONTAGE ROAD ALIGNMENT

[attached behind this page]

"DISCLAIMER- Riverside County Transportation Commission, Caltrans and various other public agencies are not providing any engineering or professional services for this project. No decision has been made regarding the alignment or expansion of the freeway, roads, off ramps and ancillary facilities in the areas shown. Nothing reflected herein is intended to, or shall be construed to, mean that a decision has been made to acquire any property shown or that any application for planning purposes only and not intended to cause any action, or inaction, by anyone or to be relied upon by any third party."



MATCHLINE - SHEET 2 OF 2

PRELIMINARY
Mar. 26, 2012

POST MILES
SR-91-12-00-16-01-0-3
ON R-12-0-0-16-01-0-3
OR R-12-0-0-16-01-0-3

**SR-91 CORRIDOR
IMPROVEMENT PROJECT**
SHT 1 OF 2

PARSONS
300 S. BALDWIN ST., SUITE 200
CORONA, CA 92701
PHONE (951) 516-3900
FAX (951) 516-3908



- LEGEND:**
- EXISTING STATE R/W
 - PROPOSED STATE R/W
 - AREA POTENTIAL EFFECT
 - PROPOSED CITY R/W
 - PERMANENT EASEMENT
 - PARCEL LINE
 - PERMANENT EASEMENT (UTILITIES)
 - TCE (UTILITIES)
 - PROPOSED R/W (UTILITIES)
 - PROPOSED SIDEWALK
 - PROPOSED LOCAL STREET
 - COLD MILL AND OVERLAY



DISCLAIMER-Riverside County Transportation Commission, California and various other public agencies have approved the proposed project. No decision has been made regarding the alignment or expansion of the freeway, roads, off ramps and ancillary facilities in the areas shown. Nothing reflected herein is intended to, or shall be construed to, mean that a decision has been made to acquire any property or that any eminent domain proceedings have been initiated. The project is subject to the terms and conditions of the project agreement and any other documents that may be executed in connection with the project. The project is subject to the terms and conditions of the project agreement and any other documents that may be executed in connection with the project.



PRELIMINARY
Mar. 26, 2012

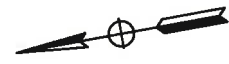
POST MILES
 ON SR-91-12-00-16.0/17.7
 ON SR-91-12-00-16.0/17.7
 ON I-15-8-R1-R37.8/R40.1

**SR-91 CORRIDOR
 IMPROVEMENT PROJECT**
SHT 2 OF 2

PARSONS
 200 E. QUARTER ST., SUITE 200
 GRIFFIN, CA 91701



- LEGEND:**
- EXISTING STATE R/W
 - PROPOSED STATE R/W
 - AREA POTENTIAL EFFECT
 - PROPOSED CITY R/W
 - PERMANENT EASEMENT
 - PARCEL LINE
 - PERMANENT EASEMENT (UTILITIES)
 - TCE (UTILITIES)
 - PROPOSED R/W (UTILITIES)
 - PROPOSED SIDEWALK
 - PROPOSED LOCAL STREET
 - COLD MILL AND OVERLAY



MATCHLINE - SHEET 1 OF 2

DATE PLOTTED -> DATE
 USERNAME -> USER