

COOPERATIVE AGREEMENT BETWEEN THE COUNTY OF RIVERSIDE AND THE CITY OF CORONA  
FOR ACQUISITION OF PROPERTY NECESSARY TO COMPLETE  
THE MCKINLEY STREET GRADE SEPARATION PROJECT

THIS COOPERATIVE AGREEMENT FOR ACQUISITION OF PROPERTY NECESSARY TO COMPLETE THE MCKINLEY STREET GRADE SEPARATION PROJECT ("Agreement"), is made and entered into this 4th day of December 2019, by and between the CITY OF CORONA, a public entity ("City"), and the County of Riverside ("County"). In this Agreement, the City and the County may each be individually referred to as a "Party" or collectively referred to as the "Parties."

RECITALS:

WHEREAS, City has initiated and is proceeding with the McKinley Street Grade Separation Project ("Project"), as depicted and/or described on Exhibits "A-1" and "A-2" attached hereto and incorporated herein by this reference; and

WHEREAS, a portion of the overall Project includes real property located within the County limits of County of Riverside (the "County Properties"), which are the subject of this Agreement, and are depicted and/or described on Exhibits "B-1" and "B-2" attached hereto and incorporated herein by this reference; and

WHEREAS, both Parties acknowledge and agree that each Party has the broad power of eminent domain over any property within its jurisdiction necessary, incidental, or convenient to the exercise of its powers pursuant to relevant provisions of California law and/or California Government Code section 37350.5; and

WHEREAS, both Parties also acknowledge and agree that each Party has the specific power to improve pedestrian and vehicular traffic, separate grades of roadways and railways, and connect streets pursuant to California Government Code section 40401; and that each Party may use the power of eminent domain for accomplishing such actions pursuant to California Government Code sections 25350.5, 37350.5, and 40404; and

WHEREAS, both Parties further acknowledge and agree that the power of eminent domain also extends, in certain situations, to extraterritorial properties existing outside of a Party's immediate jurisdiction and that one Party may consent to the other Party's exercise of the power of eminent domain within the other Party's jurisdiction pursuant to California Code of Civil Procedure section 1240.050 and/or an agreement for a joint exercise of powers pursuant to California Code of Civil Procedure section 1240.140; and

WHEREAS, by way of this Agreement for joint exercise of powers, the City wishes to exercise its eminent domain powers to acquire the County Properties and the County wishes to consent to the City acting as the lead agency in the acquisition of the County Properties in connection with the Project; and

WHEREAS, the City and the County wish to define their responsibilities concerning the Project in general, and the County Properties in particular.

TERMS:

NOW, THEREFORE, based upon the foregoing Recitals, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by all Parties, the Parties agree as follows:

1. The above Recitals are true and correct, and are incorporated fully herein by this reference.
2. The City shall advertise, award and fund the construction of the Project in accordance with the applicable law.
3. The City shall act as lead agency for all the design and construction phases of the Project and shall be responsible for funding the Project.
4. Specific to the fact that the County Properties and other portions of the Project are located within the County's jurisdiction, but that the Parties agree to the City acting as the lead agency for the Project and/or the County Properties, the County hereby consents to the City's exercise of the power of eminent domain and agrees to the joint exercise of powers as so required to complete the Project and/or the acquisition of the County Properties or to obtain the property necessary for the Project pursuant to the provisions of California law above. The City shall be responsible for ensuring its compliance with all applicable state and federal laws relating to its acquisition of any such property, as applicable, including, but not limited to: (i) California Constitution article I, § 19; (ii) the California Eminent Domain Law (Code Civ. Proc., § 1230.010 et seq.); (iii) the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (42 U.S.C. § 4601 et seq.); (iv) California relocation laws and any implementing regulations (including, but not limited to, Gov. Code, § 7260 et seq.); (v) general California eminent domain statutes (including, but not limited to, Gov. Code, §§ 37350.5 and 40401 et seq.); and (vi) any other applicable state and federal laws.
5. For the portion of the Project that lies outside the City and within the County, the City shall use County road standards and provide the County with the opportunity to inspect and approve the plans with regard to the work performed in the unincorporated County area.
6. The County authorizes the City to, on its behalf, coordinate the relocation of all affected utility company facilities within the County limits in a timely manner.
7. The City and County shall extend cooperation to each other and proceed under this Agreement in good faith during all phases of the Project to facilitate timely completion of the Project and acquisition of the County Properties. The Parties agree that when any component

of the Project is subject to the approval of the County, the County shall diligently pursue and provide such approval which shall not be unreasonably withheld.

8. The City shall notify the County of the official advertising dates, bid opening date, construction start date, and overall construction schedule. The City shall invite a representative from the County to attend pre-construction, Project status, and final walk through meetings. County shall have the right of inspection and final approval over the improvements within County jurisdiction.
9. County will accept ownership and responsibility for the Project improvements that are located within the jurisdictional limits of County provided that: (i) the Project is constructed in accordance with the approved plans; (ii) it has had the opportunity to inspect the construction; (ii) City has fully complied with this Agreement; and (iii) City obtains and conveys to County all necessary rights of way for such operation and maintenance.
10. The City shall provide the County final Record Drawings for the Project improvements located on the County Properties in pdf and/or digital format, within 90 calendar days of the Project completion and acceptance by the City and County.
11. The City shall record a Notice of Completion for the Project, and provide the County's Clerk with a certified copy of the recorded Notice of Completion. Upon receipt of such Notice of Completion, the County shall accept full maintenance and upkeep responsibilities for the Project improvements that are located within the County limits.
12. The City shall cause its contractor for the Project to warranty the Project improvements against defects in workmanship and materials for a minimum period of one (1) year from the date of acceptance of the Project improvements by the City. It is further agreed that the City shall assume the responsibility for causing the Project improvements to be restored to full compliance with the Plans and Specification, including any test requirements, for any portion of the Project improvements which during said one (1) year period are found by a competent authority not to conform with the Plans and Specification, to the extent such failure to conform results from negligent actions or willful misconduct of the City or its contractor. This warranty is in addition to any and all other warranties, expressed or implied, from the City contractors or material manufacturers with respect to the Project improvements. The warranty and obligations under this section shall in no way be relieved by the County's inspection and/or approval. This section sets forth the entire agreement of the City with respect to warranties for the Project improvements, but this section shall in no way limit any expressed or implied warranties of other persons with respect to the Project improvements.
13. The City hereby agrees to defend, indemnify and hold the County and its directors, officials, officers, agents and employees free and harmless from and against any and all claims,

demands, causes of action, costs, liabilities, expenses, losses, damages or injuries of any kind in law or equity, to persons or property, including wrongful death, in any manner arising out of or incident to any negligence or willful misconduct of the City, its directors, officials, officers, agents and employees in performance of this Agreement, including the City's exercise of eminent domain and relocation obligations in the acquisition of any property necessary for the Project as more particularly set forth in section 4 of this Agreement, or the construction, use, maintenance, or operation of the Project improvements. The City shall defend, with counsel of the County's choosing and at the City's sole expense, any and all aforesaid suits, actions or proceedings, legal or affirmative, that may be brought or instituted against the County, its directors, officials, officers, agents or employees. The City shall pay and satisfy any such judgment, award or decree that may be rendered against the County, its directors, officials, officers, agents or employees. The City shall reimburse such parties for any and all legal expenses and costs incurred by one or all of them in connection with this Agreement or the indemnity herein provided. The City's obligation shall survive termination or expiration of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the County or its directors, officials, officers, agents or employees.

14. The County hereby agrees to defend, indemnify and hold the City and its directors, officials, officers, agents and employees free and harmless from and against any and all claims, demands, causes of action, costs, liabilities, expenses, losses, damages or injuries of any kind in law or equity, to persons or property, including wrongful death, in any manner arising out of or incident to any negligence or willful misconduct of the County, its directors, officials, officers, agents and employees in performance of this Agreement or the construction, use, maintenance, or operation of the Project improvements; provided, however, that this indemnification by the County does not extend to any such claims, demands, causes of action, costs liabilities, expenses, losses, damages or injuries in connection with the City's exercise of eminent domain and relocation obligations in the acquisition of any property necessary for the Project. The County shall defend, with counsel of the City's choosing and at the County's sole expense, any and all aforesaid suits, actions or proceedings, legal or affirmative, that may be brought or instituted against the City, its directors, officials, officers, agents or employees. The County shall pay and satisfy any such judgment, award or decree that may be rendered against the City, its directors, officials, officers, agents or employees. The County shall reimburse such parties for any and all legal expenses and costs incurred by one or all of them in connection with this Agreement or the indemnity herein provided. The County's obligation shall survive termination or expiration of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City or its directors, officials, officers, agents or employees.
15. The City shall cause its contractors to obtain insurance coverage for the Project improvements sufficiently broad to insure the matters set forth in this Agreement, and shall include the County as an additional insured on all such insurance policies. As evidence of such insurance

coverage, the City shall, prior to commencement of construction of the Project improvements, provide the County with certificates of insurance and insurance endorsements in forms and in amounts that are acceptable to the County.

16. This Agreement shall, unless terminated earlier by either Party pursuant to this section, automatically terminate upon the date that the City provides the County with the recorded Notice of Completion.
17. This Agreement may be amended only by the signed mutual written consent of both Parties.
18. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a 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 Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder.
19. The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by so executing this Agreement the Parties hereto are formally bound to the provisions of this Agreement.
20. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors, and assigns.
21. This Agreement may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.
22. This Agreement is to be governed by the laws of the State of California. Venue for any actions brought pursuant to this Agreement shall be in Riverside County.
23. This Agreement contains the entire agreement of the Parties regarding the Project and all previous understandings, negotiations and agreements regarding the Project are integrated into and superseded by this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have caused this COOPERATIVE AGREEMENT FOR ACQUISITION OF PROPERTY NECESSARY TO COMPLETE THE MCKINLEY STREET GRADE SEPARATION PROJECT to be executed on the day and year first written above.

County of Riverside

City of Corona

By: \_\_\_\_\_  
Director of Transportation

By: \_\_\_\_\_  
Jacob Ellis, City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Gregory P. Priamos, County Counsel

By: \_\_\_\_\_  
Dean Derleth, City Attorney

ATTEST:

ATTEST:

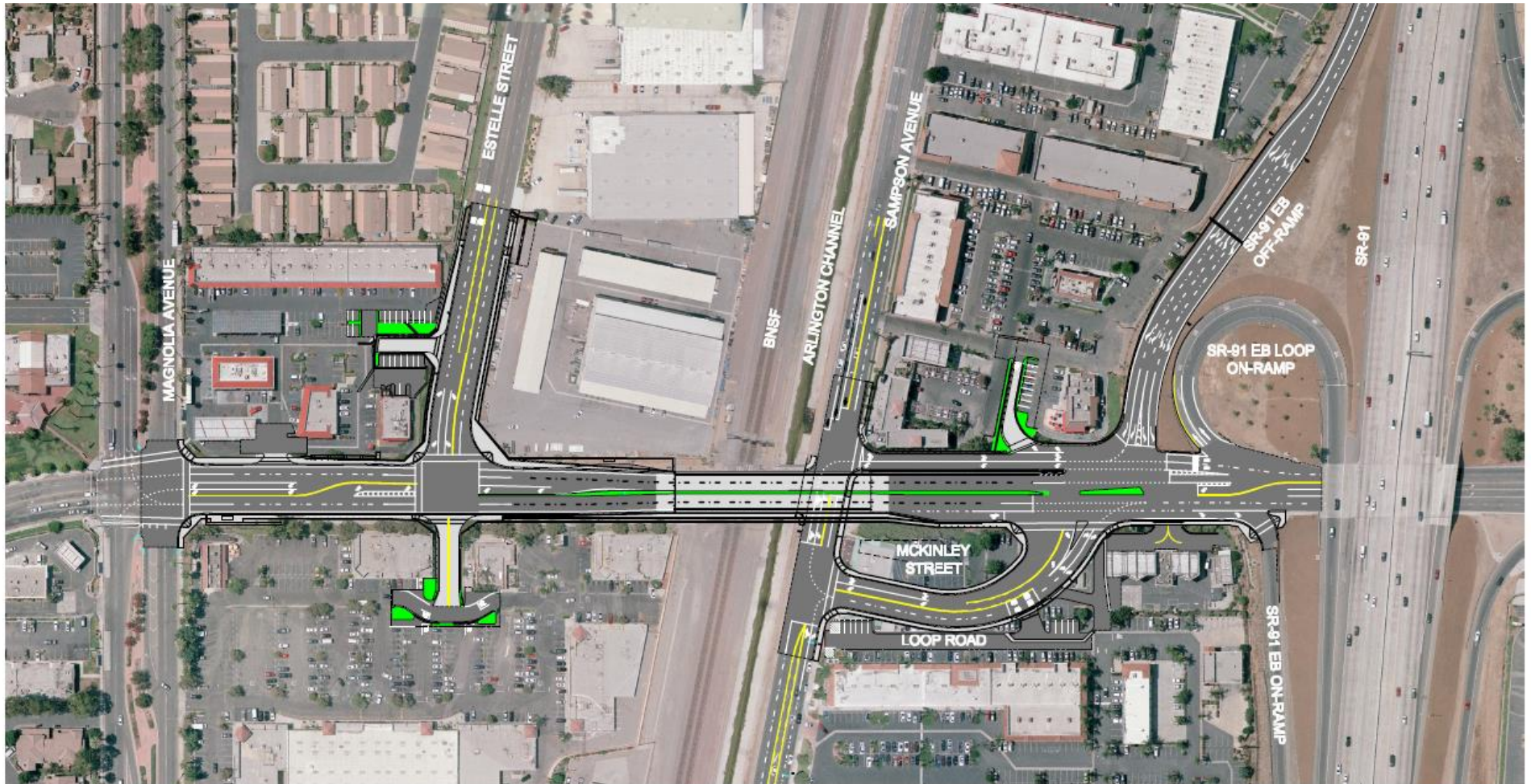
By: \_\_\_\_\_  
Clerk of the Board  
County of Riverside

By: \_\_\_\_\_  
City Clerk  
City of Corona

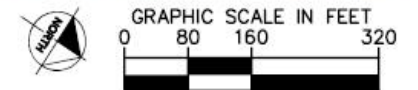
**EXHIBIT “A-1”  
PROJECT**

The McKinley Street Grade Separation Project (Project) is in the City of Corona and County of Riverside at the intersection of McKinley Street and BNSF Railway, south of State Route (SR) 91 and east of I-15. The Project proposes to construct a new overhead grade separation at the BNSF Railway double tracks (Crossing 002B-21.20) near the McKinley Street intersection with Sampson Avenue in the City of Corona (City). Limits of improvements along McKinley Street generally extend from the Magnolia Avenue intersection and terminate at State Route 91 eastbound on/off-ramps. The Project will consist of 4 lanes in the post construction condition, refer to Exhibit “A-2 for a pictorial of proposed improvements.

EXHIBIT "A-2"  
PROJECT EXHIBIT



MCKINLEY STREET GRADE SEPARATION PROJECT  
10/29/2019





**EXHIBIT "B-1"**  
**COUNTY OF RIVERSIDE PROPERTIES**

The following privately owned properties impacted by the Project are located within Riverside County jurisdictional limits and are illustrated in Exhibit "B-2" on the following page:

<b>ID No.</b>	<b>APN(s)</b>	<b>Owner</b>	<b>Address</b>	<b>Impacts</b>
MSGs-07	115-300-026	Ewing Irrigation Products, Inc.	3940 McKinley St	Partial Acquisition (R/W, Utility Easements, TCE)
MSGs-10	115-300-050	BPL	3848 McKinley St	Partial Acquisition (R/W, Utility Easements, TCE)
MSGs-11	115-300-051	BPL / Atlantic Richfield	13191 Magnolia Ave	Partial Acquisition (R/W, TCE)

The limits of Riverside County's jurisdiction generally are south of the Sampson Avenue centerline and west of McKinley Street centerline.

EXHIBIT "B-2"  
COUNTY OF RIVERSIDE PROPERTY MAP

