

102A



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

FORM APPROVED COUNTY COUNSEL
BY: Patricia Munroe 1/13/13
DATE

FROM: Economic Development Agency/Facilities Management and Transportation Department

SUBMITTAL DATE:
January 15, 2014

SUBJECT: Temporary Construction Access Agreement for the Newport Road/Interstate 215 Interchange Project, District 3/5, [\$54,968] 100% Developer Contributions

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Temporary Construction Access Agreement for Parcel 22771-1, within a portion of Assessor's Parcel Number 364-010-005;
2. Authorize the Chairman of the Board to execute this agreement on behalf of the County;
3. Authorize the Assistant County Executive Officer/EDA, or his designee, to execute any other documents and administer all actions necessary to complete this transaction; and

(Continued)

Patricia Romo

Robert Field

Juan C. Perez, Director
Transportation and Land Management

Patricia Romo
Assistant Director of Transportation

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 54,968	\$ 0	\$ 54,968	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: Developer Contributions-100%
Budget Adjustment: No
For Fiscal Year: 2013/14

C.E.O. RECOMMENDATION:

APPROVE
BY: Rohini Dasika
Rohini Dasika

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

FISCAL PROCEDURES APPROVED
PAUL ANGUILO, CPA, AUDITOR-CONTROLLER
BY: Paul Anguilo 1/14/14

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: N/A District: 3/5 Agenda Number: **3-14**

RECOMMENDED MOTION: (Continued)

4. Authorize and allocate the sum of \$41,368 for temporary construction access, within a portion of Assessor's Parcel Number 364-010-005, as well as \$13,600 to pay all related transaction costs.

BACKGROUND:

Summary

Interstate 215 is a major interstate goods-movement corridor which links San Bernardino and Riverside Counties with San Diego. It is a primary link between major economic centers and geographic regions. This area of southwestern Riverside County has grown significantly over the past ten years and is experiencing continued population and employment growth, particularly extensive residential and commercial development along Newport Road near the I-215. The current diamond interchange configuration is limiting in its capacity as compared to a partial cloverleaf configuration. A traffic analysis was performed to quantify the existing and future traffic operational characteristics of the existing interchange and the associated transportation system and the resultant congestion delay anticipated at the interchange.

The Riverside County Transportation Department (RCTD) and the City of Menifee propose to improve the Interstate 215/Newport Road interchange. The existing ramps would be reconstructed in a modified partial cloverleaf configuration, connecting with the widened cross section of Newport Road and adding northbound and southbound loop on-ramps (Project).

The Initial Study and Mitigation Negative Declaration was approved on November 8, 2012, and Project Report was approved on November 15, 2012.

The Economic Development Agency/Facilities Management (EDA/FM) has negotiated the temporary rights of a portion of Assessor's Parcel Number 364-010-005 from Tesoro South Coast Company for the price of \$41,368. There are related costs of \$13,600 associated with this transaction.

This Form 11 has been reviewed and approved by County Counsel as to legal form.

Impact on Residents and Businesses

The Project is needed in order to reduce congestion, improve traffic flow and improve public safety by improving the current traffic operations at the interchange.

SUPPLEMENTAL:

Additional Fiscal Information

The following summarizes the funding necessary for the temporary construction access of a portion of Assessor's Parcel Number 364-010-005:

Temporary Construction Access	\$41,368
Preliminary Title Report	1,000
County Appraisal	7,600
EDA/FM Real Property Staff Time	5,000
Total Estimated Acquisition Costs	\$54,968

(Continued)

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

Economic Development Agency/Facilities Management and Transportation Department

FORM 11: Temporary Construction Access Agreement for the Newport Road/Interstate 215 Interchange Project, District 3/5, [\$54,968] 100% Developer Contributions

DATE: January 15, 2014

Page 3 of 3

SUPPLEMENTAL:

Additional Fiscal Information (Continued)

All costs associated with this property acquisition are fully funded by developer contributions in the Transportation Department's budget for FY 2013/14. No net county costs will be incurred as a result of this transaction.

Attachments:

Temporary Construction Access Agreement (4)

1 COUNTY OF RIVERSIDE, a political subdivision of the State of California ("County"),
2 and
3 TESORO SOUTH COAST COMPANY, LLC, a Delaware limited liability company,
4 ("Grantor")

5
6 PROJECT: NEWPORT ROAD/INTERSTATE 215
7 INTERCHANGE PROJECT
8 PARCEL(S): 22771-1
9 APN: 364-010-005 (PORTION)

10
11 **TEMPORARY CONSTRUCTION ACCESS AGREEMENT**

12 This Temporary Construction Access Agreement ("Agreement") is made by and
13 between the COUNTY OF RIVERSIDE, a political subdivision of the State of California,
14 ("Grantee" or "County") and TESORO SOUTH COAST COMPANY, LLC, a Delaware
15 limited liability company ("Grantor"). Grantee and Grantor are sometimes collectively
16 referred to as "Parties."

17 **RECITALS**

18 A. Whereas, Grantee desires to acquire the TCA (as defined below) as part
19 of its work on the Newport Road / I-215 Interchange Project (the "Project").

20 B. Whereas, Grantor is willing to grant the TCA to Grantee upon the terms
21 and conditions set forth herein.

22 **TERMS & CONDITIONS**

23 1. Rights Granted. Grantor agrees to grant to Grantee, for the Term (as
24 defined below), a license for Temporary Construction Access ("TCA") in and to the
25 surface of a 2,019 square foot portion of land area ("TCA Area") that is a portion of the
26 real property commonly known as 30107 Antelope Road, Menifee, California having an
27 Assessor's Parcel Number ("APN") of 364-010-005, which TCA Area is depicted as
28 Parcel 22771-1 on Attachment "1," which are attached hereto and made a part hereof,

1 upon the terms and conditions herein set forth. For purposes of this Agreement, the
2 term "Grantor's Service Station Property" means the real property commonly known as
3 30107 Antelope Road, Menifee, California with an APN of 364-010-005, of which the
4 TCA Area is only a portion thereof.

5 2. Consideration. As compensation for the TCA, Grantee shall pay Grantor
6 the sum of \$41,368.00 (the "Compensation"). This includes compensation for the TCA
7 being granted pursuant to this Agreement, and landscaping listed in Attachment "2"
8 located within the TCA Area. The Compensation shall be paid by Grantee to Grantor
9 within forty-five (45) days of full execution of this Agreement, via a check made payable
10 to "Tesoro South Coast Company, LLC" and delivered to Grantor at the address shown
11 below.

12 3. Term of TCA. The term of the TCA shall be for a period of twenty four
13 (24) months, commencing upon the date the County first provides Grantor (at the
14 address shown below) with thirty (30) day advanced written notice that it intends to
15 access the TCA Area pursuant to this Agreement, and expiring twenty-four (24) months
16 thereafter (the "Term"). However, in no event shall the Term extend beyond December
17 31, 2016. At Grantor's request, Grantee shall confirm, in writing, the dates of the
18 commencement and expiration of the Term.

19 4. Purpose of TCA. It is understood that the County and its contractors,
20 subcontractors and agents may, subject to all other provisions of this Agreement, enter
21 upon the TCA Area for the purpose of getting construction materials, vehicles, or
22 equipment to and from the TCA Area; possible limited storage of such equipment, as
23 reasonably necessary; removal of certain identified landscaping and irrigation,
24 identified as Items 1-5 in Attachment 2; and other construction-related purposes as
25 may be reasonably necessary to complete the Project. County agrees it and its
26 contractors, subcontractors and agents will not damage the TCA Area in the process of
27 using the TCA granted herein. Neither Grantee nor its contractors, subcontractors or
28 agents will park any vehicles, or store or place any materials or equipment on, or

1 otherwise use, any portion of the Grantor's Service Station Property not within the TCA
2 Area, and will not damage any buildings, structures, improvements, surfaces, paving,
3 equipment or vehicles located or situated on any portion of the Grantor's Service
4 Station Property not within the TCA Area. Furthermore, for purposes of clarity, it is the
5 Grantor's and Grantee's understanding that the quarter-circle stucco wall (at the
6 southwest corner of intersection of Newport Road and Antelope Road), the trash
7 enclosure and the air/water unit are all outside the TCA Area, and accordingly the
8 Grantee shall not damage or destroy the same; however, to the extent the same are
9 actually within the TCA Area, in whole or in part, Grantee further agrees to protect in
10 place and not damage or destroy the same, notwithstanding any other provision of this
11 Agreement.

12 5. Utility Disruption. Neither Grantee nor its contractors, subcontractors or
13 agents shall cause any disruption or interruption to or of any public utilities being
14 provided to any portion of the Grantor's Service Station Property unless (i) Grantee
15 obtains the written permission of the applicable utility company(ies) for the same, in
16 which case any such disruption or interruption shall be for the shortest duration of time
17 reasonably feasible, and (ii) Grantee provides Grantor with reasonable advance notice
18 of the disruption or interruption.

19 6. Parking & Storage. Grantee will not allow any vehicles, equipment or
20 materials to be parked, stored or placed overnight in the TCA Area, nor will the
21 Grantee allow any vehicles, equipment or materials to be parked, stored or placed in
22 the TCA Area during the day unless reasonably necessary for ongoing construction
23 activities.

24 7. Security. Grantor shall have no responsibility for maintaining or providing
25 security for any vehicles, equipment or materials of the Grantee and/or its contractors,
26 subcontractors or agents.

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1 8. Utility Location. Grantor shall not have any responsibility for locating any
2 underground utilities that may be situated or located on, at, under or near the TCA
3 Area.

4 9. Landscaping. Grantee hereby represents to Grantor that Grantor shall
5 not be required to obtain permits to replace any affected landscaping in the TCA Area.
6 Grantor acknowledges if landscaping is altered in the TCA Area (rather than simply
7 replaced in kind in the TCA Area), permits may be required by the City of Menifee.

8 10. Removal or Disposal; Coordination with Grantor Diligence. The right to
9 enter upon and use TCA Area includes the right to remove and dispose of Items 1-5
10 listed in Attachment "2." Payment to the Grantor for Items 1-5 listed in Attachment "2"
11 are included in the Compensation portion of this Agreement. Grantee shall coordinate,
12 in advance, all activities on the TCA Area with Grantor's Project Engineer or other
13 designated representative(s) of Grantor. Furthermore, and so as to minimize the
14 impacts of any construction activities by Grantee or its contractors, subcontractors or
15 agents upon ongoing business operations at Grantor's Service Station Property,
16 Grantee agrees that any particular work or activities on or at the TCA Area shall be
17 completed promptly upon initiation, although different kinds of activities constituting the
18 work on or at the TCA Area may be completed in discrete phases over the Term of the
19 TCA Area. Thus, for example, once the Grantee initiates the removal of the
20 landscaping in the TCA Area, it shall promptly complete all of the same.

21 11. County to Protect In Place. County agrees to protect in place, and to not
22 damage or destroy, Items 6-9 listed in Attachment "2". Grantor and its tenants and
23 contractors shall have the right at all times during the Term to enter upon the TCA Area
24 to the extent reasonably necessary to use, maintain and repair any signs and light
25 poles within the TCA Area (including but not limited to changing the prices on the
26 pricing signs).

27 12. Additional Duties and Obligations of Grantee and Its Contractors,
28 Subcontractors and Agents. All activities by Grantee and its contractors,

1 subcontractors and agents on the TCA Area shall conform to all applicable laws and
2 regulations relating to the same, and shall be done in a good and workmanlike manner.

3 In addition, and without limiting any other provision of this Agreement:

4 i. Grantee and its contractors, subcontractors and agents will only
5 conduct activities on the TCA Area that are reasonably necessary to carry out the
6 Project, and shall not install, place or make any improvements or structures upon,
7 under or to the TCA Area.

8 ii. The Grantee shall, at its sole cost and expense, ensure that there
9 is conforming, matching surface material (e.g., either concrete or asphalt) at any
10 location where the Grantor's Service Station Property meets any portion of the Project.

11 iii. Without limiting Grantee's other obligations as set forth in this
12 Agreement, prior to expiration of the Term of the TCA, Grantee shall, at its sole cost
13 and expense, repair any damage to the TCA Area and restore the TCA Area to at least
14 the same condition existing prior to Grantee first accessing the same, except Grantee
15 need not replace any landscaping in the TCA Area.

16 iv. In connection with any work on the Project, including any activities
17 on or at the TCA Area, Grantee shall ensure that all driveways which provide
18 ingress/egress to Grantor's Service Station Property via Newport Road and Antelope
19 Road as of the date of this Agreement shall remain at least partially open and
20 accessible at all times sufficient to allow for vehicular traffic, tanker fuel truck deliveries,
21 vendor deliveries, and drive-thru patronage for the Del Taco restaurant at all times.

22 v. No gasoline pricing signs, light poles, or signs identifying the Del
23 Taco restaurant within the TCA Area shall be moved, damaged, altered, covered,
24 hidden or destroyed. Grantor and its tenants and agents shall have access at all times
25 to all pricing signs so as to post fuel price changes.

26 13. Grantor's Use of Contractors. Grantor shall retain the contractor(s) for any
27 replacement and/or re-installment of Items 1-5 listed in Attachment "2", if required, and
28 Grantor shall directly compensate each contractor for all costs, fees, and/or expenses

1 incurred in conducting such work. The County is not responsible for any payment to
2 the selected contractor(s) for such work.

3 14. Indemnity. Grantee agrees to indemnify, defend and hold harmless
4 Grantor and its tenants at Grantor's Service Station Property from and against all and
5 all claims, causes of action, actions, demands, damages, liabilities, fees, liens, costs,
6 expenses, judgments, order and penalties arising from or based upon the County's (or
7 its contractors', subcontractors' or agents') use of the TCA Area; however, this
8 indemnification does not extend to any liability that may inadvertently be extended to
9 the County arising from or as a consequence of the presence of hazardous substances
10 on the TCA Area not caused by the County or its contractors or subcontractors.

11 15. Ownership. Grantor hereby warrants that it is the fee owner of the
12 Grantor's Service Station Property and that it has the right to grant County permission
13 to enter upon and use the TCA Area as described herein.

14 16. Notices. Any notice which either Party is required to give to the other
15 Party pursuant to this Agreement shall be in writing and given by mailing the same by
16 certified mail, return receipt requested, postage prepaid, or sent via overnight service
17 using a reputable overnight courier, to the other Party at the address(es) shown below
18 or at such other place(s) as may be designated by the Parties from time to time in
19 writing, and any notice so mailed shall be deemed received (and hence notice received
20 on such day) on the third business day after mailing via certified mail or the next
21 business day after delivery using a reputable overnight courier.

22 Grantor's address: Tesoro South Coast Company, LLC
23 Attn: General Counsel
24 19100 Ridgewood Parkway
25 San Antonio, TX 78259

26 With a copy to: Tesoro South Coast Company, LLC
27 Attn: Real Estate Department
28 5230 Las Virgenes, Suite 200

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Calabasas, CA 91302
Grantee's address: Yolanda King, Real Property Agent
County of Riverside
Economic Development Agency
Real Estate Division
3403 10th Street, Suite 500
Riverside, California 92501
(951) 955-9656

With a copy to: Cindi Wachi, Project Manager
County of Riverside
Transportation Department
3525 14th Street
Riverside, California 92501
(951) 955-1863

17. Modification. This Agreement may not be amended or modified orally or in any manner other than by an agreement in writing manually signed by both Parties and clearly evidencing an intent to amend or modify this Agreement.

18. Successors and Assigns. Grantor and Grantee, and their assigns and successors in interest, shall be bound by all the terms and conditions contained in this Agreement.

19. Headings. The heading titles for each section of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

20. Governing Law and Venue. The interpretation, validity and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any action at law or in equity brought by either of the Parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of

1 California, and the Parties hereby waive all provisions of law providing for a change of
2 venue in such proceedings to any other county.

3 21. Assignment and Delegation. This Agreement, and any portion thereof,
4 shall not be assigned or transferred by Grantee, nor shall any of the Grantee's duties
5 be delegated, without the written consent of Grantor. Any attempt to assign this
6 Agreement or delegate any of its duties without the written consent of Grantor shall be
7 void and of no force or effect. A consent by Grantor to one assignment or delegation
8 shall not be deemed to be a consent to any subsequent assignment or delegation.

9 22. Severability. If any term of this Agreement (including any phrase,
10 provision, covenant, or condition) is held by a court of competent jurisdiction to be
11 invalid or unenforceable, the Agreement shall be construed as not containing that term,
12 and the remainder of this Agreement shall remain in full force and effect; provided,
13 however, this section shall not be applied to the extent that it would result in a
14 frustration of the Parties' intent under this Agreement.

15 23. Counterpart Signatures. The individuals executing this Agreement
16 represent that they have the right, power, legal capacity, and authority to enter into and
17 to execute this Agreement on behalf of the respective legal entities of the Grantor and
18 Grantee. This Agreement shall inure to the benefit of and be binding upon the Parties
19 hereto and their respective successors and permitted assigns.

20 24. Entire Agreement. This Agreement, including all documents incorporated
21 herein by reference, comprises the entire integrated understanding between the
22 Parties concerning the subject matter described herein. This Agreement supersedes
23 all prior negotiations, agreements, and understandings regarding this matter, whether
24 written or oral.

25 25. Each Party's Role in Drafting the Agreement. Each Party to this
26 Agreement has had an opportunity to review the Agreement, confer with legal counsel
27 regarding the meaning of the Agreement, and negotiate revisions to the Agreement.
28

1 26. Grantor's Disclaimer. Grantee is being granted the TCA in the TCA Area
2 "AS IS" with all faults and defects in the same. Grantor hereby specifically disclaims
3 any representation or warranty, oral or written, including, but not limited to those
4 concerning the nature and condition of the TCA Area and the suitability of the TCA Area
5 for any and all activities and uses which Grantee may conduct thereon. Except as
6 otherwise expressly specified herein, GRANTOR MAKES NO WARRANTY OR
7 REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF
8 LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF QUANTITY,
9 QUALITY, CONDITION, HABITABILITY, MERCHANTABILITY, SUITABILITY OR
10 FITNESS FOR A PARTICULAR PURPOSE, OF THE TCA AREA. GRANTEE
11 ACKNOWLEDGES THAT GRANTEE IS TEMPORARILY ACQUIRING THE TCA
12 BASED SOLELY UPON GRANTEE'S OWN INDEPENDENT INVESTIGATIONS AND
13 FINDINGS AND NOT IN RELIANCE UPON ANY OTHER INFORMATION PROVIDED
14 BY GRANTOR OR GRANTOR'S AGENTS. WITHOUT LIMITING THE FOREGOING,
15 GRANTEE ACKNOWLEDGES THAT GRANTOR HAS MADE NO AGREEMENT TO
16 ALTER, REPAIR OR IMPROVE THE TCA AREA.

17 27. Quitclaim Deed. This Agreement shall not be recorded by the Grantor or
18 Grantee without the consent of the other party. In the event Grantee records this
19 Agreement, Grantee shall, if so requested by Grantor, upon the expiration of the Term
20 of the TCA, at Grantee's sole cost and expense, execute and record a Quitclaim Deed
21 or similar document reasonably acceptable to Grantor, quitclaiming any and all interest
22 or right in the TCA Area and otherwise confirming the Term of the TCA has expired.

23 28. Waivers. Any waiver of a breach or default under this Agreement shall not
24 constitute a continuing waiver or a waiver of a subsequent breach of the same or any
25 other breach or default of any other provision of this Agreement.

26 ///
27 ///
28 ///

1 In witness whereof, the Parties have executed this Agreement the day and year last
2 written below.

3
4 Dated: _____

5
6 COUNTY:
7 COUNTY OF RIVERSIDE

GRANTOR:
TESORO SOUTH COAST COMPANY,
LLC, a Delaware limited liability
company

(Handwritten initials)

8
9 By: _____
10 Jeff Stone, Chairman
11 Board of Supervisors

By: *(Signature)*
12 Its: *Claude P. Moreau*
13 *President & Manager*

14 ATTEST:
15 Kecia Harper-Ihem
16 Clerk of the Board

By: _____
Its: _____

17 By: _____
18 Deputy

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

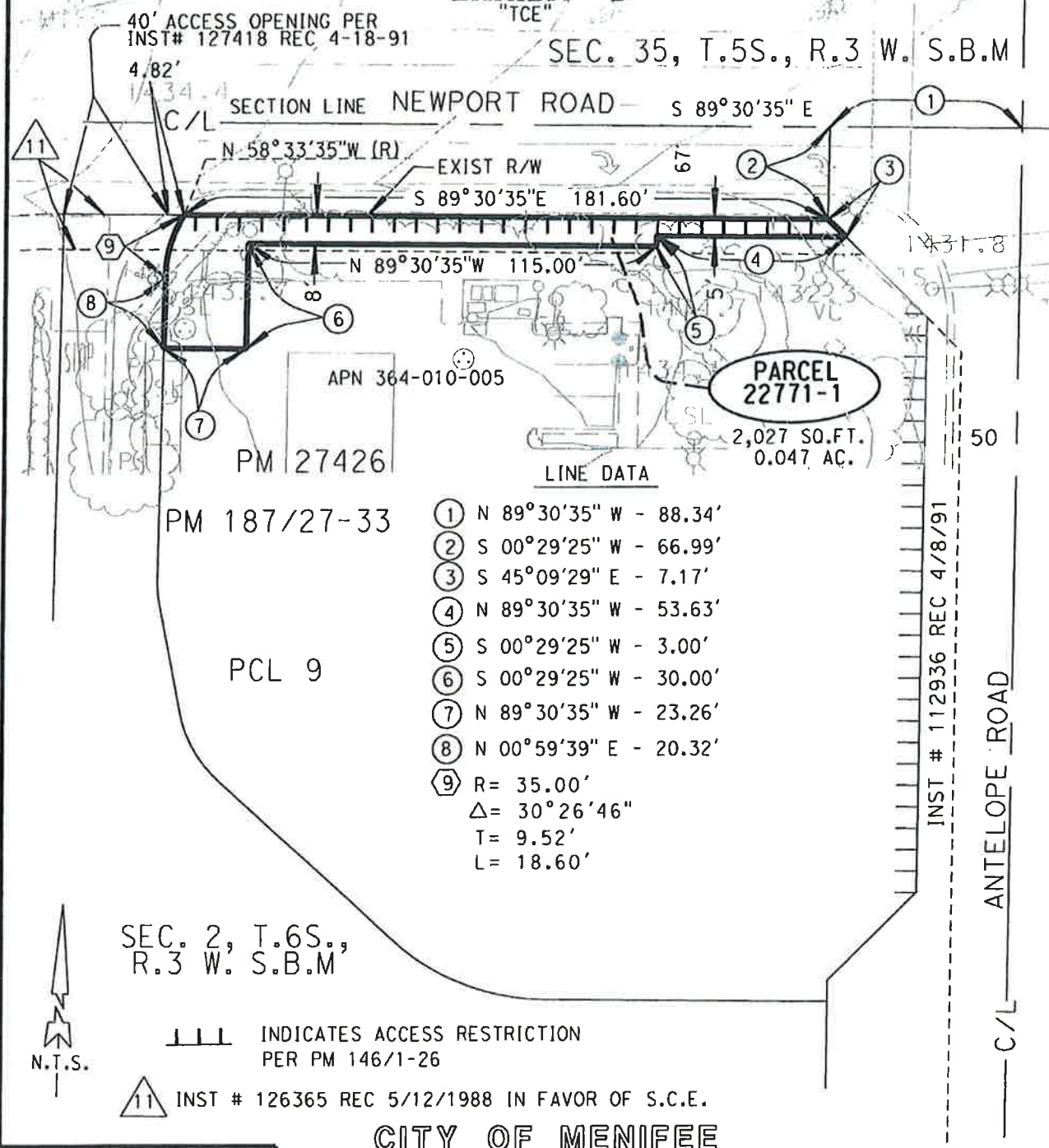
21 By: *(Signature)*
22 Patricia Munroe
23 Deputy County Counsel

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ATTACHMENT 1
[DEPICTION OF 2,019 SQUARE FEET OF LAND KNOWN AS THE TCA AREA]

EXHIBIT "B"
"TCE"

SEC. 35, T.5S., R.3 W. S.B.M



CITY OF MENIFEE



ALL DISTANCES SHOWN ARE GRID DISTANCES.
GROUND DISTANCES MAY BE OBTAINED BY MULTIPLYING THE
GRID DIST. BY A COMBINATION FACTOR OF 1.000090526.

COUNTY OF RIVERSIDE TRANSPORTATION DEPT., SURVEY DIV.

PROJECT: NEWPORT RD/ I-215 INTERCHANGE

THIS PLAT IS AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE PRECEDING DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DESCRIPTION.

PAR. NO.:	22771-1
PREPARED BY:	KKC-B
SCALE:	N.T.S.
DATE:	AUGUST, 2013
W.O. NO.:	B5-0682
SHEET	1 OF 1

APPROVED BY: *Edward D. Hunt* DATE: 8-13-2013

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ATTACHMENT 2

Item	Description	Note
1	1 36" box Palm tree	\$1,200
2	4 36" box Ash trees	\$4,800
3	4 36" box Crape Myrtle trees	\$4,800
4	62 hedges	\$2,480
5	3,460 square foot grass and irrigation	\$15,570
6	Pricing sign	Protect in place
7	Light poles	Protect in place
8	Portion of parking lot and curbing	Protect in place
	Total Landscaping/Hardscaping	\$28,850