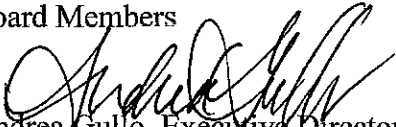


MEMORANDUM

Date: March 23, 2017

To: Board Members

From: 
Andrea Gullo, Executive Director

Subject: Agenda Item No. 8) Discussion and possible action regarding accepting conveyance of conservation easement associated with the Fullerton Road development Project 2013-104 in La Habra Heights (across from the entrance of Powder Canyon) and execution of Agreement of Settlement and Mutual Releases.

Recommendation:

That the Board accept conveyance of conservation easement and execution of settlement agreement in appropriate form.

Background:

Attached are drafts of the conservation easement and settlement agreement pertaining to the single-housing development Project 2013-104 in La Habra Heights (across from the entrance of Powder Canyon). Only Exhibit B is available and attached at this time.

This item was originally brought to the Board for review on August 27, 2015, and that staff report including an initial project comment letter is attached for your reference. The project had subsequently been discussed at a couple of other Board meetings. In September 2016, staff, Authority counsel and the Chairman met with the development proponent's representative and the attached conservation easement and settlement agreement are a result of those conversations. However, a new request is to also have the Wildlife Corridor Conservation Authority agree to the settlement agreement; this will need to be addressed should the Habitat Authority Board provide direction with proceeding with the conservation easement. The conservation easement covers the area within the parcel but outside of the development footprint.

Fiscal Impact:

Staff and Authority counsel time in reviewing the documents, and possible future efforts to defend the conservation easement are the identified fiscal impacts.

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Puente Hills Habitat
Preservation Authority
7702 Washington Ave., Suite C
Whittier, CA 90602
Attention: Andrea Gullo
Executive Director

CONSERVATION EASEMENT

This Conservation Easement, dated as of March ____, 2017, is executed by and between SHU CHEN YANG and MIN HSIU TSAI (collectively, "Grantor"), and PUENTE HILLS HABITAT PRESERVATION AUTHORITY, a joint exercise of powers entity established pursuant to Government Code section 6500 *et seq.* ("Grantee"), with reference to the following facts:

RECITALS

A. Grantor is the sole owner in fee simple of certain real property containing approximately 2.97 acres of land located in the City of La Habra Heights (the "City"), County of Los Angeles (the "County"), State of California, described and depicted in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"). Grantor also owns approximately 2.5 acres of land adjacent to the Property (the "Residential Parcel") on which it intends to construct a single-family home and related improvements (the "Residence").

B. The Property contains wildlife and habitat values (collectively, "conservation values") of importance to Grantee and the people of the State of California.

C. Grantee is authorized to hold conservation easements pursuant to Civil Code Section 815.3. Specifically, Grantee is a joint exercise of powers agency formed pursuant to Government Code section 6500 *et seq.* and established to acquire, maintain and restore native habitat in the Whittier and Puente Hills and is authorized to acquire and hold title to real property and conservation easements.

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to California law, including Civil Code Section 815, *et seq.*,

Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property. The recitals are incorporated into the Covenants, Terms, Conditions and Restrictions set forth below.

1. Purposes. The purposes of this Conservation Easement are to ensure the Property will be retained forever in its natural condition and to prevent any use of the Property that will impair or interfere with the conservation values of the Property. Grantor and Grantee intend that this Conservation Easement will confine the use of the Property to such activities that are consistent with those purposes, including, without limitation, those involving the preservation, restoration and enhancement of native species and their habitats and excepting those activities explicitly anticipated herein.

2. Grantee's Rights. To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee:

(a) To preserve and protect the conservation values of the Property;

(b) To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement; and

(c) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use or activity that is inconsistent with the purposes of this Conservation Easement, in accordance with Section 6, below.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement are prohibited, except as otherwise provided in Section 5, below. Without limiting the generality of the foregoing, the following uses and activities by Grantor, including without limitation Grantor's agents, representatives and contractors, are expressly prohibited, except as otherwise provided in Section 5, below:

(a) Use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals that could damage, injure or kill native plants and/or wildlife species; weed abatement; artificial lighting;

(b) Use of off-road vehicles and use of any other motorized vehicles except on existing roadways;

(c) Agricultural activity of any kind, including grazing;

(d) Active recreational activities, including, but not limited to, weddings and other large gatherings, horseback riding, biking, hunting or fishing, except as otherwise provided in Section 5, below;

(e) Commercial or industrial uses;

(f) Construction, reconstruction or placement of any building, billboard or sign, or any other structure or improvement of any kind;

(g) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials;

(h) Planting, deliberate introduction or dispersal of non-native or exotic plant or animal species;

(i) Filling, dumping, storing, excavating, draining, dredging, drilling, removing loam, soil, sands, gravel, rocks or other material on the surface of the Property;

(j) Altering the surface or general topography of the Property , including building of roads;

(k) Removing, destroying, or cutting of native trees, native shrubs or other native vegetation, except as required by law, including without limitation for (1) fire breaks, (2) maintenance of foot trails or existing roads, (3) prevention or treatment of disease, or (4) for fire protection activities during an emergency; and

(l) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, and activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters without necessary permits from state and federal regulatory agencies, and written approval from the Grantee, which approval shall not be unreasonably withheld or delayed.

4. Grantee's Duties. Grantee agrees, by accepting the grant herein, to preserve and protect in perpetuity the conservation values of the Property. Grantee shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the conservation values of the Property, provided that the reserved rights in Section 5, below, shall not be deemed to harm the conservation values of the Property.

5. Grantor's Reserved Rights. Notwithstanding any other provision of this Conservation Easement, the following rights, activities and uses shall be permitted within the Property:

(a) The right to engage in all acts and uses not expressly prohibited herein that do not materially impair the purposes of this Conservation Easement;

(b) The right of access to, and use and enjoyment of, the Property for passive recreational activities, including without limitation walking, hiking, picnicking and contemplation, and the right to undertake activities reasonably necessary to carry out the rights reserved herein to Grantor;

(c) the right to carry out fuel modification and other fire and brush clearance required in writing by the City or the County;

(d) the right to install drainage infrastructure required by the City that specifically relates to Grantor's residential development project adjacent to the Property;

(e) the right to repair or otherwise address erosion and landslides after written notice to Grantee;

(f) the right to plant and irrigate plants indigenous to the Puente Hills;

(g) the right to construct, maintain and use recreational trails for non-motorized uses and install or place a limited number of benches, tables, chairs and similar improvements; and

(h) the right to construct or erect two- or three-rail post fencing, provided that (i) any such split-rail fencing shall not be located closer to Fullerton Road than shown on the graphic illustration attached hereto as Exhibit "B" and incorporated herein by this reference and (ii) the bottom of the lowest horizontal rails shall be at least eighteen (18) inches above the ground and the top of the highest horizontal rails shall not exceed five (5) feet in height above the ground.

6. Enforcement of Conservation Easement.

6.1 Remedies. If either party to this Conservation Easement determines that the other party is in material violation of the terms of this Conservation Easement, that party shall give written notice to the party in violation and specify the corrective action sufficient to cure the violation. If the party in violation fails to cure the violation within thirty (30) days after receipt of notice thereof from the other party hereto, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, the other party may commence an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to recover any actual and reasonable damages for violation of the terms of this Conservation Easement, including for any injury to the conservation values of the Property, to enjoin the violation, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such violation or injury.

If Grantee, in its reasonable discretion, determines that circumstances require immediate action to prevent or mitigate damage to the conservation values of the Property, and it appears to Grantee that Grantor is unwilling or unable to take such action (or to stop its own actions, if such actions are the cause of the harm), then Grantee may pursue its legal and equitable remedies under this Section with only ten (10) days' prior written notice to Grantor rather than the normal thirty (30) days' notice. The rights under this Section apply equally to actual or threatened violations of the terms of this Conservation Easement.

The parties hereto agree that remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the enforcing party shall be entitled to the injunctive relief described in this Section, both prohibitive and mandatory, in addition to such other relief to which the enforcing party may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code Section 815, *et seq.*, inclusive. Failure to discover a violation or to take immediate legal action shall not bar such action at a later time.

6.2 Costs of Enforcement. Any costs incurred by the prevailing party in enforcing the terms of this Conservation Easement against the party in violation, including, but not limited to, costs of suit and attorneys' and experts' fees as awarded by a court of competent jurisdiction, and any costs of restoration necessitated by the negligence or breach of this Conservation Easement by the party in violation, shall be borne by the party in violation.

6.3 Discretion of Enforcing Party. Enforcement of the terms of this Conservation Easement by either party hereto shall be at the discretion of the such party, and any forbearance by such party to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver by such party of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of such party's rights under this Conservation Easement. No delay or omission by such party in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

6.4 Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action for any injury to or change in the Property resulting from any natural cause beyond Grantor's control, including, without limitation, acts of trespassers or the unauthorized or wrongful acts of third persons, fire, flood, storm, earth movement or tree or plant disease, or any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

7. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property.

7.1 No Liens. Grantor and Grantee shall each keep the Property free from any liens that could jeopardize the priority status of this Conservation Easement, including those arising out of any obligations incurred by Grantor or Grantee for any labor or materials furnished or alleged to have been furnished to or for Grantor or Grantee at or for use on the Property.

7.2. Extinguishment. If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

8. Transfer of Easement. This Conservation Easement is transferable by Grantee, but Grantee may assign this Conservation Easement only to another entity or organization authorized to acquire and hold conservation easements pursuant to Civil Code Section 815.3 (or any successor provision then applicable) or the laws of the United States, provided that such transfer shall only be effective if such assignee assumes in writing all of Grantee's duties, responsibilities and obligations under this initial Conservation easement and such assignment is recorded in the Official Records of Los Angeles County, California (the "Official Records"). Grantee shall provide not less than thirty (30) days' prior written notice of any intended assignment of this Conservation Easement.

9. Transfer of Property. Grantor agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the intent to transfer any interest at least thirty (30) days prior to the date of such transfer.

10. Notices. Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to the other parties shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Grantor: Shu Chen Yang
 3109 Capa Drive
 Hacienda Heights, California 91745

To Grantee: Puente Hills Habitat Preservation Authority
 7702 Washington Ave., Suite C
 Whittier, CA 90602
 Attention: Andrea Gullo, Executive Director

or to such other address as Grantor or Grantee may designate by written notice to the other parties. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail. Each party hereto may, by notice to the other, designated different address shall be substituted for the one specified above.

11. Amendment. This Conservation Easement may be amended by Grantor and Grantee only by mutual written agreement. Any such amendment shall be consistent with the purposes of this Conservation Easement and California law governing conservation easements and shall not affect its perpetual duration. Any such amendment shall be recorded in the Official Records.

12. General Provisions.

12.1 Controlling Law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state.

12.2 Liberal Construction. Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to effect the purposes of this Conservation Easement and the policy and purpose of Civil Code Sections 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

12.3 Severability. If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement, such action shall not affect the remainder of this Conservation Easement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

12.4 Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 11, above.

12.5 No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's fee title in the Property in any respect.

12.6 Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Property.

12.7 Termination of Rights and Obligations. A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

12.8 Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

12.9 Indemnities. Grantor agrees to defend, indemnify, protect, and hold harmless Grantee and its members, directors, officers, employees, agents, contractors, attorneys and successors and assigns, and each of them (collectively, the "Grantee

Parties"), from all losses, claims, suits, appeals, costs, damages, liabilities or actions of every name, kind or description (including reasonable attorneys' fees) resulting from any negligent act or omission or intentional misconduct of Grantor and its successors, assigns, contractors, subcontractors and agents. Grantee agrees to defend, indemnify, protect, and hold harmless Grantor and its members, directors, officers, employees, agents, contractors, attorneys and successors and assigns, and each of them, from all losses, claims, suits, appeals, costs, damages, liabilities or actions of every name, kind or description (including reasonable attorneys' fees) resulting from any negligent act or omission or intentional misconduct of Grantee and any of the other Grantee Parties.

12.10 Recording. Grantee shall cause this Conservation Easement to be recorded in the Official Records.

12.11 Compliance Certificate. Grantee shall, with ten (10) business days following GRANTOR'S request, execute and deliver to Grantor an estoppel or compliance certificate which certifies that, to the best of Grantee's knowledge, Grantor is in compliance with its obligations under this Conservation Easement or otherwise to evidence the status of this Conservation Easement. Grantor shall allow Grantee access to the Property adequate and within a sufficient time for Grantee to make a determination sufficient to enable the execution of such certificate.

12.12 Execution in Counterpart. This Conservation Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the parties to this Conservation Agreement had executed the same counterpart.

13. Residential Parcel. The following restrictions shall apply with respect to the Residential Parcel and the improvements thereon:

(a) No fence, wall or gate on the Residential Parcel shall be located closer to the current pavement edge on the east side of Fullerton Road than the security fence and gate for the Residence along Fullerton Road shown on Exhibit "B", as measured from any given point.

(b) The photometric lighting plan for the Residence, which is attached hereto as Exhibit "C" and incorporated herein by this reference, shall not be modified in a manner that would substantially increase the light intrusion onto the Property.

IN WITNESS WHEREOF, Grantor and Grantee have duly executed this Conservation Easement as of the day and year first above written.

"Grantor":

By _____
SHU CHEN YANG

By _____
MIN SHU TSAI

"Grantee":

PUENTE HILLS HABITAT PRESERVATION
AUTHORITY, a joint exercise of powers entity
established pursuant to Government Code
Section 6500 *et seq.*

By _____
Andrea Gullo,
its Executive Director

EXHIBIT "A-1"

LEGAL DESCRIPTION OF PROPERTY

All that certain real property located in the City of Los of La Habra Heights, County of Los Angeles, State of California, more particularly described as follows:

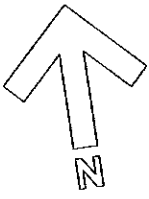
EXHIBIT "A-2"
DEPICTION OF PROPERTY

EXHIBIT "B"

FULLERTON ROAD FENCES AND GATE

(See following one (1) page)

Exhibit B



LEGEND	
	SPLIT-RAIL FENCE
	SECURITY FENCE
	PROPERTY LINE



SCALE: 1" = 100'-0"

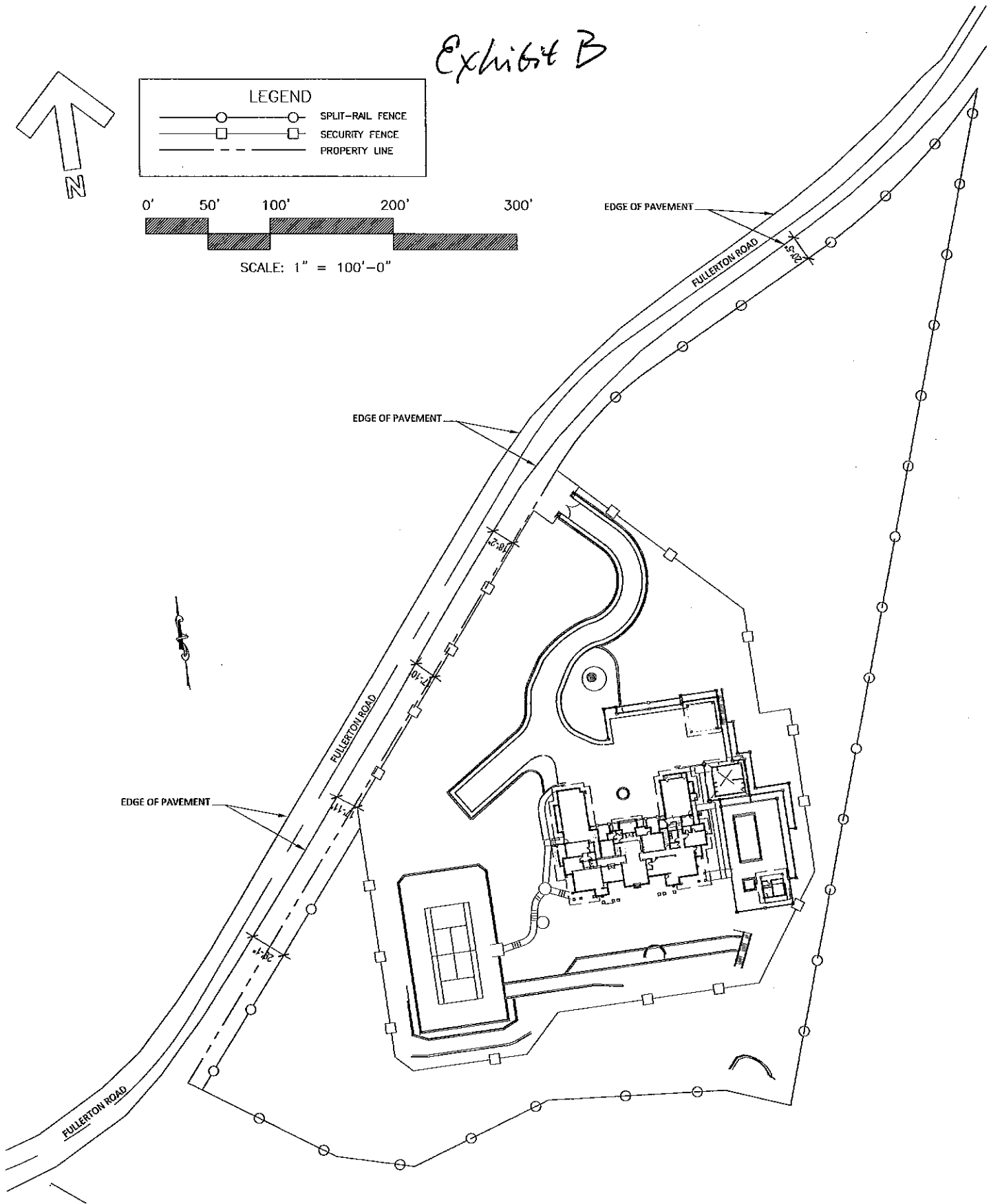


EXHIBIT "C"

PHOTOMETRIC LIGHTING PLAN FOR RESIDENCE

(See following one (1) page)

AGREEMENT OF SETTLEMENT AND MUTUAL RELEASE

This Agreement of Settlement and Mutual Release ("Agreement"), dated as of March __, 2017, is entered into by and among SHU CHEN YANG and MIN HSIU TSAI (collectively, "Owner"), PUENTE HILLS HABITAT PRESERVATION AUTHORITY, a joint exercise of powers entity established pursuant to Government Code section 6500 et seq. (the "Habitat Authority"), and WILDLIFE CORRIDOR CONSERVATION AUTHORITY ("WCCA"), a _____ (Owner, the Habitat Authority and WCCA are collectively defined herein as the "Parties" and each individually as a "Party"), with reference to the following facts:

RECITALS

A. Owner owns approximately 5.5 acres of land located at 2358 Fullerton Road in the City of La Habra Heights (the "City"), County of Los Angeles (the "County"), State of California, and designated as Assessor Parcel No. _____ (the "Property"). Owner desires to construct a residence and related improvements on the Property (the "Project").

B. The Habitat Authority owns real property located adjacent and near the Property.

C. The Habitat Authority and WCCA have asserted various concerns with respect to the Project, including without limitation concerns regarding the Project's potential interference with wildlife movement. In a letter dated November 10, 2015 from Andrea Gullo, Executive director of the Habitat Authority, to Katherine Park, the Project Manager for the Project, the Habitat Authority expressed some of those concerns. In a letter dated November 4, 2015 from Glenn Parker, Chairperson of WCCA, to Ben Kim, a Principal Planner for the City, WCCA expressed some of those concerns.

D. It is the intention of the Parties to settle and dispose of, fully and completely, any and all claims, demands and causes of action heretofore arising out of, connected with or incidental to the Project, without admitting the validity of the position urged by any Party. In addition, Owner desires that the Habitat Authority and WCCA refrain from asserting any further administrative and legal claims or commencing any judicial proceedings with respect to the Project.

NOW, THEREFORE, in furtherance of the mutual desires set forth above, and in consideration of the mutual covenants and conditions set forth below, the Parties hereby agree as follows:

AGREEMENT

1. Covenant and Easement Agreement. Prior to or contemporaneously with the execution and delivery of this Agreement, Owner and the Habitat Authority shall

execute and deliver that certain Conservation Easement (the "Conservation Agreement") with respect to a portion of the Property, in the form attached hereto as Exhibit "A". The Habitat Authority may record, or cause to be recorded, the Conservation Easement in the Official Records of Los Angeles County, California.

2. Releases. In consideration of the mutual releases contained herein, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged by each Party, the Parties promise, agree and specifically release as follows:

2.1 Except as to such rights or remedies as may be created by this Agreement and the Conservation Easement, the Habitat Authority hereby releases, remises and forever discharges Owner and its agents, employees, representatives, administrators, attorneys, trustees, affiliates, parents, partnerships, partners, managers, assigns, heirs and successors in interest (collectively, the "Owner Parties"), and each of them, from any and all suits, actions or causes of action, in law or in equity, debts, liens, contracts, agreements, promises, liabilities, claims, demands, damages, losses, costs or expenses, of any nature whatsoever, whether known or unknown (collectively, the "Claims"), as a result of any act, event or omission occurring prior to the date of this Agreement that arises out of, is connected with or is incidental to the Property or the Project (collectively, the "Released Claims").

2.2 Except as to such rights or remedies as may be created by this Agreement, WCCA hereby releases, remises and forever discharges Owner and the other Owner Parties, and each of them, from any and all Released Claims.

2.3 Except as to such rights or remedies as may be created by this Agreement and the Conservation Agreement, Owner hereby releases, remises and forever discharges the Habitat Authority and WCCA and their respective agents, employees, representatives, administrators, attorneys, trustees, directors, officers, board members, assigns, heirs and successors in interest (collective, the "Environmental Parties"), and each of them, from any and all Released Claims.

2.4 The Parties acknowledge and agree that the releases in Sections 2.1, 2.2 and 2.3, above, are expressly limited to Released Claims and do not include any other Claims of any kind, including without limitation any Claims for breach of this Agreement or the Conservation Agreement.

2.5 With respect to the Released Claims, each Party specifically waives the benefit of the provisions of Section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time

of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Each Party has been advised by its attorneys of the meaning of Section 1542 of the California Civil Code, and of the implications of waiving the benefits thereof. The Parties agree that this waiver is an essential part of this Agreement, which would not have been entered into without such provision.

3. Covenants Not to Sue. The Habitat Authority and WCCA hereby agrees that neither they nor any of the Environmental Parties shall (a) assert, assist, promote or encourage, financially or otherwise, either individually or in any collective way, either directly or indirectly (including, without limitation, through an unincorporated association or coalition), either on its own behalf or on behalf of a client or other person or entity, any administrative claim or objection that relates in any way whatsoever to, or otherwise interferes in any way with, the environmental review (or exemption therefrom), entitlement, development, operation or any other aspect of the Project or (b) commence, prosecute, assist, promote or encourage, financially or otherwise, either individually or in any collective way, either directly or indirectly, either on its own behalf or on behalf of a client or other person or entity, any mediation, arbitration, litigation or any other judicial proceeding of any kind, nature or description against or involving Owner or any of the Owner Parties that relates in any way whatsoever to the Project or any portion of the Property.

4. Representations and Warranties: Each of the Parties represents, warrants and agrees as to itself as follows:

4.1 Such Party has received independent legal advice from its attorneys with respect to the advisability of making the settlement provided for herein, and with respect to the advisability of executing this Agreement.

4.2 Neither such Party nor any officer, agent, employee, representative, trustee or attorney of or for it has made any statement or representation to any other Party regarding any fact relied upon in entering into this Agreement, and it is not relying upon any statement, representation or warranty or promise, written or oral, of any other Party (or of any officer, agent, employee, representative, trustee or attorney for any other Party) in executing this Agreement, or in making the settlement provided for herein, except as expressly stated in this Agreement.

4.3 Such Party has made such investigation of the facts pertaining to this settlement and this Agreement and of all the matters pertaining thereto as it deems necessary.

4.4 Such Party or its responsible officer or attorney has read this Agreement and understands the contents hereof. Each officer, member, manager, trustee,

official or attorney executing this Agreement on behalf of such Party is empowered to do so and thereby bind such Party.

4.5 Each as otherwise expressly represented, warranted or provided in this Agreement, such Party assumes the risks (a) that it may hereafter discover facts in addition to or contrary to those it believed to exist or relied upon in entering into this Agreement, (b) that it may have mistakenly understood matters relevant to entering into this Agreement and (c) that another Party may have negligently misrepresented or negligently failed to disclose facts in connection with the entering into of this Agreement. Notwithstanding any such claims of misunderstanding, mistake, negligent misrepresentation or negligent nondisclosure, such Party intends that this Agreement thereafter shall continue in full force and effect and shall not be subject to rejection or rescission for any reason, provided that such Party reserves all rights provided for in this Agreement and Owner and the Habitat Authority reserve all rights provided for in the Conservation Easement.

4.6 It has not heretofore assigned, transferred, or granted, or purported to assign, transfer, or grant, any of the Released Claims or any part thereof.

4.7 Each term of this Agreement (other than Recitals A through D, above) is contractual and not merely a recital and each of Recitals A through D, above, is true and correct.

4.8 Such Party is aware that it may hereafter discover claims or facts in addition to or different from those it now knows or believes to be true with respect to the matters related herein. Nevertheless, it is the intention of such Party to fully, finally and forever settle and release all such matters, and all claims relative thereto, which do now exist, may exist, or heretofore have existed between them. In furtherance of such intention, the releases given herein shall be and remain in effect as full and complete mutual releases of all such matters, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto.

4.9 It will execute all such further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this Agreement.

5. Settlement. This Agreement effects the settlement of claims which are denied and contested and nothing contained herein shall be construed as an admission by any Party hereto of any liability of any kind to any other Party. Each of the Parties denies any liability in connection with the Released Claims and intends merely to avoid further litigation.

6. Notices. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally delivered by

courier or overnight delivery service or mailed, certified or registered mail, return receipt requested, to the Parties at the following addresses:

If to Owner:

Shu Chen Yang
3109 Capa Drive
Hacienda Heights, California 91745

with a copy to:

Sheppard, Mullin, Richter & Hampton LLP
333 S. Hope Street, 43rd Floor
Los Angeles, California 90071-1422
Attn: Jack H Rubens, Esq.

If to the Habitat Authority:

Puente Hills Habitat Preservation Authority
7702 Washington Avenue, Suite C
Whittier, California 90602
Attn: Andrea Gullo,
Executive Director

If to WCCA:

Wildlife Corridor Conservation Authority
570 West Avenue 26, Suite 100
Los Angeles, California 90065
Attn: _____.

Personally and courier delivered notices shall be deemed given upon actual personal delivery to designated address of the intended recipient. Mailed notices shall be deemed given upon the date of actual receipt as evidenced by the return receipt. Any address for notice may be changed from time to time by written notice to the other Parties.

7. Miscellaneous.

7.1 This Agreement is made and entered into in the County of Los Angeles, State of California, and the rights and obligations of the parties hereunder shall in all respects be construed and enforced in accordance with, and governed by, the laws of the State of California.

7.2 It is expressly understood and agreed that this Agreement and, with respect to Owner and the Habitat Authority, the Conservation Agreement contain the

entire agreement and understanding of the Parties concerning the Released Claims, the settlement thereof and the subject matter herein, and merge, supersede and replace all prior discussions, understandings, negotiations, agreements, representations, conditions, warranties, covenants and all other communications between the Parties hereto, whether written or oral, relating to such subject matter.

7.3 The provisions of this Agreement are contractual, and not mere recitals, and shall be considered severable, so that if any provision or part of this Agreement shall at any time be held invalid, illegal or unenforceable, that provision or part thereof shall remain in force and effect to the extent allowed by law, and all other provisions of this Agreement shall remain in full force and effect, and be enforceable.

7.4 No provision herein may be waived unless in writing and signed by the Party or Parties whose rights are thereby waived. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein. This Agreement may be modified or amended only by written agreement executed by all of the Parties.

7.5 This Agreement is binding upon and shall inure to the benefit of the Parties and their respective agents, employees, representatives, administrators, attorneys, directors, officers, board members, divisions, affiliates, parents, partners, partnerships, members, managers, joint venturers, assigns, heirs and successors in interest. Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the Parties or their respective successors and assigns, any rights or benefits under or by reason of this Agreement.

7.6 Each Party has cooperated in the drafting of this Agreement and, accordingly, the normal rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

7.7 In the event that any litigation shall be commenced concerning this Agreement or any the Parties' performance under this Agreement, the prevailing party in such litigation shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including without limitation attorneys' fees and court costs, whether or not taxable, as awarded by a court of competent jurisdiction, in addition to any other relief to which it may be entitled.

7.8 The descriptive headings used in this Agreement are for convenience only and shall not affect the meaning of any provision of this Agreement.

7.9 This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original and, when taken together with other signed counterparts, shall constitute one agreement, which shall be binding upon and effective as to all Parties. Executed copies hereof may be delivered by email and, upon receipt, shall be deemed

originals and binding upon the Parties. Without limiting or otherwise affecting the validity of executed copies hereof that have been delivered by facsimile or email, the Parties shall use diligent efforts to deliver originals as promptly as possible after execution.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

"Habitat Authority":

PUENTE HILLS HABITAT PRESERVATION
AUTHORITY, a joint exercise of powers entity
established pursuant to Government Code
Section 6500 et seq.

By _____
Andrea Gullo,
its Executive Director

"WCCA":

WILDLIFE CORRIDOR CONSERVATION
AUTHORITY, a _____

By _____
Glenn Parker,
Chairperson

"Owner":

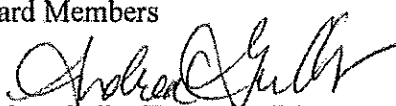
By _____
SHU CHEN YANG

By _____
MIN SHU TSAI

provided for reference

Puente Hills
Habitat Preservation Authority
Endowment Provided by the Puente Hills Landfill

MEMORANDUM

Date: August 27, 2015
To: Board Members
From: 
Andrea Gullo, Executive Director
Subject: Agenda Item No. 11) Discussion and possible action regarding proposed project on Assessor Parcel Number 8267-013-006 on Fullerton Road in the City of La Habra Heights.

Recommendation:

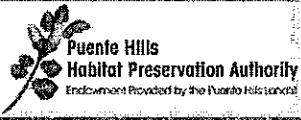
That the Board discuss and provide any direction.

Background:

There is a possible new development in La Habra Heights along Fullerton Road directly across from the Authority's Powder Canyon Trailhead entrance. Attached is a map indicating the location of the project in relation to the Authority's Preserve. Also attached are photos of the site. Its location is unique in its proximity to Habitat Authority property and its location within a wildlife corridor.

Authority staff first contacted La Habra Heights planning staff in January 2014 about this project (PRJ 2013-104). On July 1, 2015 staff inquired with the City again after noticing story poles installed on the property depicting the layout of the proposed development, and met on August 20 with the City staff for an update on the project. Staff was able to view draft plans of the project, however we were told that the plans are currently expected to be revised by the applicant mainly to change the direction and placement of the house on the parcel. The subject parcel is 5.68 acres, and the project includes a home over 10,500 square feet with an accessory 585 second home. Other project features could include a tennis court, courtyard pond and six foot fence that runs the length of the parcel along Fullerton Road.

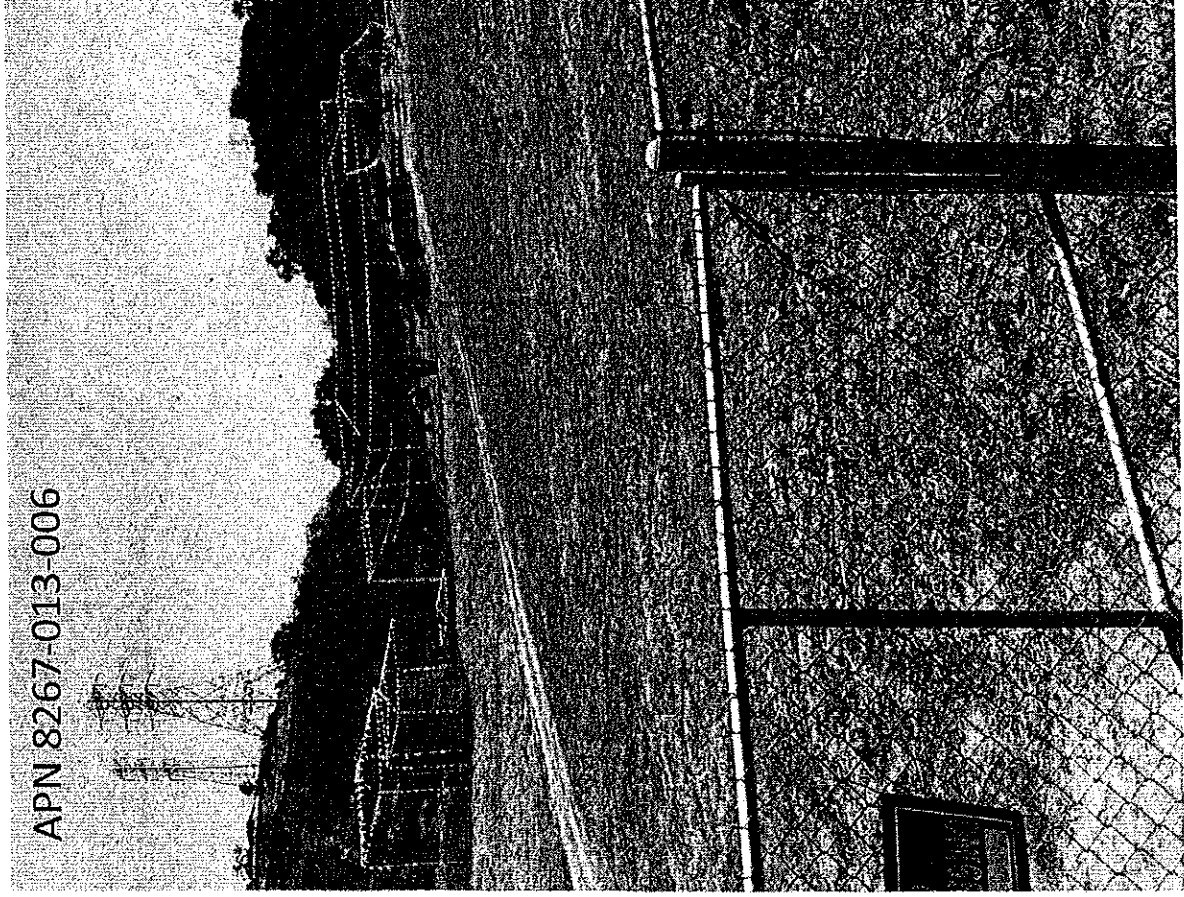
The next steps would be to further engage in gathering information about this project to present to the Board at a later date. The Authority has in the past communicated with the lead agencies regarding developments adjacent and nearby to its properties especially as they relate to potential environmental impacts. Also, a suggested next step is to further engage with the City and property owner to make it more environmentally friendly and strive to protect adjoining habitat value and function as a wildlife corridor.



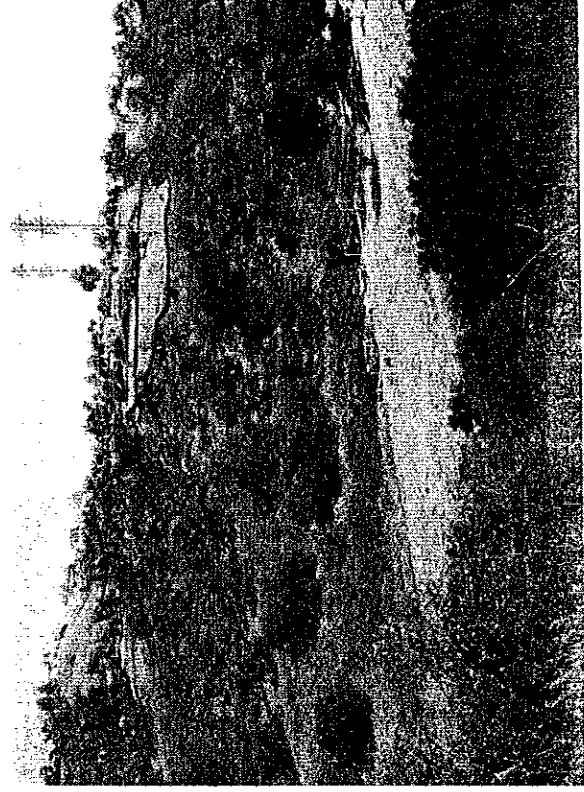
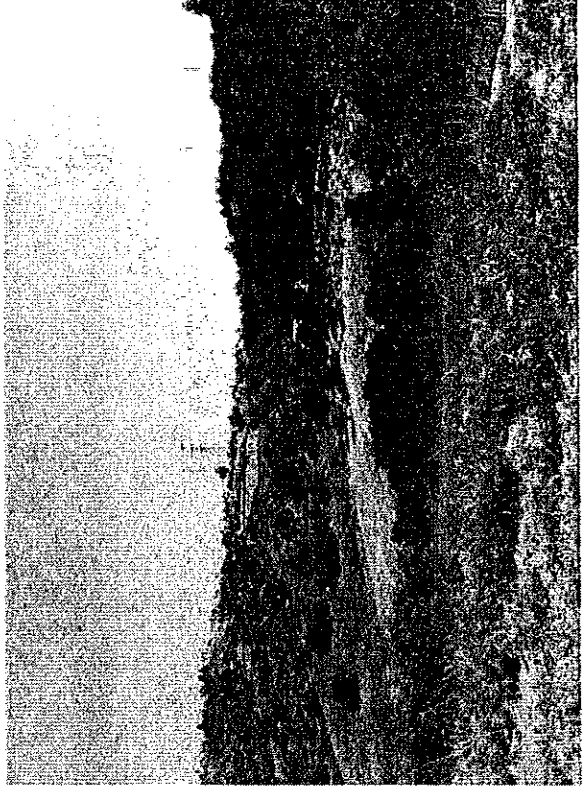
LHH Fullerton Road Parcel for Development



- Preserve Boundary
- LHH Parcel for Development
- Powder Canyon Entrance
- Bobcat Sightings
- Bobcat Roadkill
- LA County SEA Connectivity_line
- Blueline Stream
- Bobcat pathway



View from Fullerton Road looking southeast.

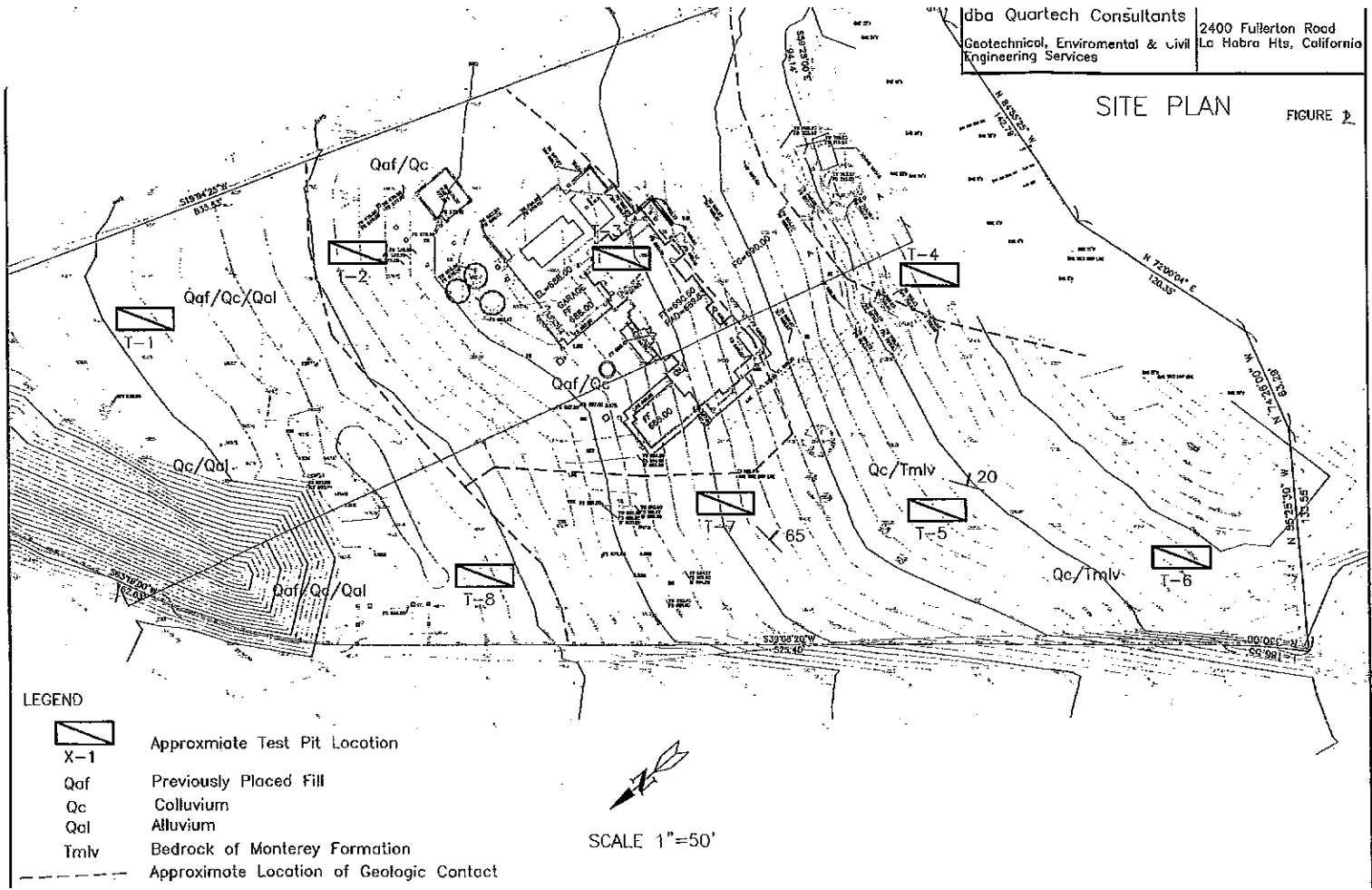



Views from Habitat Authority's Black Walnut Trail looking southeast.


dba Quartech Consultants
 Geotechnical, Environmental & Civil
 Engineering Services

2400 Fullerton Road
 La Habra Hts, California

SITE PLAN FIGURE 2



- LEGEND
-  X-1 Approximate Test Pit Location
 - Qaf Previously Placed Fill
 - Qc Colluvium
 - Qal Alluvium
 - Tmlv Bedrock of Monterey Formation
 - - - - - Approximate Location of Geologic Contact


 SCALE 1"=50'



Puente Hills Habitat Preservation Authority

Endowment Provided by the Puente Hills Landfill

November 10, 2015

Katherine Park, Project Manager
CD/A Creative Design Associates
17528 Rowland St. Second Floor
City of Industry, CA 91748
Email kpark@cda-arc.com

Re: PRJ 2013-104 on 2358 Fullerton Road

Dear Ms. Park:

Thank you for your time on the phone the other day, and efforts in coordinating the design of this project. I appreciate the opportunity to provide comments. My comments are similar to that provided for other single family home developments in the immediate area; however, this project as I mentioned is uniquely positioned in a more biologically sensitive location within the well-known regional wildlife corridor so additional comments are provided.

The Puente Hills Habitat Preservation Authority (Habitat Authority) is a joint powers authority established pursuant to California Government Code Section 6500 *et seq.* with a Board of Directors consisting of the City of Whittier, County of Los Angeles, Sanitation Districts of Los Angeles County, and the Hacienda Heights Improvement Association. According to our mission, the Habitat Authority is in part dedicated to the management of open space in the Puente Hills for preservation, with the primary purpose to protect the biological diversity. The Habitat Authority owns or manages approximately 3,800 acres of preserved habitat comprising the Puente Hills Preserve (Preserve), and one of our trailheads is located directly across the road from your client's property.

As we discussed, fuel modification requirements, which are generally up to 200 feet from structures, should be kept within the footprint of the property boundaries and not extend onto Habitat Authority owned parcels. The Habitat Authority owns property adjacent to the project and purchased its property with public funds to be preserved in a predominately natural state as habitat for wildlife and plant communities.

In accordance with California law (Section 51182 of the Government Code), clearance on Habitat Authority properties would require obtaining written consent to do so which the Habitat Authority doesn't grant for new developments.

Also, as mentioned, lighting has the potential to negatively impact adjacent Habitat Authority property in Powder Canyon. We recommend that lighting be dark-sky compliant (<http://darksky.org/lighting/lighting-basics/>) as also encouraged by the City of La Habra Heights

A Joint Powers Agency created pursuant to California Government Code §6500 *et seq.*
7702 Washington Avenue, Suite C, Whittier, CA 90602 • Phone: 562 / 945 - 9003 • Fax: 562 / 945 - 0303

and directed away from habitat areas; it is best to have it properly angled so as to remain on the owner's property. Some species, such as the bobcat, can be nocturnal and light sources can disturb their natural processes. Areas that are avoided by medium-to large-sized carnivores can have an increase in the number of smaller prey animals, which can have a negative effect on bird species of scrub plant communities. Also, night lighting for a tennis court is not recommended for this biologically sensitive location since it is a regional wildlife corridor (see discussion below).

Wildlife can be attracted to a yard when there is unnatural food or water sources such as unattended pet food or a human-made pond or fountain. To discourage wildlife from entering the backyard or possible pool area, we recommend that any pool be securely covered when not in use. This will minimize the chance for negative human-wildlife conflicts and disrupting the natural cycle of the ecosystem. It is encouraged that the homeowner take proactive steps to not inadvertently attract unwanted wildlife to their yard. For more information about co-existing with wildlife please visit our website www.habitatauthority.org.

The general area that this property is located is known as a regional wildlife corridor. Attached is a report of a bobcat study that was conducted by the United States Geological Survey which indicates that this area was used very regularly by a collared bobcat as a regional movement corridor. Also available at www.habitatauthority.com is a study conducted by Chris Haas (1999). Because of the unique location of this property in relation to regional wildlife movement, it is recommended that the property owner not fence the property. However, if the property-owner wants to fence it for boundary-line delineation purposes, attached are a couple of examples to consider. There are a variety of wildlife friendly fences available on the market. The general parameters are that medium sized animals like deer or coyotes can pass through, over and under. This will help allow animals to continue to pass through the area, as well keep motorists safe on Fullerton Road by eliminating trapping animals attempting to cross in either direction. Our Ecologist, Lizette Longacre can provide more details on this for you if you like.

Lastly, if landscaping is a part of this project, we recommend using non-invasive species, preferably plants native to this region. Invasive plant species have the potential to spread to adjoining properties and negatively impact biodiversity. This can have costly impacts for neighbors.

In terms of avoiding impacts to the wildlife corridor, we again recommend that the applicant and City review the California Environmental Quality Act to assess potential impacts to the environment. Thank you for your consideration. Please do not hesitate to contact me for discussion at (562) 945-9003.

Sincerely,

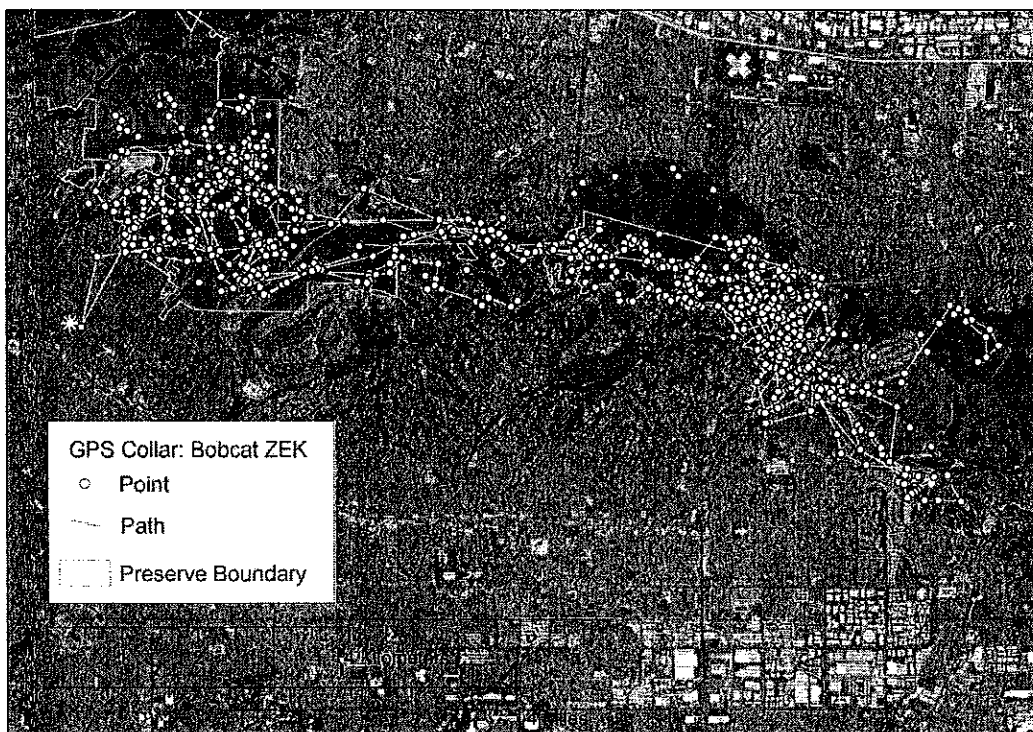


Andrea Gullo
Executive Director

cc: Ben Kim, Planner La Habra Heights
Board of Directors

Citizens Technical Advisory Committee

Figure 5. GPS collar data for male bobcat ZEK with path lines shown connecting consecutive pairs of locations collected less than 60 minutes apart. White asterisk indicates a location that may have particularly poor spatial accuracy.



USGS August 2013