


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

MEMORANDUM

**Date:** August 5, 2021

**To:** Board Members

**From:**   
Andrea Gullo, Executive Director

**Subject:** Agenda Item No. 3) Discussion and possible action for approval of a cooperative agreement, an easement agreement over approximately 1/10th of an acre, and restrictive covenants on the Diaz/Old Coach property, 8267-014-904, 8267-014-906, for construction and access to a heli-hydrant project, provide direction to staff and counsel as appropriate.

Recommendation:

That the Board provide direction.

Possible actions for consideration:

Authorize the Chair and/or Executive Director to execute all necessary agreements between the City of La Habra Heights and the Habitat Authority to facilitate the establishment of a heli-hydrant and emergency access easement over a portion of La Habra Road in Powder Canyon, including the 1) Cooperation and Implementation Agreement, 2) Declaration of Restrictive Covenants, and 3) Heli-hydrant and Access Easement.

Background:

The City of La Habra Heights (City) proposed a heli-hydrant project on the Authority's former Diaz property. At the Board's April 15 meeting direction was given to staff which included meeting with City and fire department representatives onsite to better understand the project footprint, have legal counsel investigate legal constraints on the property and the steps necessary to move forward with the project, describe environmental considerations, and bring the item back to the May 20 Board meeting for discussion and action. The item was discussed at the Board's May 20 meeting and the Board encouraged further discussion, environmental considerations and negotiation of the project. The item was discussed at the June 17 meeting during which the Board granted the City access to the proposed heli-hydrant site for project planning purposes. The item was discussed at the Board's July meeting and an update on the progress of the project was provided. The Authority has acknowledged that the proposed heli-hydrant would benefit the community and region by providing increased fire suppression capabilities.

The current project description of the heli-hydrant includes direct impacts to an area approximately 0.1 acres including: 1) installation of an open eight-foot tall (above ground) tank to be filled with water automatically upon remote activation during a fire event, and to be temporarily filled manually until permanent infrastructure can be installed, 2) paving the area around the heli-hydrant to avoid perpetual vegetation maintenance and associated

ecological impacts, and 3) other design features such as solar power, no barb wire, no continual night lighting, and water drainage away from the facility to prevent erosion or vegetation growth that would require maintenance. Further information about the project details can be found in the attached City documents.

On July 27, the City of La Habra Heights approved the project. See the attached public documents that were provided for the Council's review and subsequent approval.

*Next Steps for Project Facilitation:*

As a result of the 1999 acquisition of this property, the following three documents are currently recorded on this property: 1) Agreement for the Use and Maintenance of Open Space/Habitat Preservation Facility in the City of La Habra Heights, 2) Conservation easement, and 3) Lease Agreement. There was an additional Interim Fire Station Lease that is not recorded on the property and has expired.

The City Attorney and counsel for the Habitat Authority have been working on restating, simplifying and replacing the above documents with the following documents to allow the project to move forward: 1) Cooperation and Implementation Agreement (Agreement), 2) Declaration of Restrictive Covenants, and 3) Heli-hydrant Easement. Current drafts are attached, and they are still being finalized for further clarification.

Additionally, the Agreement would allow for the City's public street, La Habra Road, to be vacated in Powder Canyon consistent with its General Plan and retention of a subsequent smaller easement for City emergency vehicle access instead.

The City would be the lead agency for determining heli-hydrant project compliance with the California Environmental Quality Act.

*Fiscal Impact:*

The full fiscal impacts could include, but may not be limited to, Authority past investments of cleaning up the site, past restoration on the property, and staff and legal time.



## SPECIAL MEETING AGENDA

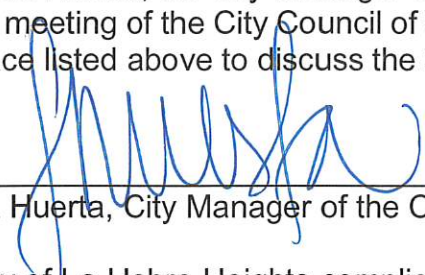
### CITY OF LA HABRA HEIGHTS CITY COUNCIL

1245 North Hacienda Road  
La Habra Heights, California 90631

4:00 p.m. Regular Business

**July 27, 2021**

I, Fabiola Huerta, as City Manager of the City of La Habra Heights, do hereby call a special meeting of the City Council of the City of La Habra Heights, to be held at the time and place listed above to discuss the matters listed below.



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Fabiola Huerta, City Manager of the City of La Habra Heights

The City of La Habra Heights complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the City Clerk's office at (562) 694-6302.

Materials related to any items on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection at the City Clerk's Office at 1245 N. Hacienda Road, La Habra Heights, CA 90631 during normal business hours.

#### **PUBLIC COMMENT PROCESS**

Each member of the public may speak for a total of five minutes on any action item listed on the agenda or other matters within the Council's purview except with regards to items listed as public hearings. To speak in the Public Comment segment please complete and deliver a speaker's card to the Clerk prior to the call for public comments. You will be called to the podium by name when it is your turn to speak. All Public Comments shall be made in accordance with Section 6 and Section 8 of the City of La Habra Heights [Rules of Procedure](#).

Should you need to provide written documentation, please give the Clerk a minimum of **NINE (9)** copies prior to the start of the meeting so the information can be distributed to the Council.

VIEW THE CITY COUNCIL MEETING LIVE AT: [WWW.LHHCITY.ORG](http://WWW.LHHCITY.ORG)

In conjunction with Federal, State and Los Angeles County public health regulations, the public may physically attend City Council meetings. Due to limited designated seating, members of the public will be allowed to enter on a first come, first served basis. To protect Council Members, members of the public, and staff, social distancing and face mask mandates will continue at City Hall at this time. The City will evaluate the current circumstances before each meeting to decide if it is safe to change ongoing COVID-19 safety protocols in place.

Members of the public may also go to [www.Lhhcity.org](http://www.Lhhcity.org) to view the live broadcast of the City Council meeting. For public comments, you may submit comments on any agenda item or item not on the agenda in writing via mail to City of La Habra Heights, ATTN: City Council, 1245 N. Hacienda Road, La Habra Heights, CA 90631, email to [Info@Lhhcity.org](mailto:Info@Lhhcity.org), or via phone at (562) 694-6302 Ext. 0. Please note that the City Council is making every effort to follow the spirit and intent of the Brown Act and other applicable laws regulating the conduct of public meetings in order to maximize transparency and public access. It would be appreciated if communications of public comments are provided via mail, email or over the phone prior to the commencement of the meeting.

### **NOTICE**

If you challenge any action of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. (Govt. Code § 65009(b)(2))

### **OPENING CEREMONIES**

1. CALL MEETING TO ORDER
2. ROLL CALL
  - A. Dennis Laherty, Mayor
  - B. Brian Bergman, Mayor Pro Tempore
  - C. Carey Klingfus, Council Member
  - D. Jane Williams, Council Member
  - E. Norm Zezula, Council Member
3. FLAG SALUTE
4. PUBLIC COMMENTS ON MATTERS ON THE AGENDA

## **ADMINISTRATIVE ITEMS**

### **5. APPROVAL OF HELI-HYDRANT PROJECT**

**RESOLUTION NO. 2021-21: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA HEIGHTS, CALIFORNIA, AUTHORIZING THE PURCHASE AND INSTALLATION OF A HELI-HYDRANT**

**RECOMMENDATION:**

It is recommended that the City Council:

- A. Open public comments and consider all information presented; **AND**
- B. Approve the Cooperation and Implementation Agreement with the Puente Hills Habitat Preservation Authority, including acceptance of an Easement for the heli-hydrant site, subject to City Attorney approval, and authorizing staff to take all necessary measure to complete the documents and effectuate the transaction; **AND**
- C. Direct staff to prepare a resolution to summarily abate La Habra Road and present the proposed abatement to the Planning Commission to determine consistency with the General Plan; **AND**
- D. Adopt Resolution No. 2021-21 authorizing the purchase and emergency installation of the heli-hydrant; **AND**
- E. Appropriate funds in the amount of \$279,852 from the General Fund to 260-710FIR-6830 for the cost of the purchase and contingency; **AND**
- F. Find that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines exemption §15269(c) because the heli-hydrant project is a specific action necessary to prevent or mitigate an emergency and direct staff to file a Notice of Exemption with the County Clerk.

**----- END OF ADMINISTRATIVE ITEMS -----**

**ADJOURN MEETING**

UPON ADJOURNMENT OF THE MEETING, PLEASE LEAVE THE ROOM PROMPTLY AND TAKE YOUR PERSONAL BELONGINGS WITH YOU TO ALLOW STAFF TO CLEAN UP AND CLOSE THE BUILDING. IF YOU ARE RECORDING, PLEASE NOTE THAT THE CONVERSATIONS THAT TAKE PLACE FROM THIS POINT FORWARD MAY BE PRIVATE, ARE NOT PART OF THE PUBLIC MEETING, AND CONSENT OF ALL PARTIES TO THE CONVERSATION MAY BE REQUIRED PRIOR TO RECORDING.



## City of La Habra Heights AGENDA REPORT

Meeting Date: July 27, 2021

Agenda Item # 5

TO: Honorable Mayor and City Council

FROM: Fabiola Huerta, City Manager  
Michael Maurer, City Attorney

**SUBJECT: APPROVAL OF HELI-HYDRANT PROJECT**

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The item before the City Council today is the approval of the Heli-Hydrant Project, which consists of the following City Council actions:

1. Open public comments and consider all information presented;
2. Approve the Cooperation and Implementation Agreement with the Puente Hills Habitat Preservation Authority, including acceptance of an Easement for the heli-hydrant site, subject to City Attorney approval, and authorizing staff to take all necessary measure to complete the documents and effectuate the transaction;
3. Direct staff to prepare a resolution to summarily abate La Habra Road and present the proposed abatement to the Planning Commission to determine consistency with the General Plan;
4. Adopt Resolution No. 2021-21 authorizing the purchase and emergency installation of the heli-hydrant;
5. Appropriate funds in the amount of \$279,852 from the General Fund to 260-710FIR-6830 for the cost of the purchase and contingency;
6. Find that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines exemption §15269(c) because the heli-hydrant project is a specific action necessary to prevent or mitigate an emergency and direct staff to file a Notice of Exemption with the County Clerk.

### **BACKGROUND**

A heli-hydrant is a water tank which serves as a remote water source for water dropping helicopter pilots to use and reuse during a wildfire. The heli-hydrant is an innovative fire

protection solution aimed at maximizing helicopter water dropping capabilities to protect both wildlife and communities. The heli-hydrant integrates into already existing hydrants or municipal water systems. Sitting as an open-top bolted steel tank, the heli-hydrant provides an easy, reliable and convenient way for water-dropping helicopters to dip and refill their water snorkels, allowing for a quicker aerial response time.

Critically, a heli-hydrant does not require a Fire Department helicopter to land in order to fill its tank and release water onto active wildfires or high fuel load areas. The heli-hydrant allows the helicopter to fill its entire tank within 6 minutes, saving critical time needed to restrict a fire's progress. The current process based on existing resources would require a helicopter to refill water at the soccer field at Schabarum Park, several miles away and logistically more complicated because the helicopter would have to land. Ground crews are also necessary during this refilling operation, which takes additional resources from a fire.

Yorba Linda installed two heli-hydrants. Both refill automatically, and one heli-hydrant holds 2,700 gallons of water and the other holds 4,700 gallons of water. The first heli-hydrant installed by Yorba Linda was used by helicopters battling the Blue Ridge Fire in October 2020. The second heli-hydrant was built about 10 miles east of the location of the first heli-hydrant. Yorba Linda also plans on installing a third heli-hydrant.

In recent years, the La Habra Heights City Council has held public meetings and engaged staff on the increasing frequency and severity of wildfires within the region. The City Council has sought to evaluate feasible mitigation measures that can protect the health, safety and welfare of residents, particularly in an area deemed an extreme fire hazard severity zone by the California Department of Forestry and Fire Protection.

On February 8, 2021, the City Council formed an *ad hoc* committee, consisting of Mayor Laherty and Mayor Pro Tempore Bergman, to evaluate possible development of a heli-hydrant in the City, potentially on the portion of leased Habitat Authority land known as the Diaz/Old Coach Site. At previous meetings, the *ad hoc* committee reported to the City Council the significant benefits to fire suppression services that would result from a heli-hydrant that could be utilized by Los Angeles County Fire flight crews. This additional fire resource would provide wildfire protection not only to La Habra Heights, but also to the Habitat Authority and the surrounding region.

The proposed heli-hydrant will hold up to 7,900 gallons of water. It will sit 8 feet tall and is 15 feet in diameter. The heli-hydrant will be connected to the current water infrastructure in the area. The heli-hydrant tank is constructed of ten steel panels and a tank floor, a radio controlled valve for pilot activation, a float valve for automatic refill, and a small drain valve. The heli-hydrant will be set on a gravel base and secured by four in-ground concrete footings. The tank is equipped with an escape ramp to aid any animals that may happen to get into the tank. The heli-hydrant is 100% solar powered and will not require connection to the electrical grid.

The tank will serve as a water source for firefighting helicopters to use during wildfires. Also, the heli-hydrant is the first of its kind in Los Angeles County and the largest ever installed. The larger tank capacity will support all firefighting helicopters including the newer heli-tankers that are capable of holding 3,000 gallons of water. The short-range radio frequency allows helicopter pilots to fill and drain the tank as needed. This frees ground resources which would traditionally be used to fill tanks.

The City Attorney has been working with the Habitat Authority's legal counsel on the Cooperation and Implementation Agreement which includes acceptance of the easement for the heli-hydrant site.

### **EASEMENT FROM HABITAT AUTHORITY/TRANSACTION TERMS**

The proposed location of the heli-hydrant is on land commonly known as the Diaz/Old Coach site which is owned by the Puente Hills Habitat Preservation Authority. The City can only gain access and use the location if the Habitat Authority grants rights to the City. The Habitat Authority is willing to grant the City an easement, on certain terms and conditions, as explained below.

First, it is necessary to provide some background information on the site and the complexity of its current title. The Diaz/Old Coach site was originally part of a transaction in 1999 between the City and Habitat Authority, which mainly consisted of three parts. A "Use and Maintenance Agreement" contains various obligations of each party. The Habitat Authority then leased the site to the City, and the City granted a conservation easement back to the Habitat Authority. The purpose of the conservation easement is to ensure that the site will be maintained permanently as open space and habitat preservation so that the area will be left in a natural, undeveloped and unspoiled condition.

The lease/conservation easement structure of the original transaction creates a confusing and unwieldy contractual arrangement. Staff is therefore proposing a new transaction with the Habitat Authority that carries forward all of the relevant provisions from the original transaction, but in a more simplified and practical format. Rather than lease the property to the City, staff is proposing that the Habitat Authority simply record a Declaration of Restrictive Covenants, which will accomplish the same purposes and have the same effect as the conservation easement, but without the need for the City to be a lessee. The City and the Habitat Authority can then terminate the original lease and the conservation easement, and the Habitat Authority can simply grant an easement to the City for the heli-hydrant site. To implement this new transaction, the City and the Habitat Authority have negotiated a "Cooperation and Implementation Agreement," which sets forth the obligations of the parties.

In exchange for the easement, the City will agree to certain installation features and to proceed with initiating vacation of a separate easement (discussed below). For the protection of wildlife, the City will agree to install a heli-hydrant that is of sufficient height to reduce the risk of animals jumping into the basin and becoming injured, will provide a

ramp within the basin for animal egress, and will avoid the use of barbed wire fencing. In order to eliminate the need for regular weed maintenance, the City will pave the area around and to the heli-hydrant, and the City will take steps to avoid draining the tank in a manner that will erode the hillside or cause vegetation growth. The tank will also be kept dry to avoid standing water issues. The City will utilize solar power for the on-site facilities to the extent feasible and will avoid light pollution.

The City currently holds an easement for public streets on "La Habra Road," which is an undeveloped public road that runs from about Fullerton Road (near the intersection with East Road) north through Powder Canyon to the City's northern boundary. La Habra Road is currently used as a fire access road and is the trail through Powder Canyon. The City's General Plan identifies La Habra Road as a fire road and trail rather than a public street (Attachment 1 is Exhibit 4-1) and encourages its vacation for public street uses. Circulation Element Policy 15 states:

*Any designation of roads within Powder Canyon is obsolete due to the acquisition of that land for permanent habitat preservation, and such designations are hereby eliminated from the Circulation Map of this General Plan and the City should encourage Los Angeles County to eliminate them from its Master Plan of the Highways as well.*

The City may, however, vacate La Habra Road for public street uses but continue to reserve an easement over La Habra Road for emergency access uses, such as fire-fighting, fire prevention and responding to medical emergencies in Powder Canyon. The transaction proposes that the City would reserve an emergency access easement.

Because La Habra Road is undeveloped and therefore has been impassable for vehicular travel for a period of more than five years, and the City has not expended money to maintain it as a public street or highway during this period, the City Council may utilize a summary vacation procedure to vacate the easement. The City Council will first have to refer the proposed vacation to the Planning Commission for a determination that it is consistent with the General Plan, and then the City Council will need to adopt a resolution of vacation. The easement will be vacated upon recording the resolution. If the City Council approves the proposed Cooperation Agreement, staff will present the vacation to the Planning Commission at its next meeting and bring a resolution to the City Council at the following regular meeting.

In addition to conveying the heli-hydrant easement, the Habitat Authority will have the same obligations as under the original transaction, except that obligations that are now obsolete will not be restated. In short, the Habitat Authority will continue to perform brush clearance as required by the Fire Chief, pay an annual fire fee to the City (currently \$10,948.96 for the City's fiscal year 2020/2021, and adjusted annually), maintain an equestrian facility in Powder Canyon, provide mitigation for Old Ranch Road and Skyline Drive if the Habitat Authority's activities increase the use of such roads, and delineate the wildlife corridor properties with the City.

If approved, the City Council will also be authorizing and directing staff to take all measures to complete the documents and finalize the transaction. Among other tasks, the City will need to prepare a legal description of the specific heli-hydrant easement area. To the extent there is any delay in finalizing the easement document, the Cooperation and Implementation Agreement does provide a temporary license for the City to begin installation on September 1<sup>st</sup>.

### **PURCHASE AND EMERGENCY INSTALLATION OF HELI-HYDRANT**

Both the City's Municipal Code and the Public Contract Code differentiate in the process for procuring goods and procuring construction work. The heli-hydrant is a hybrid project as staff is recommending that the City purchase the tank from the manufacturer and have the manufacturer perform the installation (assuming, conservatively, that installation would be considered construction work for purposes of state procurement laws.) For the purchase of the tank, the Municipal Code specifically authorizes the City Council to find that the purchase from Whaling Fire Line Equipment is in the best interest of the City and that Whaling is a sole source of the product needed. Staff recommends that the City Council find that the purchase is in the best interest of the City because the heli-hydrant is a relatively new and unique product that is specially designed and fabricated to meet the City's needs. Additionally, there is significant urgency in immediately making a purchase order as there is a lead time for order, fabrication and delivery. Any delay occasioned by performing a formal or informal procurement will make installation prior to the end of this year's fire season untenable. Given the drought and severe fire hazard conditions in effect this particular year, avoiding delay is in the best interest of the City. For the same reasons, the City Council may also find that Whaling is a sole source of the heli-hydrant project needed and authorize the purchase on that basis.

For the installation work, there are two exceptions to formal bidding. First, courts have noted a well-recognized exception "where the nature of the subject of the contract is such that competitive proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bid[s] would thus be undesirable, impractical, or impossible." (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal. App. 3d 631, 635-636.) In *Graydon*, the court particularly allowed for an "integrated project" where hiring a separate public contractor as opposed to the developer performing work on site would not have produced an advantage to the public. For installation of the heli-hydrant, advertising bids would not produce an advantage to the City. Rather than having a single delivery and installation, the City would have two separate contracts for delivery and installation, resulting in inefficiencies in the transition of custody, storage, and transfer on to the site, among others. Additionally, mobilizing a separate installation contractor is unlikely to lead to any costs savings. Finally, given the time it would take to advertise, award and coordinate a separate contractor, such process would be impractical as it would result in considerable delay and could undermine the City's ability to install the tank during the high-risk season.

Finally, the Public Contract Code authorizes cities to dispense with formal bidding in the event of emergency, which is a “sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.” To proceed with an emergency contract, the City Council may pass a resolution by a four-fifths vote of its members declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property. Here, the drought and significant fire hazard conditions this season pose a clear and imminent danger, and the City Council’s immediate action will enable the installation of an important tool and “force multiplier” to prevent and mitigate against the extreme risks of a wildfire.

The *Graydon* common law exception to bidding and the statutory emergency procedures are both incorporated into Chapter 2.10 of the Municipal Code and are available tools for the City Council. Staff has therefore included a proposed resolution with this report.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

As Lead Agency, City Staff reviewed the Project for compliance with the California Environmental Quality Act (“CEQA”). Pursuant to CEQA Guidelines, City Staff assessed whether any of CEQA’s exemptions applied to the Project. In particular, City Staff evaluated CEQA Guidelines exemption §15269(c), which states in pertinent part that emergency projects which require “specific actions necessary to prevent or mitigate an emergency” are exempt from the requirements of CEQA.

Based on the current forecast for the 2021 fire season in Southern California, City Staff evaluated the applicability of §15269(c). According to the National Significant Wildland Fire Potential Outlook, the Southwest is forecast to have an above normal significant fire potential this season. As noted in the Scientific Reports Journal Article: “Spatial and Temporal Pattern of Wildfires in California from 2000 to 2019,” changes in climate and land utilization caused by human activities have not only extended the wildfire season, but also significantly increased the severity and burned areas of wildland fires. As such, Southern California is slated for a long and severe wildfire season.

The critical factors influencing significant fire potential for this outlook period, as established by the North American Seasonal Fire Assessment and Outlook, are El Nino-Southern Oscillation and the present drought. The US Drought Monitor assessed that nearly 50% of California is in a state of extreme drought, while 85% is considered to be under a state of severe drought, representing the most expansive and intense drought for the West this century. The National Significant Wildland Fire Potential Outlook also noted that drought across central and southern California continued to worsen in May as warm and dry conditions remained, leaving much of the area under severe to extreme drought. In light of this, Governor Gavin Newsom directed state agencies to take immediate action to bolster drought resilience and proposed a two billion dollar fund for disaster preparedness, including urgent action to support wildfire suppression.

With this in mind, City Staff addressed La Habra Height's vulnerability to fire and the preparation necessary to address the risk. The Office of the State Fire Marshall identified La Habra Heights as a community that is at high risk of damage from wildfire. Expert recommendations for preparedness to combat this high risk, according to the Scientific Reports Journal Article: "Spatial and Temporal Pattern of Wildfires in California from 2000 to 2019," requires the development and implementation of proactive fire prevention policies which can effectively reduce the probability of wildfire ignition, the risk of extreme fires, and the social and economic losses caused by wildfires.

In recognition of the forecasted fire season, the presence of these high risks, and expert recommendations, City Staff determined that a heli-hydrant is the best option to implement proactive fire prevention. Specifically, the heli-hydrant allows for temporary or permanent installation, reduces firefighting operation costs, provides more water drops per hour, frees up ground crews and fire engines, stays dry until needed, and provides rapid refill for multiple helicopters. With its multitude of benefits, City Staff concluded a heli-hydrant is necessary to prevent the emergency presented by the 2021 fire season.

Based on the above, City Staff finds that the heli-hydrant project is exempt from further environmental review under CEQA Guidelines §15269(c). City Staff recommends the City Council to prepare, execute, file and post with the Los Angeles County Clerk a Notice of Exemption within five working days of approving this project.

### **FISCAL IMPACT**

The estimate to prepare the site of the heli-hydrant, installation of the water supply from the heli-hydrant to the current water infrastructure on the street, and the installation of the heli-hydrant and electronic component is \$246,320. Staff is working with other contractors to lessen the costs of the site preparation and installation of the water supply. The work is broken down as follows:

- Site preparation including clearing of brush, removal of existing asphalt driveway and leveling of pad.
- Installation of footings.
- Supply and install water supply connection from heli-hydrant to current water infrastructure on street.
- Installation of heli-hydrant and electronic components.

Staff has also included a 10% contingency for the project, which is a total of \$24,632.

A survey of the property and a legal description are also necessary to include in the easement agreement. The cost of the survey and preparation of the site description is estimated at \$8,900.

The costs are as follows:

Site Preparation and Installation of Heli-Hydrant	\$246,320
Survey and Legal Description of Heli-Hydrant Site	\$ 8,900
10% Project Contingency	\$ 24,632
<b>Total Project Costs</b>	<b>\$279,852</b>

### **RECOMMENDATION**

It is recommended that the City Council:

- A. Open public comments and consider all information presented; **AND**
- B. Approve the Cooperation and Implementation Agreement with the Puente Hills Habitat Preservation Authority, including acceptance of an Easement for the heli-hydrant site, subject to City Attorney approval, and authorizing staff to take all necessary measure to complete the documents and effectuate the transaction; **AND**
- C. Direct staff to prepare a resolution to summarily abate La Habra Road and present the proposed abatement to the Planning Commission to determine consistency with the General Plan; **AND**
- D. Adopt Resolution No. 2021-21 authorizing the purchase and emergency installation of the heli-hydrant; **AND**
- E. Appropriate funds in the amount of \$279,852 from the General Fund to 260-710FIR-6830 for the cost of the purchase and contingency; **AND**
- F. Find that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines exemption §15269(c) because the heli-hydrant project is a specific action necessary to prevent or mitigate an emergency and direct staff to file a Notice of Exemption with the County Clerk.

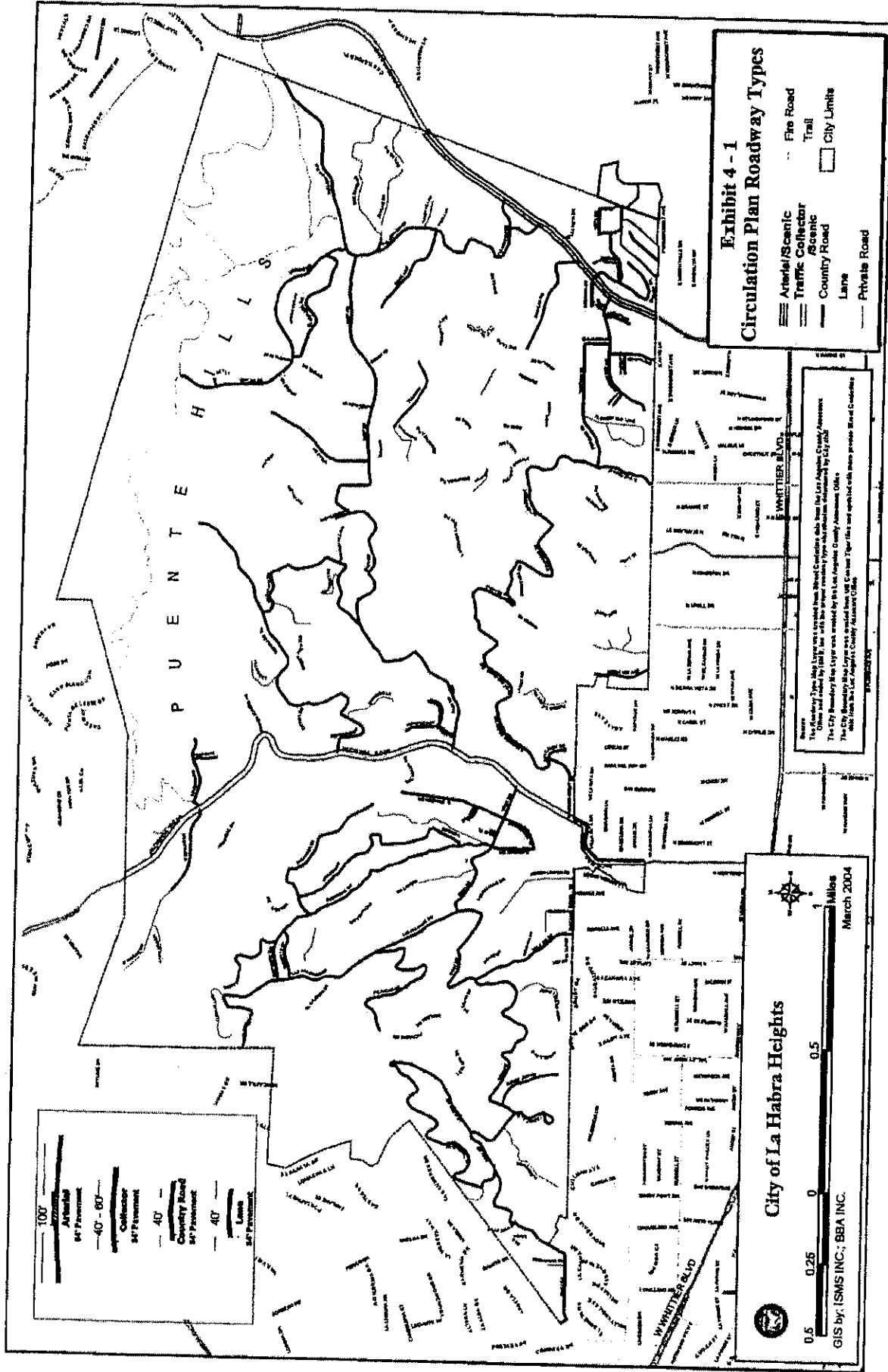
### **ATTACHMENT**

- 1. La Habra Heights General Plan Exhibit 4-1
- 2. Resolution No. 2021-21
- 3. Draft Cooperation and Implementation Agreement

### **AGENDA REPORT APPROVAL**

  
Fabiola Huerta  
City Manager

  
Rafferty Wooldridge  
Assistant City Manager



## RESOLUTION NO. 2021-21

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA HEIGHTS, CALIFORNIA, AUTHORIZING THE PURCHASE AND INSTALLATION OF A HELI-HYDRANT**

**WHEREAS**, the State of California is facing an unprecedented wildfire risk, due to dry conditions, rising temperatures, and other factors; and

**WHEREAS**, the majority of land within the City of La Habra Heights is designated as an extreme fire hazard severity zone; and

**WHEREAS**, the topography of La Habra Heights consists largely of conserved open space land and other undeveloped canyons and hillsides, resulting in a risk of wildfire to life, wildlife and habitat, and property; and

**WHEREAS**, the threat of wildfire and the unprecedented dry and hot conditions in 2021 pose a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services;" and

**WHEREAS**, a "heli-hydrant" is a tool for fighting wildfires that consists of a basin that can be promptly filled with water in the event of a wildfire, enabling water-dropping helicopters to fill their tanks without having to land and take off again; and

**WHEREAS**, a heli-hydrant is a force multiplier for combatting wildfires as it allows helicopters to fill up more quickly and to immediately depart to drop water on active fires, and it also allows for the use by larger water-dropping helicopters that would otherwise be unable to land; and

**WHEREAS**, the City Council needs to purchase and install a heli-hydrant to enable its use as soon as reasonably possible in order to safeguard life, health, or property.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LA HABRA HEIGHTS, CALIFORNIA, RESOLVES AS FOLLOWS:**

**Section 1.** *Incorporation.* The City Council finds that the above-stated recitals, together with all information presented in the staff report accompanying this resolution and at the presentation of this item to the City Council are incorporated into this resolution, are true and correct, and are adopted as the facts supporting the findings and determinations of the City Council contained in this resolution.

**Section 2.** *Best Interest of the City.* In accordance with La Habra Heights Municipal Code ("LHMC") Section 2.10.100.I., the the City Council or City Manager finds that the immediate purchase of the heli-hydrant as presented by staff is in the best interest of the City and of the public health, safety, and welfare.

**Section 3.** *Sole Source/No Competitive Market.* In accordance with LHHMC section 2.10.100.D and J, the City Council finds that that a competitive market does not exist for the heli-hydrant product, that the City will not gain a competitive advantage by using a formal or informal bidding procedure, and that that there is only one source that effectively provides the heli-hydrant product needed.

**Section 4.** *Installation.* The City Council finds that the determinations set forth in sections 2 and 3 above apply equally to the installation of the heli-hydrant.

**Section 5.** *No Public Advantage in Competitive Bidding.* In accordance with Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal. App. 3d 631, and with LHHMC section 2.10.100, the City Council finds that the nature of the heli-hydrant project is such that competitive proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bids would thus be undesirable, impractical, or impossible, and therefore the public interest would best be served by immediately contracting for the installation.

**Section 6.** *Emergency Contracting.* In accordance with Government Code sections 22050, 21068 and 1102, and LHHMC section 2.10.100.C, the City Council finds that the emergency conditions will not permit a delay resulting from a competitive solicitation for bids, that immediate action is necessary to respond to the emergency, and that installation of the heli-hydrant is directly related to and required by the emergency conditions related to extreme wildfire risk.

**Section 7.** *Review of Emergency.* The City Council directs staff to place an item on each City Council regular meeting agenda to consider the City Council's emergency finding and confirm the need to continue with the action until terminated.

**Section 8.** *Substantial Evidence.* Each finding or determination of the City Council herein is based on substantial evidence in the record of proceedings including evidence contained in the accompanying staff report and presented at the meeting.

**Section 9.** *Authorization for Purchase.* Based on each of the foregoing findings, which shall each be a separate and distinct basis for making the purchase, the City Manager is hereby authorized and directed to purchase the heli-hydrant and installation thereof from Whaling Fire Line Equipment, complete and execute all necessary documents, and perform all other tasks to effectuate the transaction.

**Section 10.** *Severability.* To the extent any portion of this resolution is determined to be void, unenforceable or unlawful, then the remainder of this resolution shall remain in full force and effect. In the event this resolution is adopted by less than 4/5 of all members of the City Council, then the resolution shall nonetheless be in full force and effect, except that the authorization for emergency contracting shall be deemed to be general findings and not as the 4/5 authorization necessary for emergency contracting.

**PASSED, APPROVED, AND ADOPTED** this 27<sup>th</sup> day of July, 2021 by the City Council of the City of La Habra Heights in the State of California.

AYES: COUNCIL MEMBERS:  
NOES: COUNCIL MEMBERS:  
ABSENT: COUNCIL MEMBERS:  
ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Dennis Laherty, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael Maurer, City Attorney

**CERTIFICATE OF ATTESTATION AND ORIGINALITY**

I, Fabiola Huerta, City Clerk do hereby attest to and certify the foregoing Resolution No. 2021-21 was adopted by the City Council of the City of La Habra Heights at a special meeting held on July 27, 2021.

\_\_\_\_\_  
Fabiola Huerta, City Clerk

\_\_\_\_\_  
Date

## COOPERATION AND IMPLEMENTATION AGREEMENT

THIS COOPERATION AND IMPLEMENTATION AGREEMENT (“**Agreement**”) is made this [redacted] day of [redacted], 2021 by the PUENTE HILLS HABITAT PRESERVATION AUTHORITY, a joint powers authority (“**Authority**”) and the CITY OF LA HABRA HEIGHTS (“**City**”), each a “Party and jointly referred to as the “**Parties.**”

### R E C I T A L S

A. Authority is the sole owner in fee simple of certain real property, containing approximately [redacted] acres located in the City of La Habra Heights, County of Los Angeles, State of California (APNs [redacted]) legally described on Exhibit A (“**Parcels**”). The Parcels are commonly known as the “Diaz/Old Coach Site.”

B. On or about June 24, 1999, the Authority and City entered into a transaction to govern the ongoing preservation and use of the Parcels (“**Original Transaction**”) which primarily consisted of three (3) agreements:

(1) The Agreement For the Use and Maintenance of Open Space/Habitat Preservation Facility in the City of La Habra Heights (“**Maintenance Agreement**”), which was recorded as Instrument No. 99-1344825 in the Official Records of Los Angeles County (“**Official Records**”) and amended by the Parties on March 10, 2005, which provided for maintenance and obligations with respect to the Parcels.

(2) The Conservation Easement (“**Conservation Easement**”), which was recorded as Instrument No. 99-1344826 in the Official Records whereby the City, as lessee of the Parcels, granted to the Authority an easement to preserve the parcels for conservation and open space uses.

(3) The Lease Agreement (“**Lease Agreement**”), which was recorded as Instrument No. 99-1344827 in the Official Records whereby the Authority leased the Parcels to the City for fifty-five (55) years at One Dollar (\$1.00) per year for permanent open space and habitat preservation and other limited uses.

For information and convenience, the Original Transaction documents are attached hereto as Exhibit B-1, B-2 and B-3 respectfully.

C. Much of the land within the City of La Habra Heights, including the Parcels, has been designated by the California Department of Fire and Forestry as an extreme fire hazard severity zone. Due to the continuing risk of wildfire, the City has proposed installing a heli-hydrant which is an open-air water tank that can promptly fill with water in the event of a wildfire and that water-dropping helicopters may access to fill their tanks quickly and without needing time to land (“**Heli-Hydrant**”). Due to various topographical, geographical and atmospheric characteristics, the City, in consultation with the Los Angeles County Fire Department, has determined that the area within the Parcels is the prime location for installation of the Heli-Hydrant, which is generally described in Exhibit C (“**Heli-Hydrant Site**”) which is the site of a previously demolished structure and driveway.

D. Pursuant to the terms of this Agreement, the Parties have agreed to restate, clarify and amend the Original Transaction to ensure that the City may install the Heli-Hydrant on the Heli-Hydrant Site including terminating and replacing the Original Documents and entering into new agreements to identify the respective responsibilities of each Party and to indicate the ongoing covenants from the Original Transaction which include a grant of easements and a covenant agreement to bind the Parcels.

## **AGREEMENT**

NOW THEREFORE, for the good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

**1. Restatement of Transaction.** The Parties agree to take the following measures to amend and restate the Original Transaction and to enable the City's installation of the Heli-Hydrant at the Heli-Hydrant Site:

**1.1 Declaration of Restrictive Covenants.** The Authority shall execute and acknowledge the Declaration of Restrictive Covenants in substantially the form attached hereto as Exhibit D for the purpose of ensuring that the Parcels will be retained in perpetuity in a natural condition and to prevent any use that will impair or interfere with the conservation values of the Parcels, except as expressly stated therein ("**Declaration**"). The Parties intend that the Declaration shall replace and serve the same purpose as the Conservation Easement.

**1.2 Heli-Hydrant Easement.** The Authority shall execute and acknowledge the Grant of Easements in substantially the form attached hereto as Exhibit E which grants a perpetual easement to the City for the use of, and access to, the Heli-Hydrant Site ("**Heli-Hydrant Easement**"). The City shall, at its cost, prepare the legal description for the Heli-Hydrant Easement Area and the driveway access which is to be attached to the Heli-Hydrant Easement. The Heli-Hydrant Easement shall be consistent with the location of the existing driveway at the Heli-Hydrant Site. Prior to recordation of the Heli-Hydrant Easement, the City shall execute the Certificate of Acceptance attached thereto.

**1.3 New Documents.** The Declaration and Heli-Hydrant Easement are sometimes jointly hereinafter referred to as the "**New Documents**."

**1.4 Termination of Original Transaction Documents.** The Parties stipulate and agree that the Maintenance and Use Agreement, the Lease Agreement, and the Conservation Easement shall terminate concurrently with the recordation of the New Documents in the Official Records. The Parties shall execute and acknowledge mutually acceptable documents to terminate the Original Documents which shall be recorded in the Official Records ("**Termination Documents**").

**1.5 Recordation.** Authority shall execute and deliver the New Documents and the Termination Documents to City for prompt recordation in the Official Records concurrently with the La Habra Road Easement (as defined in Section 3.3). The Parties shall mutually agree as to the specific order of recordation of the documents. City shall obtain conformed copies of all the recorded documents and promptly provide same to the Authority.

**2. Authority's Continuing Obligations to City.** Certain of the Authority's obligations set forth in the Original Transaction Documents shall continue as specified in the New Documents.

**2.1 Annual Brush Clearance.** Authority shall continue to provide annual brush clearance for the Parcels which was originally mandated in Section 1 of the Maintenance Agreement and as the City and Authority amended on March 10<sup>th</sup>, 2005. The Parties agree that the City will have the power to require the Authority undertake an annual brush clearing program encompassing all Authority land within the City, in accordance with the reasonable requirements established by City's Fire Chief. The Authority will solicit bids to complete the work and will enter into a contract with the lowest qualified bidder for completion of the work. The Authority will be responsible for payment of the contract fee. If the Fire Marshall puts Authority on notice that the brush clearance has not been completed according to the City Ordinance and the Authority fails to take reasonable corrective action within 14 calendar days of receipt of such notice: 1) the City may make corrective action or hire a contractor to take reasonable corrective action; 2) the Authority shall pay for the cost of such corrective action.

**2.2 Annual Fire Fee.** Pursuant to Section 5.c of the Declaration, Authority shall continue to pay the City an annual fire fee which was originally mandated in Section 2 of the Maintenance Agreement.

**2.3 Equestrian Facility.** Pursuant to Section 5 of the Maintenance Agreement, Authority agreed to build an equestrian facility, with a trail head parking area for horse trailers and an equestrian exercise ring, and did construct such facilities in Powder Canyon. Authority shall continue to permit the use public use of the existing trail head, equestrian and parking facilities as originally set forth in Section 5 of the Maintenance Agreement.

**2.4 Road Maintenance.** Pursuant to Section 5.d. of the Declaration, Authority shall be responsible to continue to work with other owners of other properties served by Old Ranch Road and Skyline Drive to provide for the maintenance of the roads as originally provided in Section 9 of the Maintenance Agreement.

**2.5 Delineation of Wildlife Corridor.** Authority shall continue to have the same obligations with regard to the Wildlife Corridor as originally mandated by Section 10 of the Maintenance Agreement (as defined therein) and which are depicted on Exhibits C-1 through C-4 of the Maintenance Agreement (See Exhibit B-1, attached hereto).

**3. City's New Obligations to Authority.** In consideration of the right to install the Heli-Hydrant, the City has the following obligations some of which are specified in the Heli-Hydrant Easement.

**3.1 Installation Features.** The Parties shall meet and confer regarding the design and installation of the Heli-Hydrant, and City shall provide Authority with any plans, designs, installation contracts and related documents. City shall notify the Authority of any potential changes to the Heli-Hydrant or surrounding features. City shall provide the following:

3.1.1 The Heli-Hydrant shall be at least eight (8) feet above the ground surface to prevent wildlife from getting into the Heli-Hydrant basin. It shall have a ramp or similar

feature within its basis that enables animals of all sizes to independently egress out of the basin. No barbed wire fencing shall be used within the Heli-Hydrant Easement area.

3.1.2 Within a reasonable time following installation of a Heli-Hydrant, but in no event later than 120 days following installation, City shall at City's expense install permeable pavement over the driveway area and surrounding the Heli-Hydrant installation.

3.1.3 There shall not be nighttime lighting on the site, except for lighting that is necessary to serve a public safety function, such as providing a signal to helicopters utilizing the site. Except where necessary for public safety, any such lighting shall not remain continuously on during the night except when in use, and City shall take reasonable measures to avoid light pollution, such as by only installing down-lighting, if any on-site lighting is installed.

3.1.4 To the maximum extent feasible, the City shall utilize on-site solar facilities for providing electrical power to the Heli-Hydrant facilities, provided that the solar power can provide sufficient and consistent electrical power to meet the public safety purposes of the Heli-Hydrant.

3.1.5 City shall obtain approval from the Authority on the design of the manner in which the unused water in the tank is drained to avoid erosion and prevent unwanted vegetative growth near the facility, which approval shall not be unreasonably withheld. City may, without additional approval, install or cause to be installed lateral pipelines to convey the water offsite.

**3.2 Vacation of La Habra Road Easement.** For the express purpose of providing additional wildlife corridor property as a result of installation of the Heli-Hydrant facilities, City shall initiate the process to vacate or terminate its existing easement for a public road commonly referred to as La Habra Road located on Authority-owned property in the Powder Canyon area and more particularly described in Exhibit G ("**La Habra Road Easement**") within 60 days of execution of the New Documents. However, as part of the vacation of La Habra Road Easement, the City may reserve a public service easement for emergency access on the La Habra Road Easement. Following City's approval of the vacation of the La Habra Road Easement, City shall record the La Habra Road Easement concurrently with recordation of the New Documents pursuant to Section 1.4.

**3.3 Indemnification.** City shall defend, indemnify and hold harmless Authority, its officers, employees and agents from or against any third party litigation to attack, set aside, void, or annul the Authority's approval of this Agreement, or the approval of any rights granted to the City under this Agreement, or any challenges related to the City's vacation of the La Habra Road Easement. In the event of any such action, Authority shall promptly notify the City and participate in the defense in good faith. City shall have sole and exclusive control over any such defense, including the ability to select legal counsel and settle any claims. To the extent any third party claim is subject to an indemnification provision in any other agreement between the Parties, including but not limited to the terms of the grant deed for the Heli-Hydrant Easement, the indemnification provision in the other agreement shall control.

**4. Exigent Circumstances.** The Parties acknowledge that they are entering this Agreement due to the exigent need to prepare for significant wildfire risk during the height of the 2021 wildfire season. As such, the Parties agree that time is of the essence and agree to take all steps necessary to expedite installation of the Heli-Hydrant as soon as possible. The Parties agree to promptly take all actions and to diligently cooperate to prevent or delay installation and preparation for use of the Heli-Hydrant. To facilitate the prompt installation of the Heli-Hydrant, a Party may agree to not specifically enforce a right under this Agreement without such action being construed as a waiver of such right.

**4.1 Interim Use.** The Parties acknowledge that the City may install the Heli-Hydrant prior to installing related infrastructure, including but not limited to infrastructure to supply water to the Heli-Hydrant. As necessary, the City or other fire department providing emergency services may use a fire hose to fill the Heli-Hydrant's tank in the event of a wildfire emergency. The related infrastructure is expected to be installed within a year of executing this agreement.

**4.2 Removal.** Removal of vegetation and/or installation of the heli-hydrant and related infrastructure between February 15 and August 31 requires surveys by a qualified biological consulting firm to detect the presence or absence of listed or protected species in accordance with applicable state and federal laws, and to provide the City with required avoidance measures for harm, harassment, or take of the identified species that the City must follow.

**4.3 Right of Entry.** From the effective date of this Agreement, the City, its employees, consultants, agents and contractors may access the Heli-Hydrant Site for any purposes reasonably related to this Agreement and to the installation of the Heli-Hydrant. City access to the Heli-Hydrant Site shall not occur more than reasonably necessary to accomplish the purposes of this Agreement. Upon recordation of the Heli-Hydrant Easement, this Section shall no longer have any effect and the terms of the Heli-Hydrant Easement shall govern with the understanding, however, that the indemnification in the Heli-Hydrant Easement shall include any actions by the City under this Section 4.2. Any third party claims against Authority related to City's use of, or access to, the Heli-Hydrant Site shall be subject to the indemnification provision contained in Section 3.4 of this Agreement.

**5. Cooperation; Further Acts.** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

**6. Notices.** All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other addresses as the respective Parties may provide in writing for this purpose:

To Authority: Puente Hills Habitat Preservation Authority  
7702 Washington Avenue, Suite C  
Whittier, CA 90602  
Attn: Executive Director

To City: City of La Habra Heights  
1245 North Hacienda Blvd  
La Habra Heights, CA 90631  
Attn: City Manager

Such notice may be provided by personal delivery, by first class mail, by express delivery or by email transmission. Notice shall be deemed to made as follows: (a) when personally delivered, upon actual delivery; (b) when mailed, 72 hours after deposit in the U.S. Mail, first class postage prepaid; (c) when sent by express delivery, upon delivery as documented by the delivery service; and (d) when sent via facsimile transmission, upon actual delivery as documented by any verifiable facsimile transmission record. Facsimile transmissions shall be followed by first class delivery along with a copy of the facsimile transmission record. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

7. **Construction; References; Captions.** The Parties have mutually participated in the preparation of this Agreement and, therefore, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against either Party. Unless otherwise specified, any term referencing time, days, or period for performance shall be deemed calendar days and not business days, provided, however that any deadline that falls on a weekend or holiday shall be extended to the next City business day. All references to a Party shall include all elected officials, appointed boards and commissions, officers, employees, agents, and volunteers of that Party. The captions of the various paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

8. **Amendment; Modification.** No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

9. **Waiver.** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

10. **Binding Effect.** Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

11. **No Third Party Beneficiaries.** There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

12. **Invalidity; Severability.** If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

13. **Consent to Jurisdiction and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Los Angeles, California. Each Party waives the benefit of any

provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding.

**14. Time is of the Essence.** Time is of the essence with respect to this Agreement.

**15. Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

**16. Entire Agreement.** This Agreement contains the entire agreement between the Parties and supersedes any prior oral or written statements or agreements between the Parties with respect to the subject matter of this Agreement.

**17. Attorney's Fees.** In the event of any litigation or other legal proceeding including, but not limited to, arbitration or mediation between the parties arising from this Agreement, the prevailing party will be entitled to recover, in addition to any other relief awarded or granted, its reasonable costs and expenses (including attorney's fees) incurred in the proceeding.

**18. Exhibits.** The following attached Exhibits are hereby incorporated by this reference as if fully set forth herein:

Exhibit A	Legal Description of Parcels
Exhibit B-1	Maintenance Agreement
Exhibit B-2	Conservation Easement
Exhibit B-3	Lease Agreement
Exhibit C	Heli-Hydrant Location
Exhibit D	Declaration of Restrictive Covenants
Exhibit E	Heli-Hydrant Easement
Exhibit F	Map of La Habra Road Easement

**[Signatures on Following Page]**

IN WITNESS WHEREOF, the Parties have executed this Agreement in the County of Los Angeles on the date first set forth above.

PUENTE HILLS LANDFILL NATIVE  
HABITAT PRESERVATION AUTHORITY

CITY OF LA HABRA HEIGHTS

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Michael Hughes, Chair

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Dennis Laherty, Mayor

APPROVED AS TO FORM:  
ALESHIRE & WINDER, LLP

APPROVED AS TO FORM:  
BEST BEST & KRIEGER, LLP

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Elena Gerli, General Counsel

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Michael J. Maurer, City Attorney

ATTEST:

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City Clerk

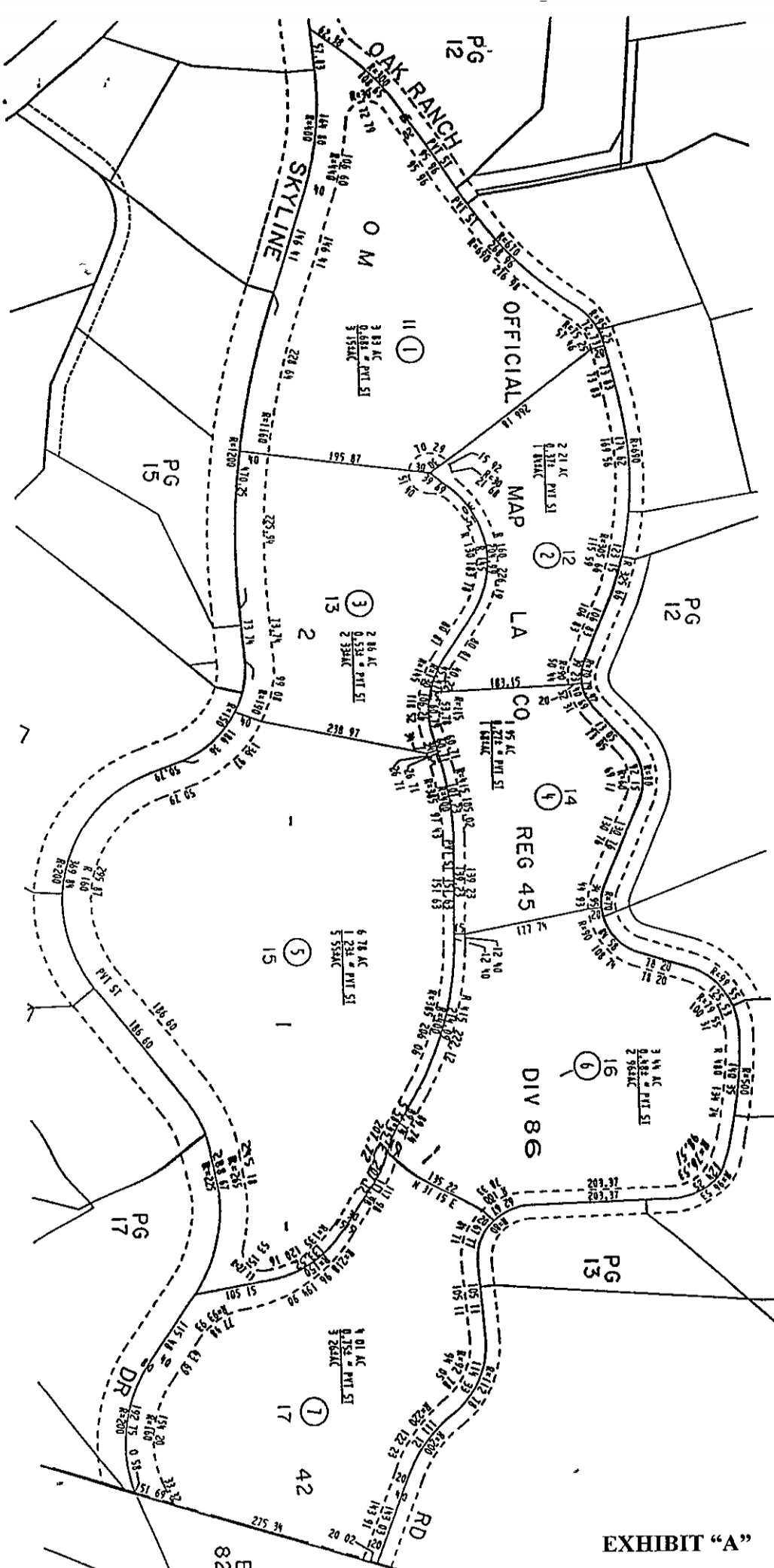
**EXHIBIT A**

**LEGAL DESCRIPTION OF PARCELS**

## **LEGAL DESCRIPTION**

Lots 11 through 17 inclusive of Division 86, Region 45 as shown on Official Map of County of Los Angeles, State of California filed in Book 2, Pages 1 through 42 inclusive of Official Maps, records of said County, a total of 25.08 acres more or less.

8



99 1344825

EXHIBIT "A"

**EXHIBIT B**

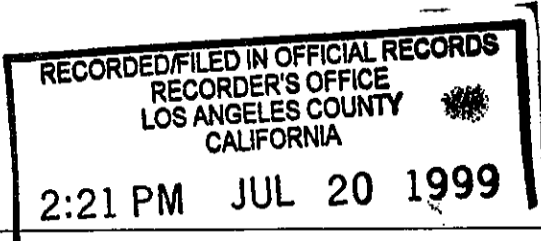
**ORIGINAL TRANSACTION DOCUMENTS**

**EXHIBIT B-1**

**MAINTENANCE AGREEMENT**

**(Including March 10, 2005 Amendment)**

99 1344825



SPACE ABOVE THIS LINE RESERVED FOR RECORDER S USE

TITLE(S)

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14

EXAMINER S INT

Assessor s Identification Number (AIN)  
To Be Completed By Examiner Or Title Company In Black Ink

Number of Parcels Shown

Revision Number

ORIGINAL  
RECORDING REQUEST BY

99 1344825

2

WHEN RECORDED MAIL TO

NAME *Terrystambler-Wolfe*  
MAILING ADDRESS *390 North Brea Blvd. #A*  
CITY, STATE *Brea, Ca*  
ZIP CODE *92821*

FREE E

13

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

*Agreement*

WHEN RECORDED MAIL TO

Terry Stambler-Wolfe, General Counsel  
Puente Hills Landfill Native Habitat Preservation Authority  
C/O Law Office of Richard D Jones  
390 North Brea Boulevard, Suite A  
Brea, California 92821

**AGREEMENT FOR THE USE AND MAINTENANCE OF OPEN SPACE/HABITAT  
PRESERVATION FACILITY IN THE CITY OF LA HABRA HEIGHTS**

This Agreement (the "Agreement") is made and entered into on the 24<sup>th</sup> day of JUNE 1999 by and between the PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY ("AUTHORITY") and CITY OF LA HABRA HEIGHTS ("CITY"), with regard to the following

**RECITALS**

A The AUTHORITY is a Joint Powers Authority formed under the auspices of Government Code Section 6500 et seq of the State of California, charged with the responsibility for the acquisition, restoration, and maintenance of open space/habitat preservation lands located in the La Puente/Whittier Hills area, in the vicinity of the Puente Hills Landfill

B The CITY is a municipal corporation located in the County of Los Angeles, located partially within the jurisdictional boundaries of the Authority

C The AUTHORITY has identified an area of undeveloped land within the corporate boundaries of CITY which it has negotiated to purchase for Open Space/Habitat Preservation purposes, commonly referred to as the "Diaz/Old Coach Site "

D The CITY has indicated its desire to enter into a long-term lease with AUTHORITY to acquire control over the site This lease agreement will be the subject of a separate document

E The location of the Open Space/Habitat Preservation site is depicted on the Plan attached to this Agreement as Exhibit "A "

F A legal description of the site is attached to this Agreement as Exhibit "B "

99 1344825

*Loose Acknowledgement Certif  
Attached*

NOW, THEREFORE, the Parties hereto agree as follows

- 1 Annual Brush Clearance The Parties agree that the CITY will have the power to require that the AUTHORITY undertake an annual brush clearing program encompassing all AUTHORITY land within the CITY, in accordance with the reasonable requirements established by the CITY'S Fire Chief. The CITY will solicit bids to complete the work and will enter into a contract with the lowest qualified bidder for the completion of the work. The AUTHORITY will be responsible for payment of the contract fee. The contractor assigned to maintain AUTHORITY lands in the CITY shall be the contractor (or one of the contractors) retained by the CITY to maintain other land in the CITY. In the event a contractor is selected to maintain AUTHORITY land alone, then CITY shall provide AUTHORITY with a list of the contractors to be invited to bid and invite the AUTHORITY to provide additional contractors or to provide evidence which would justify a decision by CITY to bar a contractor from bidding on the work.
- 2 Annual Fire Fee The property which is the subject of this Agreement is undeveloped hillside land which historically has been susceptible to fires. As a result of this potential hazard, the Parties agree that the AUTHORITY will pay to the CITY a voluntary annual fire fee for the purpose of supporting the fire prevention and suppression services of the Fire Department.

The amount of the fee is based on an estimate of the actual cost to provide these services to the AUTHORITY as the property owner of the open space/parkland property. It is expected that the amount of the fee will approximate the amount of the fee that would be charged if the AUTHORITY were the private property owner of a single parcel of land. The CITY and AUTHORITY have calculated the present fee at 772 acres and the fee at \$9,782. This amount may be increased each year as such increases are imposed on other properties in the city pursuant to the tax ordinance.

In addition to the annual fee of \$9,782, the AUTHORITY agrees to pay a one time fire fee of \$15,000 to cover fire protection services in conjunction with the acquisition by the AUTHORITY of the area known as Powder Canyon.

- 3 Future Fire Station Site The CITY has expressed an interest in obtaining a suitable site for the future development of a fire station. The Parties agree that they will enter into a lease agreement for a fire station as soon as the CITY gives notice to the AUTHORITY that it is ready to actually begin construction of a fire station and to maintain its operation. Any lease between the Parties shall not exceed an annual rent of \$1.00 per year. The site is anticipated to be located in Powder Canyon behind the Water Co. property and will be approximately one acre in size. In the event that an alternate site is desired by the CITY, both Parties may agree in writing to approve such site. Following execution of the lease, should the CITY fail to commence construction of the fire station within one hundred eighty (180) days, the AUTHORITY shall have the right to terminate the lease.

5

The CITY agrees to the imposition of reasonable conditions in the lease to assure that noise, light and other adverse conditions will be kept as low as possible to protect the habitat in a manner consistent with the intended fire station use. The term of the lease shall be for fifty five (55) years. If at any time the CITY should stop using the facility as a fire station the property shall revert to the AUTHORITY and the lease shall be canceled.

- 4 Lease of Property to City The Parties agree that immediately following the execution of this Agreement, the Parties will enter into a lease agreement which will permit the CITY to lease the Property, as depicted in Exhibits "A" and "B" attached, for One Dollar (\$1.00) per year for a term of up to fifty five (55) years.
- 5 Equestrian Facility In furtherment of the desires of the CITY, the AUTHORITY agrees to build an equestrian facility. If the CITY should determine, through public input or other means, that they prefer to have the equestrian facilities in Powder Canyon, the AUTHORITY will provide the facilities in an appropriate portion of Powder Canyon. AUTHORITY shall cooperate with CITY in designating the western portion of the property in CITY'S General Plan for active, open space use and shall make no objection to that designation.

The specific intent is that the AUTHORITY will build and maintain a trail head parking area for horse trailers and an equestrian exercise ring on the site to be selected as described above. It is contemplated that the facility will include a gravel parking lot, of sufficient size to accommodate six (6) to eight (8) horse trailers and a split-rail exercise ring comparable in size to the riding ring located on Las Palomas Drive in the City of La Habra Heights and smaller than the show ring located at La Habra Heights Park on Hacienda Boulevard in the City of La Habra Heights. This facility will not be available for overnight stabling, and there shall be no commercial activity. To the extent reasonably possible, the Parties will work with equestrian groups to create trails for both equestrians and hikers from this site to Powder Canyon.

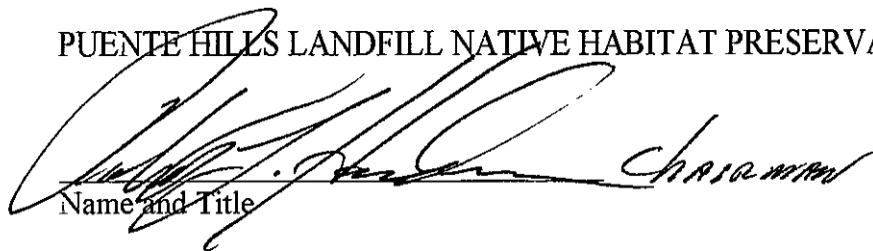
- 6 Conservation Easement The Parties agree that the property addressed in this Agreement shall be the subject of a conservation easement which will ensure that the property is preserved in perpetuity for open space and habitat preservation purposes. The conservation easement contemplates that animal movement across the property will not be impeded except existing structures and/or by the equestrian facilities. No other CITY use other than the equestrian facilities shall be allowed. The easement will allow the continued use of the structures currently existing on the property for ranger usage and a possible nature/docent center. The AUTHORITY will be responsible for the ongoing maintenance of the property. The conservation easement will be executed concurrently with the execution of the lease agreement with the CITY.
- 7 Name of Facility The Parties agree that the CITY shall have the discretion to select a suitable name for the leased land.

- 8 CITY Obligation CITY agrees that in exchange for the cooperation in the various agreements in this document with AUTHORITY that CITY agrees that the acquisition of the Diaz property by AUTHORITY is in the best interest of the public. Immediately following the execution of this Agreement, the CITY shall complete the necessary paperwork to allow the State of California to release to the AUTHORITY grant funds in the amount of \$201,000. These funds have already been approved by the State and will be used to reimburse the AUTHORITY for the purchase of the Davies property (APN 8240-001-004 )
  
  - 9 Road Maintenance AUTHORITY acknowledges its joint obligation with owners of other properties served by Old Ranch Road and Skyline Drive to provide for the maintenance of those roads. AUTHORITY agrees not to add any visitor serving uses without mitigating any traffic impacts effects as identified by a professional traffic impact analysis
  
  - 10 Delineation of Wildlife Corridor The Parties agree that it is in their mutual interest and in the public interest to identify other properties in the City which may lie within the Wildlife Corridor. AUTHORITY hereby identifies those areas on the maps attached as Exhibits "C1" through "C3" and the parcel summary designated as Exhibit "C4" as those areas it has concluded may be used by wildlife to traverse the area. AUTHORITY agrees not to purchase any interest in any property in CITY not indicated in the above-referenced exhibits without the written consent of CITY. Identification of a property in Exhibits "C1" through "C4" does not amount to a commitment by Authority to purchase that property or any interest in it.
- The Parties acknowledge that the Assessor's Parcel Numbers depicted on Exhibits "C1" through "C4" are drawn from the records of the Los Angeles County Recorder and that this information may not be current and accurate on the date of execution of this Agreement, and are subject to change in the future. Accordingly, although this information has guided the Parties' discussions which are included in this Agreement, the AUTHORITY'S obligations under this paragraph shall be determined solely by the parcels outlined in Exhibits "C1" through "C3."
- 11 Recordation of Lease and Conservation Easement As soon as practicable following execution of this Agreement, the Lease and the Conservation Easement shall be executed and recorded with the Office of the County Recorder

7

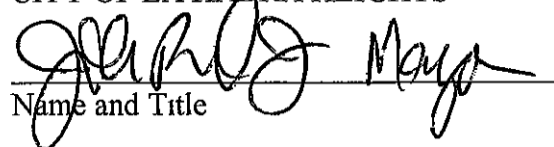
Executed on June 24, 1999 at La Habra Heights California, County of Los Angeles, State of California

PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY

  
Name and Title

6-3-99  
Date

CITY OF LA HABRA HEIGHTS

  
Name and Title

6/24/99  
Date

99 1344825

9

**Exhibit "B"**

**Legal Description of Lands of Diaz**

Lots 11 through 17 inclusive of Division 86, Region 45 as shown on Official Map of the County of Los Angeles, State of California, filed in Book 2, Pages 1 through 42 inclusive of Official Maps, records of said County, a total of 25 08 acres more or less

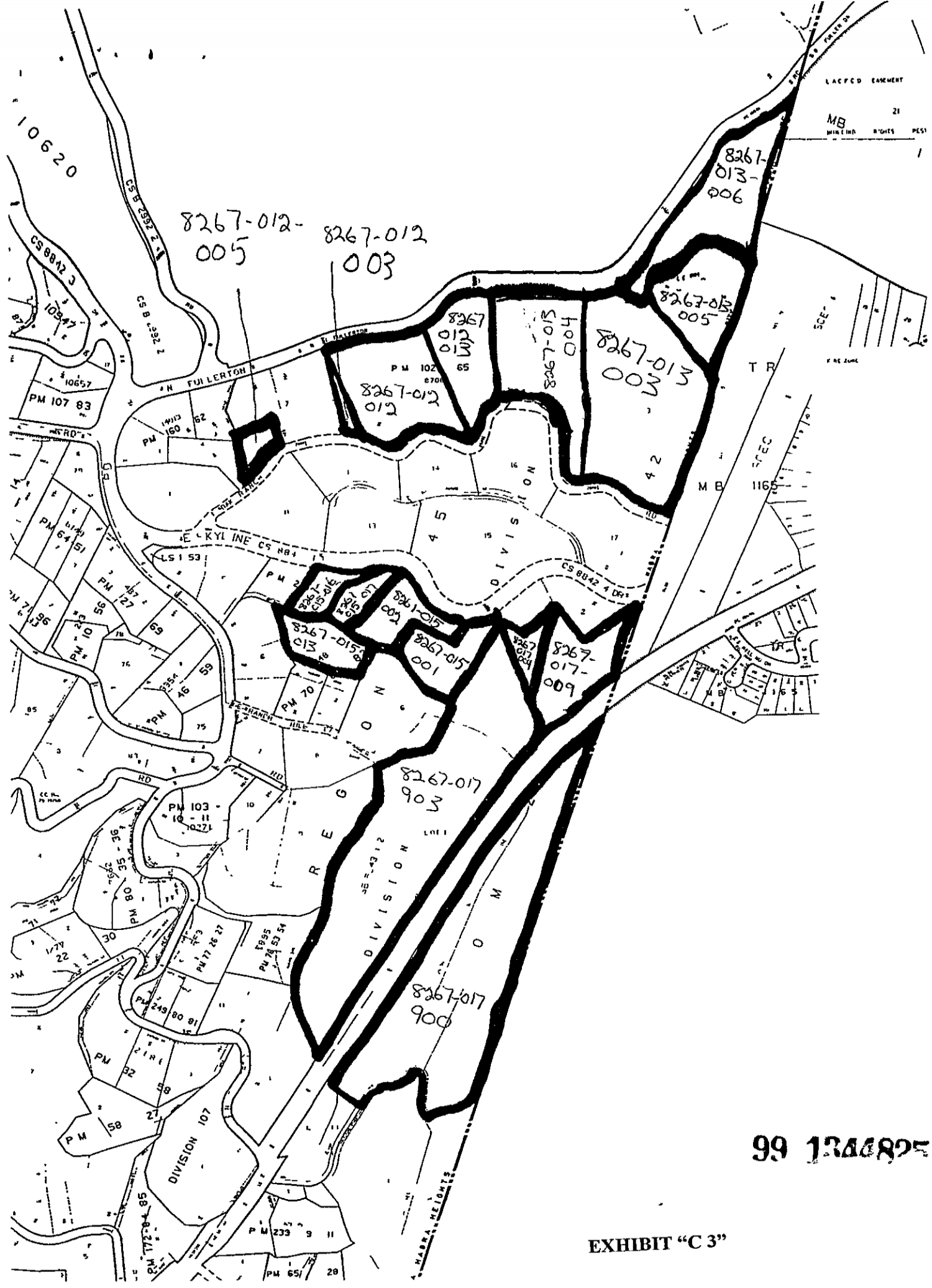
**99 1344825**

**EXHIBIT "B"**





FILED 2003.3.14



CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA )  
COUNTY OF Los Angeles )

On July 12, 1999 before me Carroll Anne Kudinoff  
personally appeared Robert L. Henderson  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument  
and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument  
the person(s) or the entity upon behalf of which the person(s) acted executed the instrument

WITNESS my hand and official seal

Signature

*Carroll Anne Kudinoff*



OPTIONAL SECTION  
CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER(S) \_\_\_\_\_ TITLE(S) \_\_\_\_\_  
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL  
☐ ATTORNEY IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER \_\_\_\_\_

SIGNER IS REPRESENTING

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION

Though the date requested here is not required by law, it could prevent fraudulent reattachment of this form

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: USE AND MAINTENANCE AGREEMENT

NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT June 24, 1999

SIGNER(S) OTHER THAN NAMED ABOVE NONE

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

99 1344825

14

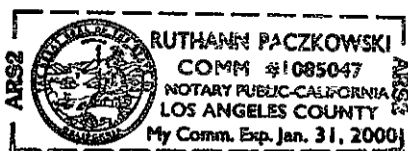
State of CALIFORNIA

County of LOS ANGELES

On JUNE 24, 1999 before me, RUTH ANN PACZKOWSKI, Notary Public  
Date Name and Title of Officer (e.g. Jane Doe, Notary Public)

personally appeared JOHN P. DANIEL, JR.  
Name of Signer(s)

☒ personally known to me – OR – ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument



WITNESS my hand and official seal

Ruth Ann Paczkowski  
Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

### Description of Attached Document

Title or Type of Document USE AGREEMENT OPEN SPACE HABITAT

Document Date JUNE 24, 1999 Number of Pages 10

Signer(s) Other Than Named Above N/A

### Capacity(ies) Claimed by Signer(s)

Signer's Name [Signature]

- ☐ Individual  
☒ Corporate Officer  
 Title(s) MAYOR  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney-in-Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other \_\_\_\_\_

Signer Is Representing

CITY OF  
LA HABRA HILLS

RIGHT THUMBPRINT  
 OF SIGNER  
 Top of thumb here

Signer's Name \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer  
 Title(s) \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney-in-Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other \_\_\_\_\_

Signer Is Representing

\_\_\_\_\_  
 \_\_\_\_\_

RIGHT THUMBPRINT  
 OF SIGNER  
 Top of thumb here

**FEBRUARY 2005 AMENDMENT**  
**TO THE JUNE 24, 1999 AGREEMENT BETWEEN THE CITY OF LA HABRA**  
**HEIGHTS AND THE PUENTE HILLS LANDFILL NATIVE HABITAT**  
**PRESERVATION AUTHORITY FOR THE USE AND MAINTENANCE OF OPEN**  
**SPACE/HABITAT PRESERVATION FACILITY IN THE CITY OF LA HABRA**  
**HEIGHTS**

This Amendment (the "Amendment"), entered into this 10th day of March, 2005, by and between the City of La Habra Heights, a municipal corporation (hereinafter "City"), and Puente Hills Landfill Native Habitat Preservation Authority (hereinafter "Authority"), and amends the June 24, 1999 Agreement between the City and Authority for the Use and Maintenance of Open Space/Habitat Preservation Facility in the City of La Habra Heights (the "Agreement"), as specified below:

RECITALS:

- A. On June 24, 1999, the City and Authority entered into the Agreement;
- B. The parties have agreed to amend the obligations of the parties with respect to Annual Brush Clearance as set forth in Paragraph 1 of the Agreement;
- C. On February 24, 2005, the Authority adopted a resolution approving this Amendment;
- D. On March 10, 2005, the City Council adopted a resolution approving this Amendment;
- E. This Amendment is necessary to reflect the modifications to the Agreement agreed to by the City and Authority and as made pursuant to the above-referenced resolutions.

NOW, THEREFORE, in and for the mutual covenants contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is mutually agreed by and between the undersigned parties as follows:

- 1. This Amendment shall be effective as of the date and year first above written.
- 2. Paragraph 1 of the Agreement shall be modified to read:

1. Annual Brush Clearance. The Parties agree that the CITY will have the power to require that the AUTHORITY undertake an annual brush clearing program encompassing all AUTHORITY land within the CITY, in accordance with the reasonable requirements established by the CITY's Fire Chief. The AUTHORITY will solicit bids to complete the work and will enter into a contract with the lowest qualified bidder for the completion of the work. The AUTHORITY will be responsible for payment of the contract fee. If the Fire Marshall puts AUTHORITY on notice that the brush clearance has not been completed according to the City Ordinance and AUTHORITY fails to take reasonable corrective action within 14 calendar days of receipt of such notice: 1) the City may take corrective action or hire a contractor take corrective action; 2) the

AUTHORITY shall pay for the cost of such corrective action; and 3) the City may, in its discretion, deem the AUTHORITY's failure to comply and take corrective action to constitute a material breach of this Amendment and nullify this Amendment to the Agreement.

3. Except as expressly amended by this Amendment, the terms and conditions of the Agreement shall remain in full force and effect.

4. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California

5. Jurisdiction. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Los Angeles County in the State of California, which shall have exclusive jurisdiction over such lawsuits.

6. Venue. With respect to venue, the Parties agree that this Agreement is made in and will be performed in Los Angeles County.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed at the City of La Habra Heights, County of Los Angeles, State of California.

PUENTE HILLS LANDFILL NATIVE  
HABITAT PRESERVATION AUTHORITY,  
A Joint Powers Authority

  
-NAME-, -TITLE- Andrea Gullo, Exec. Dir.

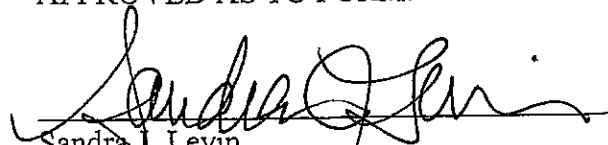
Date: March 31, 2005

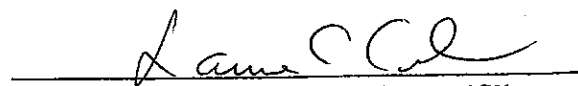
CITY OF LA HABRA HEIGHTS,  
A Municipal Corporation

  
Ed Borrowe, Mayor

Date: March 14, 2005

APPROVED AS TO FORM:

  
Sandra J. Levin  
City Attorney, City of La Habra Heights

  
General Counsel, Puente Hills Landfill  
Native Habitat Preservation Authority

**EXHIBIT B-2**

**CONSERVATION EASEMENT**

99 1344826

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA  
2:21 PM JUL 20 1999

SPACE ABOVE THIS LINE RESERVED FOR RECORDER S USE

TITLE(S)

FEE CODE	N/A	N/A	0	20	9_	19	04	19
REC FEE	NO PAGES	NO TITLES	PCOR	D A FEE	SURVEY MON	NOTIF	INVOL LIEN	NON CONF

13

EXAMINER S INT

Assessor s Identification Number (AIN)  
To Be Completed By Examiner Or Title Company In Black Ink

Number of Parcels Shown

Revision Number

RECORDING REQUEST BY

99 1344826

2

WHEN RECORDED MAIL TO

NAME Terry Stambler-Wolfe

MAILING ADDRESS 390 North Brea Blvd. #A

CITY, STATE ZIP CODE Brea, Ca. 92821

FREE E

12

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

Conservation Easement

## WHEN RECORDED MAIL TO

Terry Stambler-Wolfe, General Counsel  
Puente Hills Landfill Native Habitat Preservation Authority  
C/O Law Office of Richard D. Jones  
390 North Brea Boulevard, Suite A  
Brea, California 92821

---

**CONSERVATION EASEMENT**

This CONSERVATION EASEMENT (hereinafter, the "Grant") is made and hereby granted, as more particularly set out below and subject to the terms, covenants, conditions and provisions set forth below, on the 24<sup>th</sup> day of the month of JUNE in the year 1999 by CITY OF LA HABRA HEIGHTS ("CITY"), the "GRANTOR," a municipal corporation, in favor of the PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY ("AUTHORITY"), the "GRANTEE," a joint powers authority

**RECITALS**

- A The AUTHORITY/GRANTEE is a Joint Powers Authority formed under the auspices of Government Code Section 6500 et seq. of the State of California, charged with the responsibility for the acquisition, restoration, and maintenance of open space/habitat preservation lands located in the La Puente/Whittier Hills area, in the vicinity of the Puente Hills Landfill
- B The CITY/GRANTOR is a municipal corporation located in the County of Los Angeles, located partially within the jurisdictional boundaries of the AUTHORITY/GRANTEE
- C The AUTHORITY/GRANTEE has acquired an area of undeveloped land within the corporate boundaries of the CITY/GRANTOR, commonly referred to as the "Diaz/Old Coach Site"
- D The AUTHORITY/GRANTEE and the CITY/GRANTOR have agreed to enter into a Lease Agreement, which is the subject of a separate document
- E The AUTHORITY/GRANTEE and the CITY/GRANTOR have agreed to execute this Conservation Easement for the purpose of ensuring that the Site is maintained for permanent open space and habitat preservation, subject to the various terms, covenants, conditions, and provisions set forth below
- F. The location of the Conservation Easement is depicted on the Plan attached to this Easement as Exhibit "A"

LOOSE ACKNOWLEDGEMENT CERTIFIED  
ATTACHED

4

G A legal description of the site is attached to this Easement as Exhibit "B "

NOW, THEREFORE, in consideration of the mutual terms, covenants, conditions, and provisions contained herein, and pursuant to the laws of the State of California and in particular to California Civil Code Section 815 et seq providing specifically for the grant of conservation easements, the CITY/GRANTOR hereby grants to the AUTHORITY/GRANTEE a conservation easement in perpetuity of the nature and character of which is set forth below

1 Purpose The CITY/GRANTOR and the AUTHORITY/GRANTEE agree that the purpose of the conservation easement is to ensure that the site will be maintained permanently as open space and habitat preservation so that the area will be left in a natural, undeveloped and unspoiled condition, subject to the accepted uses defined below Imposition of this Conservation Easement will enable this site to be part of a larger corridor which is used by a variety of animal species and is essential to their preservation Further, the site is contains a wide range of plant species which are native to this region and are necessary to ensure the continuation of the regional ecology

2 Permitted Uses The area subject to the Conservation Easement can be used for walks, recreational hiking, and equestrian trails A portion of the site may be developed with an equestrian facility and a trail head It is contemplated that the equestrian facility will include a gravel parking lot of sufficient size to accommodate six (6) to eight (8) horse trailers and a split-rail exercise ring comparable in size to the riding ring located on Las Palomas Drive in the City of La Habra Heights and smaller than the show ring located at La Habra Heights Park on Hacienda Boulevard in the City of La Habra Heights The existing improvements on the property may be used for ranger purposes or in conjunction with a nature/docent center The AUTHORITY/GRANTEE shall be entitled to maintain the property for fire safety and to replant all or part of the property with native vegetation

3 Non-permitted Uses No overnight camping or stabling of horses will be permitted No commercial use of the property will be permitted at any time

4 Maintenance The site subject to the Conservation Easement will be maintained by the AUTHORITY/GRANTEE

5 Transfer The CITY/GRANTOR agrees that the AUTHORITY/GRANTEE may, at Grantee's sole and reasonable discretion, transfer its interest in the site as created by this instrument to any entity qualified by law to acquire and hold conservation easements

6 Enforcement Both CITY/GRANTOR and AUTHORITY/GRANTEE hereby agree to incorporate the provisions of California Civil Code Section 815 et seq by reference as it pertains to the enforcement of the Conservation Easement

7 Successors Both CITY/GRANTOR and AUTHORITY/GRANTEE hereby express their

5

mutual and individual intent that this Conservation Easement will be binding on all successor owners of the site and, in furtherance thereof, and in satisfaction of California Civil Code Section 815 et seq , this Conservation Easement instrument shall be recorded in the offices of the County Recorder of the County of Los Angeles. upon its execution of the parties

8 Coopeiation Both CITY/GRANTOR and AUTHORITY/GRANTEE further agree to undertake any and all necessary and reasonable acts required to implement, maintain, and preserve the rights and benefits of any person, firm or entity having rights or interest in this Conservation Easement

9 Notices All notices to be given to the other party shall be given in writing and shall be delivered in person or by deposit in the U S Mail. postage prepaid and addressed to the other Party at the following locations

AUTHORITY/GRANTEE

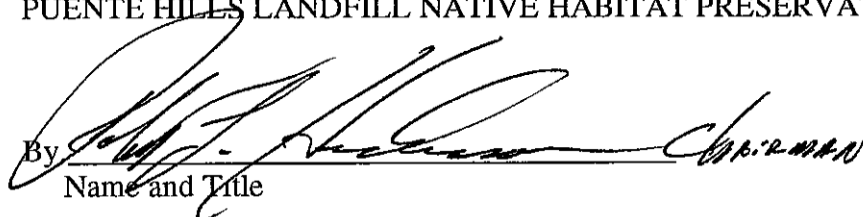
General Counsel  
Puente Hills Landfill Native Habitat Preservation Authority  
C/O Law Office of Richard D Jones  
390 North Brea Blvd , Suite A  
Brea, CA 92821

CITY/GRANTOR


City Manager  
City of La Habra Heights  
1245 North Hacienda Blvd  
La Habra Heights, CA 90631

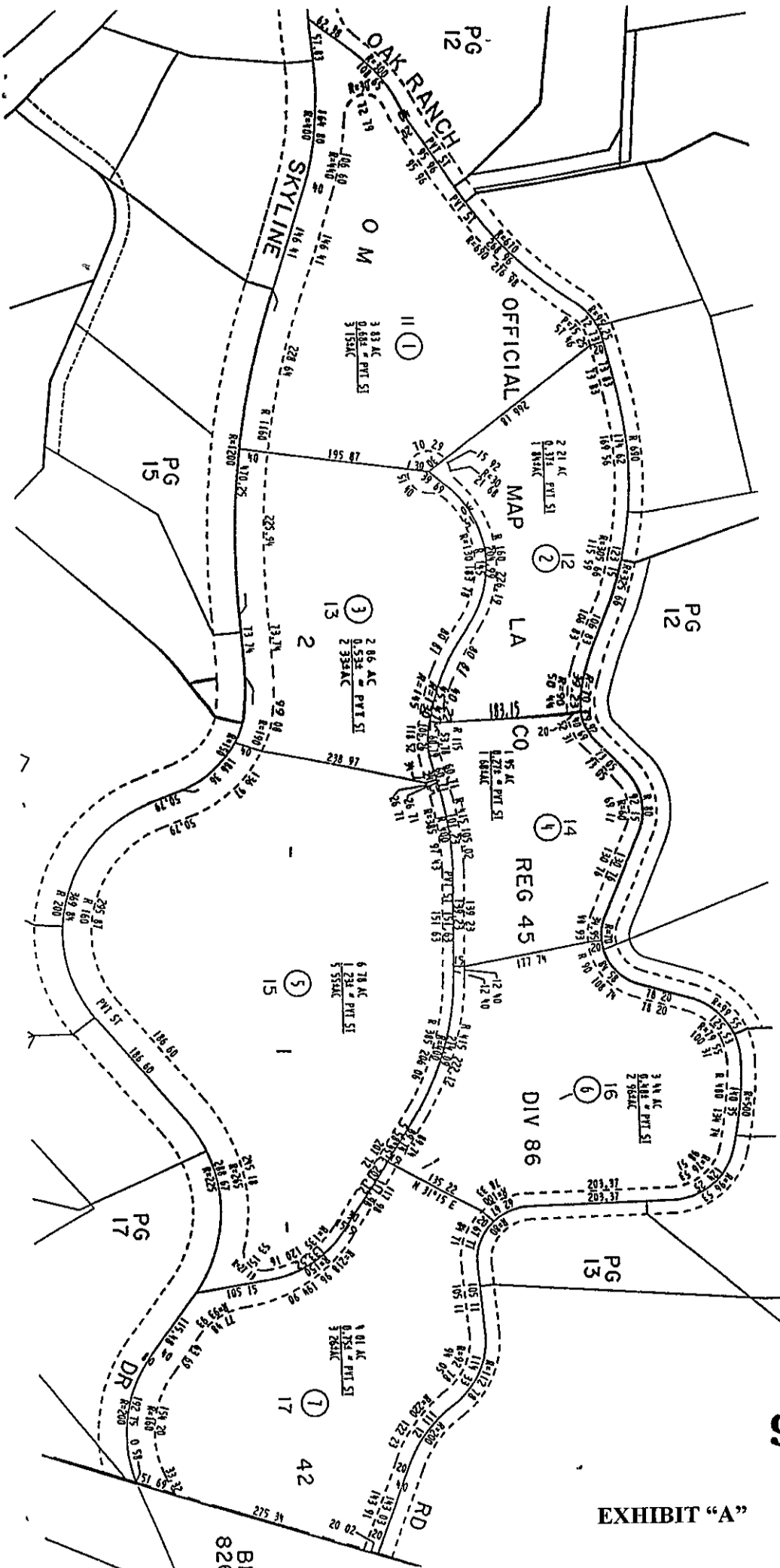
IN WITNESS WHEREOF, AUTHORITY and CITY have executed this Grant of a Conservation Easement as of the date reflected on the respective notary forms attached hereto

PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY

By  Chairman 6-3-99  
Name and Title Date

CITY OF LA HABRA HEIGHTS

By  Mayor 6/24/99  
Name and Title Date



99 1344826

EXHIBIT "A"

7

**Exhibit "B"**

**Legal Description of Lands of Diaz**

Lots 11 through 17 inclusive of Division 86, Region 45 as shown on Official Map of the County of Los Angeles, State of California, filed in Book 2, Pages 1 through 42 inclusive of Official Maps, records of said County, a total of 25 08 acres more or less

**99 1344826**

**EXHIBIT "B"**

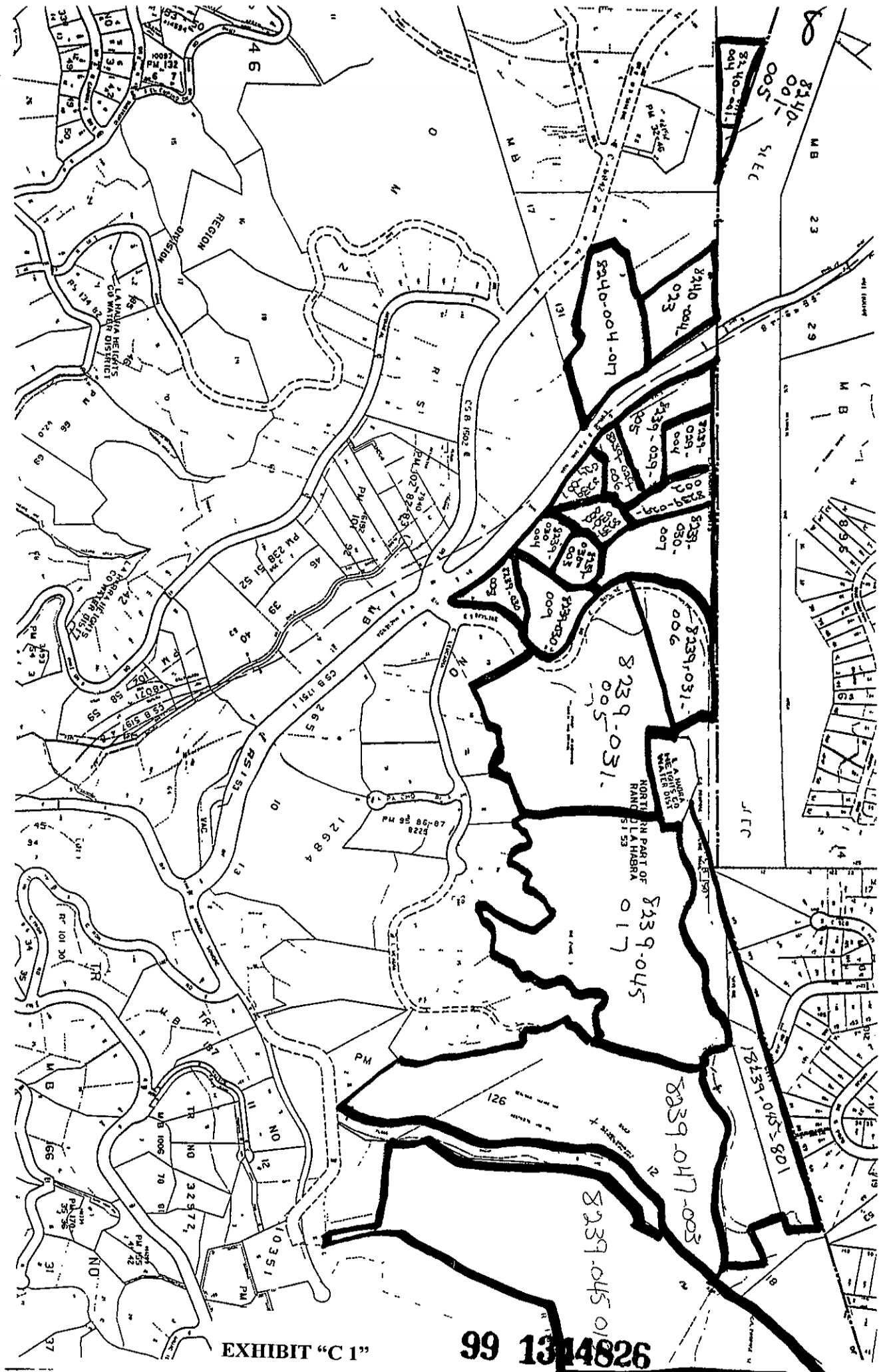
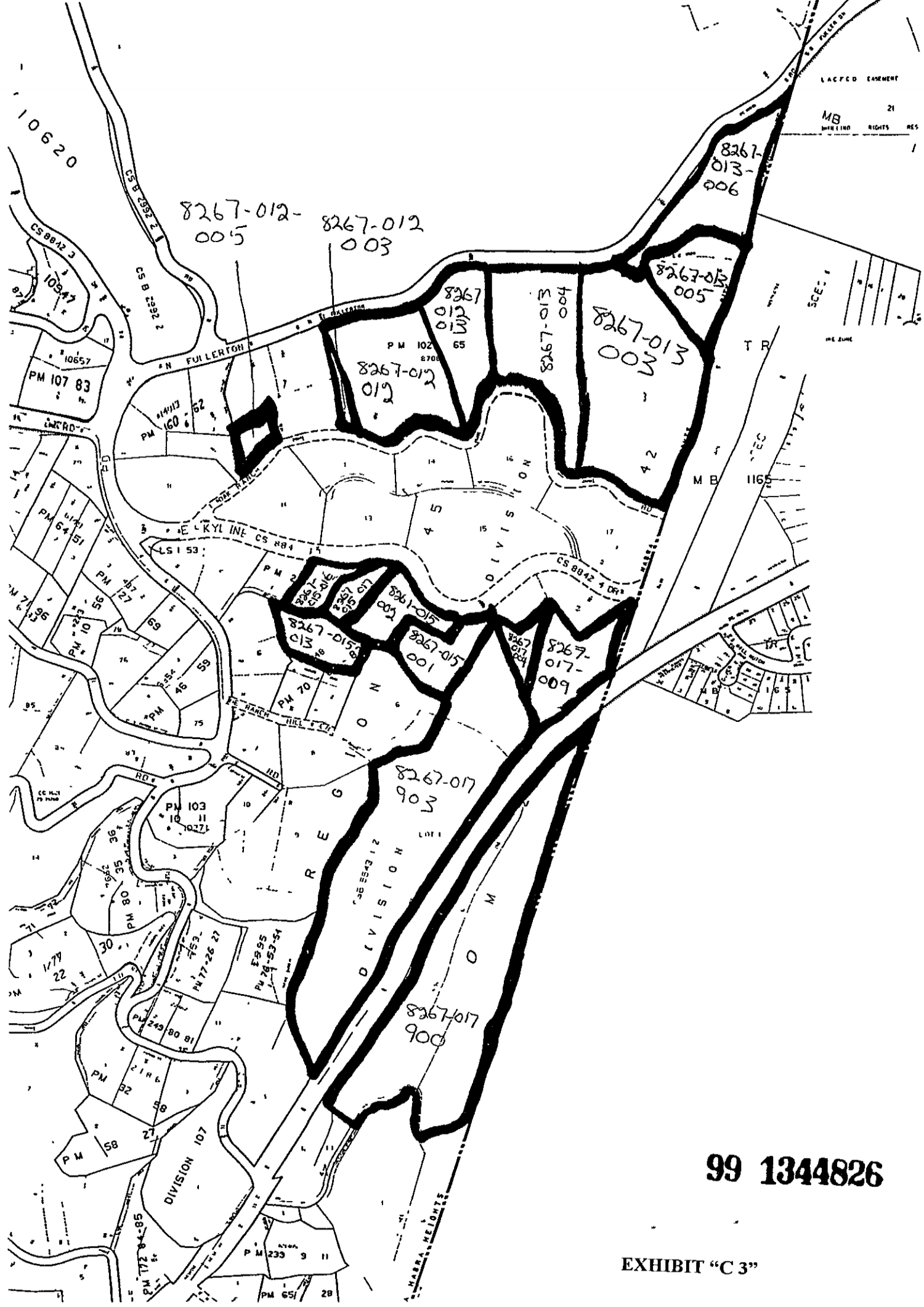


EXHIBIT "C 1"

99 1314826





99 1344826

EXHIBIT "C 3"

11

Property	Acreage	Address	Home
8239-029-004	1 73 ac	3850 Hacienda	Yes
8239-029-005	2 74 ac	3840 Hacienda	Yes
8239-029-006	1 78 ac	3830 Hacienda	Yes
8239-029-007	1 31 ac	3884 Hacienda	Yes
8239-030-002	1 10 ac	3854 Hacienda	Yes
8239-030-003	1 0 ac	3900 Hacienda	Yes
8239-030-004	1 03 ac	3910 Hacienda	Yes
8239-030-007	5.29 ac	Skyline	No
8239-030-009	3 47 ac	201 Skyline	Yes
8239-044-006		Maybe 8239-041-012	
8239-044-007		Maybe 8239-044-008	
8239-044-008	30 82 ac		No
8239-045-015	25 97 ac		
8239-047-003	27 56 ac	255 Canada Sombre	
8240-004-023	3 42 ac	Hacienda	No
8240-004-017	4 9 ac	3871 Hacienda	Yes
8240-001-005	1 74 ac	No Address	No
8267-012-005	1 04 ac	2373 Oak Ranch Rd	Yes
8267-012-003	0 37 ac	Oak Ranch Rd	No
8267-012-012	4 95 ac	2455 Oak Ranch Rd	Yes
8267-012-013	3 25 ac	No Address	0
8267-013-003	10 16 ac		No
8267-013-004	5 86 ac		
8267-013-005			Yes
8267-013-006	5 51 ac		No
8267-015-013		2025 Ranch Hill Dr	Yes
8267-017-009	6 64 ac	2572 Oak Ranch Rd	Yes
8267-015-001		2500 Oak Ranch Rd	Yes
8267-015-002		2486 Skyline	
8267-015-016	1 26 ac	2400 Skyline	Yes
8267-015-017	1 03 ac	0 Skyline	
8267-017-004		2500 E Skyline	Yes
8267-017-900			
8267-017-903			
8239-045-017	19 97 ac	No Address	0
8239-031-005	12 33 ac	No Address	0
8239-031-006	3 92 ac	No Address	0
8239-045-801	13 74 ac	0	0
8239-030-008	1 47 ac		
8240-001-004	20 79 ac		

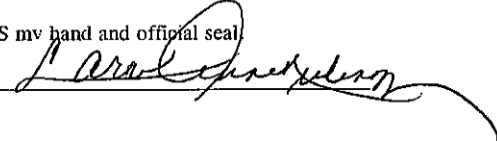
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA )SS  
COUNTY OF Los Angeles )

On July 12, 1999 before me Carol Anne Kudinoff  
personally appeared Robert L Henderson\*\*\*\*\*  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted executed the instrument

WITNESS my hand and official seal

Signature



OPTIONAL SECTION  
CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document

- [ ] INDIVIDUAL  
[ ] CORPORATE OFFICER(S) \_\_\_\_\_ TITLE(S)  
[ ] PARTNER(S) - [ ] LIMITED [ ] GENERAL  
[ ] ATTORNEY-IN FACT  
[ ] TRUSTEE(S)  
[ ] GUARDIAN/CONSERVATOR  
[ ] OTHER \_\_\_\_\_

SIGNER IS REPRESENTING

Name of Person or Entity \_\_\_\_\_

Name of Person or Entity \_\_\_\_\_

OPTIONAL SECTION

Though the date requested here is not required by law, it could prevent fraudulent reattachment of this form

**THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW**

TITLE OR TYPE OF DOCUMENT CONSERVATION EASEMENT

NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT JUNE 24, 1999

SIGNER(S) OTHER THAN NAMED ABOVE NONE

**99 1344826**

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of CALIFORNIA

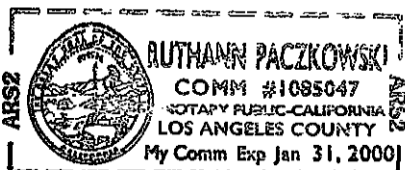
County of LOS ANGELES

On June 24, 1999 before me, RUTHANN PACZKOWSKI, NOTARY PUBLIC  
Date Name and Title of Officer (e.g. Jane Doe, Notary Public)

personally appeared John P. DANIEL, JR  
Name(s) of Signer(s)

☒ personally known to me - **OR** - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal



Ruthann Paczkowski  
Signature of Notary Public

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document*

### Description of Attached Document

Title or Type of Document CONSERVATION EASEMENT OPEN SPACE HABITAT

Document Date JUNE 24, 1999 Number of Pages 9

Signer(s) Other Than Named Above N/A

### Capacity(ies) Claimed by Signer(s)

Signer's Name [Signature]

- ☐ Individual
- ☒ Corporate Officer
- Title(s) MAYOR
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other \_\_\_\_\_

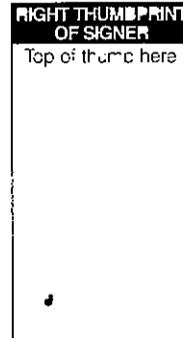
Signer Is Representing  
City of  
LA HABRA HGT'S



Signer's Name \_\_\_\_\_

- ☐ Individual
- ☐ Corporate Officer
- Title(s) \_\_\_\_\_
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other \_\_\_\_\_

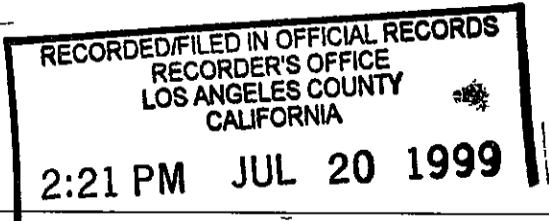
Signer Is Representing  
 \_\_\_\_\_  
 \_\_\_\_\_



**EXHIBIT B-3**

**LEASE AGREEMENT**

99 1344827



SPACE ABOVE THIS LINE RESERVED FOR RECORDER S USE

TITLE(S)

\_\_\_\_\_  
 \_\_\_\_\_

FEE CODE	N/A	N/A	0	20	9_	19	04	19
REC FEE	NO PAGES	NO TITLES	PCOR	D A FEE	SURVEY MON	NOTIF	INVOL LIEN	NON CONF

10

EXAMINER S INT

Assessor s Identification Number (AIN)  
 To Be Completed By Examiner Or Title Company In Black Ink

Number of Parcels Shown

Revision Number

RECORDING REQUEST BY

99 1344827

2

WHEN RECORDED MAIL TO

NAME

Terry Stambler-Wolfe

MAILING  
ADDRESS

390 North Brea Blvd #A

CITY, STATE  
ZIP CODE

Brea, Ca. 92821

FEE \$ 31- E 9

D.A. FEE Code 20 \$ 2-

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

Lease Agreement

WHEN RECORDED MAIL TO

Terry Stambler-Wolfe, General Counsel  
Puente Hills Landfill Native Habitat Preservation Authority  
C/O Law Office of Richard D Jones  
390 North Brea Boulevard, Suite A  
Brea, California 92821

**LEASE AGREEMENT**

This Lease Agreement ("Agreement") dated June 24, 1999 is made between the PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY, a joint powers authority, hereinafter referred to as "AUTHORITY" and the CITY OF LA HABRA HEIGHTS, hereinafter referred to as "CITY," a municipal corporation, on the following terms and conditions

1. PROPERTY. CITY/LESSEE desires to lease from the AUTHORITY/LESSOR property commonly referred to as the "Diaz/Old Coach Site" and more particularly identified as Exhibits "A" and "B" to this lease

2 TERM

A The term of this Agreement shall be for Fifty five years (55) and may be expended by unilateral action of CITY for such additional option periods as may be permitted by law CITY shall exercise any option to extended this lease by written notice sent to AUTHORITY prior to the expiration of the then-current term or by timely payment of rent for initial year of the option period

B The term shall commence on June 24, 1999

3 RENT

A CITY agrees to pay One Dollar (\$1 00) per year

B All rents are to be hand delivered or mailed to the Los Angeles County Sanitation District Office located at 1955 Workman Mill Rd , Whittier, California 90601

4

#### 4 USE OF PROPERTY

A The property will be used for permanent open space and habitat preservation

B Permitted activities will be restricted to trails for hiking and limited equestrian activities

C An equestrian facility and trail head may be constructed on this property if requested by the CITY. It is contemplated that this facility will include a gravel parking lot of sufficient size to accommodate six (6) to eight (8) horse trailers and a split-rail exercise ring comparable in size to the riding ring located on Las Palomas Drive in the City of La Habra Heights and smaller than the show ring located at La Habra Heights Park on Hacienda Boulevard in the City of La Habra Heights

7 MAINTENANCE The Parties agree that AUTHORITY will maintain the Property and any improvements on the Property. No facilities may be constructed by CITY without the express written permission of AUTHORITY.

8 CONSERVATION EASEMENT The Parties agree that the Property will be subject to the provisions of a permanent conservation easement which is intended to assure that the Property is held in perpetuity for open space and habitat preservation purposes with certain limited exceptions. The anticipated exceptions include the use of structures currently existing on the property for ranger usage and a possible nature/docent center and any equestrian facilities which may be constructed. No overnight nor commercial operations will be permitted.

9 ASSIGNMENT CITY shall have no right to assign its interest under the terms of this Lease Agreement.

10 EARLY TERMINATION In the event that the CITY desires an early termination of this lease, it shall provide a minimum of thirty (30) days notice to AUTHORITY.

11 INSURANCE AND MUTUAL INDEMNITY AUTHORITY shall provide commercial general liability insurance for the property with coverage amounts of \$2 million. That insurance shall name CITY, and its officers, agents, and employees as Additional Insureds. AUTHORITY agrees to indemnify, defend and hold harmless the AUTHORITY, its officers, agents and employees from and against all claims, disputes, litigation, judgments and attorney's fees due to death or injury to any person and injury to any property arising out of or related to the AUTHORITY's activities on or with respect to the Property.

CITY agrees to provide AUTHORITY with a certificate of insurance for an amount not

less than \$2,000,000, showing CITY to be insured for commercial general liability for activities on the Property or evidence of self insurance in the amount of \$2,000,000 for substantially similar coverage The CITY agrees to indemnify, defend and hold harmless the AUTHORITY, its officers, agents and employees from and against all claims, disputes, litigation, judgments and attorney's fees due to death or injury to any person and injury to any property arising out of or related to the CITY'S activities on or with respect to the Property

12 ATTORNEY'S FEES In any action or proceeding arising out of this Lease Agreement, the prevailing party between CITY and AUTHORITY shall be entitled to reasonable attorney's fees and costs

13 BROKERAGE The parties to this Agreement acknowledge that neither CITY nor AUTHORITY has used the services of a licensed real estate broker or agent in connection with any act relating to the Property and that no commissions or other costs are owing to such broker or agent

14 WAIVER The waiver of any breach shall not be construed as a continuing waiver of the same or any subsequent breach

15 NOTICES All notices to be given to the other Party shall be given in writing and shall be delivered in person or by deposit in the U S mail, postage prepaid and addressed to the other Party at the following locations

#### AUTHORITY/LESSOR

General Counsel  
Puente Hills Landfill Native Habitat Preservation Authority  
C/O Law Office of Richard D Jones  
390 North Brea Blvd , Suite A  
Brea, CA 92821

#### CITY/LESSEE

City Manager  
City of La Habra Heights  
1245 North Hacienda Blvd  
La Habra Heights, CA 90631

In witness whereof. Parties have executed this Lease Agreement, the day and year set forth below The Parties hereby acknowledge receipt of a copy of this Lease Agreement

PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY

By

Name and Title

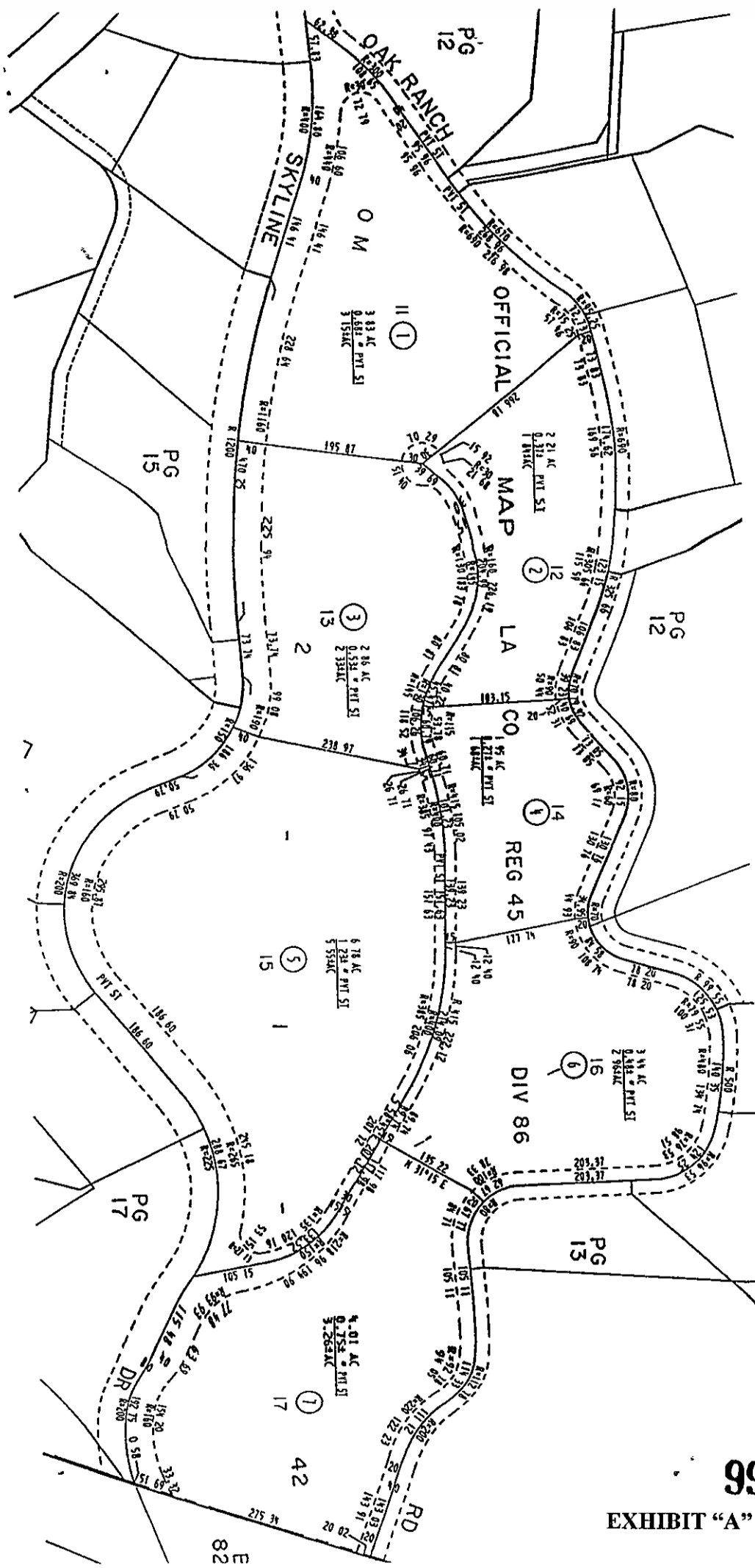
Date

CITY OF LA HABRA HEIGHTS

By

Name and Title

Date



99 1344827

EXHIBIT "A"

8

## **Exhibit "B"**

### **Legal Description of Lands of Diaz**

Lots 11 through 17 inclusive of Division 86, Region 45 as shown on Official Map of the County of Los Angeles, State of California, filed in Book 2, Pages 1 through 42 inclusive of Official Maps, records of said County, a total of 25 08 acres more or less

**EXHIBIT "B"**

**99 1344827**

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

9

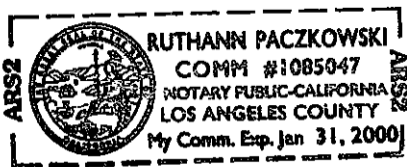
State of CALIFORNIA

County of LOS ANGELES

On JUNE 24, 1999 before me, RUTHANN PACZKOWSKI, NOTARY PUBLIC

personally appeared John P. DANIEL, JR

☒ personally known to me – OR – ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument



WITNESS my hand and official seal

Ruthann Paczkowski  
Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

### Description of Attached Document

Title or Type of Document LEASE AGREEMENT OPEN SPACE HABITAT

Document Date JUNE 24, 1999 Number of Pages 6

Signer(s) Other Than Named Above N/A

### Capacity(ies) Claimed by Signer(s)

Signer's Name [Signature]

- ☐ Individual
- ☒ Corporate Officer
- Title(s) MAYOR
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other \_\_\_\_\_

Signer Is Representing

CITY OF  
LA HABRA HILLS

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name \_\_\_\_\_

- ☐ Individual
- ☐ Corporate Officer
- Title(s) \_\_\_\_\_
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other \_\_\_\_\_

Signer Is Representing

\_\_\_\_\_  
\_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

99 1344827

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

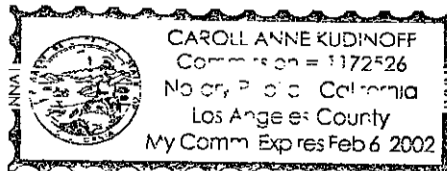
STATE OF CALIFORNIA )  
COUNTY OF Los Angeles )

On July 12, 1999 before me Carol Anne Kudinoff  
personally appeared Robert L. Henderson\*\*\*\*\*  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument  
and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument  
the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Signature

*[Handwritten Signature]*



OPTIONAL SECTION  
CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document

- [ ] INDIVIDUAL  
[ ] CORPORATE OFFICER(S) \_\_\_\_\_ TITLE(S)  
[ ] PARTNER(S) [ ] LIMITED [ ] GENERAL  
[ ] ATTORNEY IN-FACT  
[ ] TRUSTEE(S)  
[ ] GUARDIAN/CONSERVATOR  
[ ] OTHER \_\_\_\_\_

SIGNER IS REPRESENTING

\_\_\_\_\_  
Name of Person or Entity

\_\_\_\_\_  
Name of Person or Entity

OPTIONAL SECTION

Though the date requested here is not required by law, it could prevent fraudulent reattachment of this form

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT Lease Agreement

NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT June 24, 1999

SIGNER(S) OTHER THAN NAMED ABOVE NONE

99 1344827

**EXHIBIT C**

**HELI-HYDRANT LOCATION**



Tools

APN 8267-014-904

APN 8267-014-906

Driveway

Skyline Dr



**EXHIBIT D**

**DECLARATION OF RESTRICTIVE COVENANTS**

**RECORDING REQUESTED BY,  
AND WHEN RECORDED MAIL TO:**

City Manager  
City of La Habra Heights  
1245 Hacienda Heights Road  
La Habra Heights, CA 90631

APN 8267-014-904

Space above reserved for Recorder's Office  
Exempt from recording fees pursuant to  
Govt Code 6103, 27383 & R&T Code 11922

## **DECLARATION OF RESTRICTIVE COVENANTS**

THIS DECLARATION OF RESTRICTIVE COVENANTS ("**Declaration**") is made this        day of       , 2021 by the **PUENTE HILLS HABITAT PRESERVATION AUTHORITY**, a joint powers authority (previously known as **PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY**, a joint powers entity established pursuant to Gov't code section 6500 et seq) ("**Declarant**"), with reference to the following facts:

### **RECITALS**

**A.** Declarant is the sole owner in fee simple of certain real property (APN       ) containing approximately     acres located in the City of La Habra Heights, County of Los Angeles, State of California and legally described on Exhibit A ("**Restricted Property**").

**B.** Immediately preceding the recordation of this Declaration, that certain Grant of "In Gross" Easements dated       , 2021 executed by Declarant as "City" in favor the City of La Habra Heights, a municipal corporation is being recorded against a portion of the Restricted Property which granted easement rights to the City for installation, operation and maintenance of a Heli-Hydrant facility with access rights thereto ("**Heli-Hydrant Easement**").

**C.** The Restricted Property possesses wildlife and habitat values as well as open space ("**Conservation Values**") of importance to the people of the State of California.

**D.** Declarant is authorized to create and hold real property subject to a Declaration pursuant to Civil Code Section 815.3.

**E.** It is the intention of Declarant to preserve and protect in perpetuity the Conservation Values of the Restricted Property in accordance with the terms of this Declaration.

### **COVENANTS, TERMS, CONDITIONS, AND RESTRICTIONS**

In consideration of the above recitals and the covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of California, including Civil Code Section 815, Declarant hereby declares the Restricted Property shall be held, transferred, conveyed, leased, occupied or otherwise disposed of, and used subject to the following Declarations (and incorporating

the above recitals herein by this reference), which shall run with the land, and be binding on Declarant's heirs, successors in interest, administrators, assigns, lessees, or other occupiers and users of the Restricted Property, or any portion of it.

1. **Effective Date.** This Declaration shall be effective on the date which it is recorded in the Official Records of Los Angeles County ("**Effective Date**").

2. **Existing Recorded Matters.** This Declaration is subject to any and all liens, encumbrances, easements, covenants and other matters of record as of the Effective Date including, but not limited to, the Heli-Hydrant Easement ("**Existing Recorded Documents**").

3. **Purpose.**

a. **Purpose.** The purpose of this Declaration is to ensure that, subject to the Heli-Hydrant Easement, the Restricted Property will be retained in perpetuity in a natural condition and to prevent any use of the Restricted Property that will impair or interfere with the Conservation Values of the Restricted Property ("**Purpose**"). Declarant intends that this Declaration will confine the use of the Restricted Property to those activities that are consistent with the Purpose.

b. **Natural Condition.** The term "**Natural Condition,**" as used in this Declaration shall mean the condition of the Restricted Property as it exists as of the Effective Date, as well as future enhancements or changes to the Restricted Property that occur directly as a result of any activities involving the placement, construction, and use of the Heli-Hydrant and associated facilities, as described in the Heli-Hydrant Easement.

4. **Prohibited Uses.** Except as otherwise provided in this Declaration or in any Existing Recorded Documents, any activity on or use of the Restricted Property materially inconsistent with the purposes of this Declaration is prohibited. Without limiting the generality of the foregoing, the following uses of the Restricted Property are expressly prohibited:

a. All activities and uses which may adversely affect the Purposes of this Declaration to maintain the Natural Condition;

b. Depositing or accumulation of soil, trash, ashes, refuse, waste, bio solids or any other materials;

c. Planting, introduction or dispersal of non-native or exotic plant or animal species;

d. Grazing or other agricultural activity of any kind;

e. Overnight camping or stabling of horses;

f. Residential, commercial, retail, institutional, or industrial development;

g. Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, gravel, soil, rocks, sands or other material on or below the surface of the Restricted Property; and

**h.** Altering the surface or general topography of the Restricted Property, including, but not limited to, any alterations to habitat, building roads or trails, flood control work, structures, or paving or otherwise covering any portion of the Restricted Property.

Declarant shall use reasonable efforts to protect the Restricted Property from violation of the foregoing restrictions by third parties.

**5. Permitted Uses.** The Restricted Property may be used for walks, recreational hiking and equestrian trails by Declarant. The existing improvements on the Restricted Property may be used by Declarant for ranger purposes or in conjunction with a nature/docent center. Declarant shall be entitled to maintain the Restricted Property for fire safety and to replant all or part of the Restricted Property with native vegetation.

**6. Reserved Rights.** Declarant reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Restricted Property, including the right to engage in or to permit or invite others to engage in only those uses of the Restricted Property which are authorized or otherwise expressly permitted under this Declaration.

**7. Additional Covenants.** Declarant makes the following additional covenants, terms, conditions and restrictions for the express benefit of the City of La Habra Heights (“**City**”) which is specifically a third party beneficiary of the covenants, terms, conditions and restriction of this Section 7, each and all of which City may enforce as a third party beneficiary. The covenants, terms, conditions and restriction of this Section 7 shall not be amended, modified or terminated without the City’s express written consent.

**a. Annual Brush Clearance.** Declarant agrees to undertake an annual brush clearing program encompassing the Restricted Property, in accordance with the reasonable requirements established by City’s Fire Chief. The Authority will solicit bids to complete the work and will enter into a contract with the lowest qualified bidder for completion of the work. The Authority will be responsible for payment of the contract fee. If the Fire Marshall puts Authority on notice that the brush clearance has not been completed according to the City Ordinance and the Authority fails to take reasonable corrective action within 14 calendar days of receipt of such notice: 1) the City may make corrective action or hire a contractor to take reasonable corrective action; 2) the Authority shall pay for the cost of such corrective action.

**b. Annual Fire Fee.** The Restricted Property is undeveloped hillside land which historically has been susceptible to fires. As a result of this potential hazard, Declarant will pay to the City a voluntary annual fire fee for the purpose of supporting the fire prevention and the fire suppression services of the City’s fire department. The amount of the fee will be based on an estimate of the actual cost to provide these services to Declarant as the property owner of the open space/parkland property. It is expected that the amount of the fee will approximate the amount of such fees that would be charged if Declarant were the private property owner of a single parcel of land. As of the Effective Date, City and Declarant have calculated the fee for approximately 772 acres at Ten Thousand Nine Hundred Forty-Eight Dollars and Ninety-Six Cents (\$10,948.96) for the City’s fiscal year 2020/2021. The City may increase this amount each year as such increases are similarly imposed on other properties in the City pursuant to the applicable tax ordinance.

c. **Road Maintenance.** Declarant acknowledges its joint obligation with owners of other properties served by Old Ranch Road and Skyline Drive to provide for the maintenance of those roads. Declarant agrees not to add any new visitor-serving uses at the Restricted Property without mitigating any traffic effects as identified by a professional traffic impact analysis.

8. **Access.** This Declaration does not convey a general right of access to the public. The access rights held by the City pursuant to the Heli-Hydrant Easement are restricted to only authorized personnel as specified in the Heli-Hydrant Easement. In addition, police and other public safety organizations and their personnel may enter the Restricted Property to address any legitimate public health or safety matter, including but not limited to, access through fire access routes.

9. **Subsequent Transfers.**

a. The covenants, conditions, and restrictions contained in this Declaration are intended to and shall run with the land and bind all future owners of any interest in the Restricted Property. Declarant, its successor or assign agrees to (i) incorporate by reference to the title of and the recording information for this Declaration in any deed or other legal instrument by which each divests itself of any interest in all or a portion of the Restricted Property, including, without limitation, a leasehold interest; and (ii) give actual notice to any such transferee or lessee of the existence of this Declaration. The failure of Declarant, its successor or assign to perform any act provided in this Section shall not impair the validity of this Declaration or limit its enforceability in any way.

b. From and after the date of any transfer of all or any portion of the Restricted Property by Declarant and each transfer thereafter, (i) the transferee shall be deemed to have assumed all of the obligations of Declarant as to the portion transferred, as set forth in this Declaration, (ii) the transferee shall be deemed to have accepted the restrictions contained herein as to the portion transferred, (iii) the transferor, as applicable, shall have no further obligations hereunder, and (iv) all references to Declarant in this Declaration shall thereafter be deemed to refer to such transferee.

10. **Notices.** All notices, documents, correspondence and communications concerning this Agreement shall be addressed as set forth below, or as the parties may hereafter designate by written notice, and shall be sent through the United States mail with postage prepaid, certified or registered, return receipt requested. Any such mailing shall be deemed served or delivered upon the earlier of actual receipt or the date receipt is refused. Each party may change the address for notices by giving the other party at least ten (10) calendar days' prior written notice of the new address. Notwithstanding the above, either party may also provide notices, documents, correspondence, or such other communications to the other by personal delivery or by Federal Express or similar courier service and so given shall be deemed to have been given upon receipt.

**To Grantor:**

Puente Hills Habitat Authority  
Whittier Transportation Depot  
7333 Greenleaf Avenue, First Floor  
Whittier, CA 90601  
Attn: Executive Director

**To Grantee:**

City of La Habra Heights  
1245 North Hacienda Road  
La Habra Heights, CA 90631  
Attn City Manager

**With a copy to:**

Puente Hills Habitat Authority  
Whittier Transportation Depot  
7333 Greenleaf Avenue, First Floor  
Whittier, CA 90601  
Attn: Authority Counsel

**With a copy to:**

City of La Habra Heights  
1245 North Hacienda Road  
La Habra Heights, CA 90631  
Attn: City Attorney

11. **Amendment.** This Declaration may be amended or modified by written agreement between Declarant and the City and recorded in the Official Records of Los Angeles County.

12. **General Provisions.**

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

b. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Declaration shall be liberally construed in favor of and to effect the purposes of this Declaration and the policy and purpose set forth in California Civil Code Section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Declaration that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. **Change of Conditions.** If one or more of the Purposes of this Declaration may no longer be accomplished, such failure of purpose shall not be deemed sufficient cause to terminate the entire Declaration as long as any other purpose of the Declaration may be accomplished. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Declaration or be considered grounds for its termination or extinguishment. Declarant agrees that global warming and climate change-caused effects shall not be a basis for termination of this Declaration.

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

e. **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Declarant's title in any respect.

f. **Successors and Assigns.** The covenants, terms, conditions, and restrictions of this Declaration 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 Restricted Property.

g. **Attorney Fees.** In the event of any litigation or other legal proceeding involving this Declaration, the prevailing party will be entitled to recover, in addition to any other relief awarded or granted, its reasonable costs and expenses (including attorney's fees) incurred in

the proceeding.

**h. Termination of Rights and Obligations.** A party's rights and obligations under this Declaration shall terminate upon transfer of the party's interest in the Declaration or Restricted Property (respectively), except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**i. 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.

**j. Exhibits.** Exhibit A attached hereto is incorporated herein by reference.

IN WITNESS WHEREOF Declarant has executed this Declaration the day and year first above written and agrees to be bound by the terms and provisions hereof.

**AUTHORITY:**

PUENTE HILLS HABITAT  
PRESERVATION AUTHORITY, a joint  
powers authority

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_, 2021

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Elena Gerli, Authority Attorney

## **Exhibit A**

### **LEGAL DESCRIPTION OF RESTRICTED PROPERTY**

That certain real property in the City of La Habra Heights, County of Los Angeles, State of California legally described as follows:

Lots 11 through 17 inclusive of Division 86, Region 45 as shown on Official Map of County of Los Angeles, State of California filed in Book 2, Pages 1 through 42 inclusive of Official Maps, records of said County, a total of 25.08 acres more or less.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
--

STATE OF CALIFORNIA )  
 )  
 ) ss.  
COUNTY OF LOS ANGELES )

On \_\_\_\_\_, 2021 before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**EXHIBIT E**

**HELI-HYDRANT EASEMENT**

**RECORDING REQUESTED BY,  
AND WHEN RECORDED MAIL TO:**

City Manager  
City of La Habra Heights  
1245 Hacienda Heights Road  
La Habra Heights, CA 90631

APN 8267-014-904

Space above reserved for Recorder's Office  
Exempt from recording fees pursuant to  
Govt Code 6103, 27383 & R&T Code 11922

## **GRANT OF "IN GROSS" EASEMENTS**

### **Heli-Hydrant and Access Easement**

Subject to the terms, conditions and limitations specified in this Grant of "In Gross" Easements ("**Agreement**"), **PUENTE HILLS HABITAT AUTHORITY**, a joint powers authority (previously known as **PUENTE HILLS LANDFILL NATIVE HABITAT PRESERVATION AUTHORITY**, a joint powers entity established pursuant to Government Code Section 6500 et seq) ("**Grantor**") hereby grants to the **CITY OF LA HABRA HEIGHTS**, a municipal organization ("**Grantee**") and Grantee accepts: (i) an exclusive easement *in gross* in, over, across and under ("**Heli-Hydrant Easement**") the portion of Grantor's real property in the City of La Habra Heights, County of Los Angeles, State of California legally described in Exhibit A and depicted on Exhibit C ("**Heli-Hydrant Easement Area**"), and (ii) a non-exclusive easement *in gross* in, over, across and under ("**Access Easement**") the portion of Grantor's real property in the City of La Habra Heights, County of Los Angeles, State of California legally described in Exhibit B and depicted on Exhibit C ("**Access Easement Area**"). The Heli-Hydrant Easement and the Access Easement are sometimes individually as an "**Easement**" and jointly as "**Easements.**" The Heli-Hydrant Easement Area and Access Easement Area are sometimes jointly referred to as the "**Easement Areas**" and depicted on Exhibit C.

**1. Effective Date.** This Agreement shall be effective as of the date it is recorded in the Official Records of Los Angeles County ("**Effective Date**"). This Agreement shall remain in effect in perpetuity unless otherwise terminated by the parties as evidenced by a document recorded in the Official Records of Los Angeles County ("**Official Records**").

**2. Use of Heli-Hydrant Easement.** The Heli-Hydrant Easement may only be used for installation, operation and maintenance of a heli-hydrant which is an open-air water tank that can promptly fill with water in the event of a wildfire and that water-dropping helicopters may access to fill their tanks quickly and without needing time to land ("**Heli-Hydrant**"). Grantee's rights to use the Heli-Hydrant Easement shall include without limitation, Grantee's right to authorize its employees, agents, representatives, firefighters (including those providing mutual aid to the Grantee from other agencies) contractors, and subcontractors to: (i) perform all activities as may be necessary to facilitate the purposes of the Heli-Hydrant Easement; (ii) use and temporarily place and operate tools, equipment, machinery and materials within the Heli-Hydrant Easement; and (iii) trim, cut, remove, or clear away any trees, brush, or other vegetation or flora, including the roots thereof, located within the Heli-Hydrant Easement.

As soon as possible after the Effective Date, Grantee shall promptly commence construction of the Heli-Hydrant and diligently pursue same to completion in accordance with all applicable laws at Grantee's own cost and expense. After completion of the work performed by Grantee or its agents, contractors or employees which disturbs the surface of Grantor's property or any other proximate property Grantee shall, at its own expense, restore the surface of such area as close as reasonable to its original character.

**3. Use of Access Easement.** The Access Easement is appurtenant to the Heli-Hydrant Easement and may only be used to access the Heli-Hydrant Easement and to comply with the obligations of Grantee with respect to the Heli-Hydrant Easement including the installation of underground infrastructure to provide water to the Heli-Hydrant. The Access Easement may also be used for firefighting and related uses. Grantee's rights to use the Access Easement shall include without limitation, Grantee's right to authorize its employees, agents, representatives, firefighters (including those providing mutual aid to the Grantee from other agencies) contractors, and subcontractors to: (i) perform all activities as may be necessary to facilitate the purposes of the Access Easement; (ii) have access to, ingress to, and egress from the Heli-Hydrant Easement; (iii) use and temporarily place and operate tools, equipment, machinery and materials within the Heli-Hydrant Easement Area; and (iv) trim, cut, remove, or clear away any trees, brush, or other vegetation or flora, including the roots thereof, located within the Access Easement.

**4. Grantee Obligations.** Grantee shall maintain the Easements, the respective Easement Areas, and all improvements thereon in good and safe condition at its sole cost and expense. Any improvements constructed by Grantee shall comply with all applicable laws and Grantee shall not permit any liens to be recorded against the Easement Area due to its actions. Grantee shall not permit the dumping or accumulation of trash, junk, garbage or similar items in the Easement Areas.

**5. No Third Party Use.** Except as specifically otherwise provided in this Agreement, Grantee may not allow any third parties to use the Easements and shall use reasonable efforts to prevent any such use.

**6. Reserved Rights.** The Easements granted herein are acquired subject to the right of Grantor, its successors and assigns, to use the surface and subsurface of the land within the Driveway Access Easement to the extent that such use is compatible with and does not unreasonably interfere with the full and free exercise of the rights granted hereunder to Grantee.

**7. No Right to Transfer.** Although the Easements are *in gross*, Grantee shall not have the right to assign or otherwise transfer the Easements and the rights herein unless (i) Grantor consents to such assignment in its discretion; (ii) the assignee assumes all obligations of Grantee; and (iii) the assignment, assumption and consent is in a form acceptable to Grantor and recorded in the Official Records.

**8. Indemnification; Insurance.**

**8.1 Indemnification.** Grantee agrees to indemnify, defend (with counsel reasonably approved by Grantor) and hold harmless Grantor and its authorized officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, to the extent such

claims, actions, losses, damages and/or liability were caused by acts, errors, or omissions, negligence, or intentional misconduct of Grantee or Grantee's officials, officers, agents, employees, contractors or invitees, and for any costs or expenses incurred by Grantor on account of such claims, except where such indemnification is prohibited by law.

**8.2 Insurance.** Prior to commencing any work, City shall provide Authority with insurance reasonably satisfactory to Authority and shall maintain liability insurance with respect to the Easements at all times naming Authority as an additional insured.

**9. Grantor's Obligations.** Grantor agrees for itself, its successors and assigns, not to erect, place or maintain, nor to permit the erection, placement, or maintenance of any buildings, planter boxes, earthfill, large trees, large shrubs, block walls, concrete pavement (other than permitted sidewalks and driveway accesses), decking, structures or other similar improvements, that would unreasonably interfere with the Grantee's intended use of the Easement Areas.

**10. Termination of Easements.** If Grantee ceases to use the Heli-Hydrant for a period of three (3) years, Grantor may elect to terminate the Easements by delivering written notice to Grantee. If Grantee agrees that the Easements are no longer necessary, Grantee shall promptly remove the Heli-Hydrant and all related improvements from the Property at Grantee's sole cost and expense and shall restore the surface of such area as close as reasonable to its original character and leave same in a good and safe condition. Upon completion of such work, the Parties shall execute, acknowledge and record an termination of this Agreement.

**11. Notices.** All notices, documents, correspondence and communications concerning this Agreement shall be addressed as set forth below, or as the parties may hereafter designate by written notice, and shall be sent through the United States mail with postage prepaid, certified or registered, return receipt requested. Any such mailing shall be deemed served or delivered upon the earlier of actual receipt or the date receipt is refused. Each party may change the address for notices by giving the other party at least ten (10) calendar days' prior written notice of the new address. Notwithstanding the above, either party may also provide notices, documents, correspondence, or such other communications to the other by personal delivery or by Federal Express or similar courier service and so given shall be deemed to have been given upon receipt.

**To Grantor:**

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

**With a copy to:**

Puente Hills Habitat Authority  
7702 Washington Avenue – Suite C  
Whittier, CA 90602  
Attn: Authority Attorney

**To Grantee:**

City of La Habra Heights  
1245 North Hacienda Road  
La Habra Heights, CA 90631  
Attn City Manager

**With a copy to:**

City of La Habra Heights  
1245 North Hacienda Road  
La Habra Heights, CA 90631  
Attn: City Attorney

**12. Attorney Fees.** In the event of any litigation or other legal proceeding including,

but not limited to, arbitration or mediation between the parties arising from this Agreement, the prevailing party will be entitled to recover, in addition to any other relief awarded or granted, its reasonable costs and expenses (including attorney's fees) incurred in the proceeding.

**13. Authority.** Each party represents and warrants to the other party that this Agreement has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

**14. Further Assurances.** The parties agree to take such actions and execute such additional documents as are reasonably necessary to carry out the provisions of this Agreement.

**15. Controlling Law.** This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California.

**16. Interpretation.** The section headings used in this Agreement have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. Whenever the context hereof may so require, the singular shall include the plural and the masculine shall include the feminine and neuter. This Agreement shall be construed according to its fair meaning without regard to authorship.

**17. Final Agreement.** This Agreement contains the entire understanding and agreement with respect to the subject matter of this Agreement and all prior or contemporaneous documents, communications, understandings, representations, and statements shall be of no force or effect.

**18. No Waiver.** The failure to enforce any term, covenant, or condition of this Agreement shall not be construed as a waiver of the right to enforce this, or any other, term, covenant, or condition of this Agreement.

**19. Exhibits.** Exhibits A, B and C attached hereto and incorporated herein by reference.

**[SIGNATURES ON FOLLOWING PAGE]**



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
 ) ss.  
COUNTY OF LOS ANGELES )

On \_\_\_\_\_, 2021 before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**EXHIBIT A**

**HELI-HYDRANT EASEMENT**

That certain real property in the City of La Habra Heights, County of Los Angeles, State of California legally described as follows:

**EXHIBIT B**

**LEGAL DESCRIPTION OF ACCESS EASEMENT**

That certain real property in the City of La Habra Heights, County of Los Angeles, State of California legally described as follows:

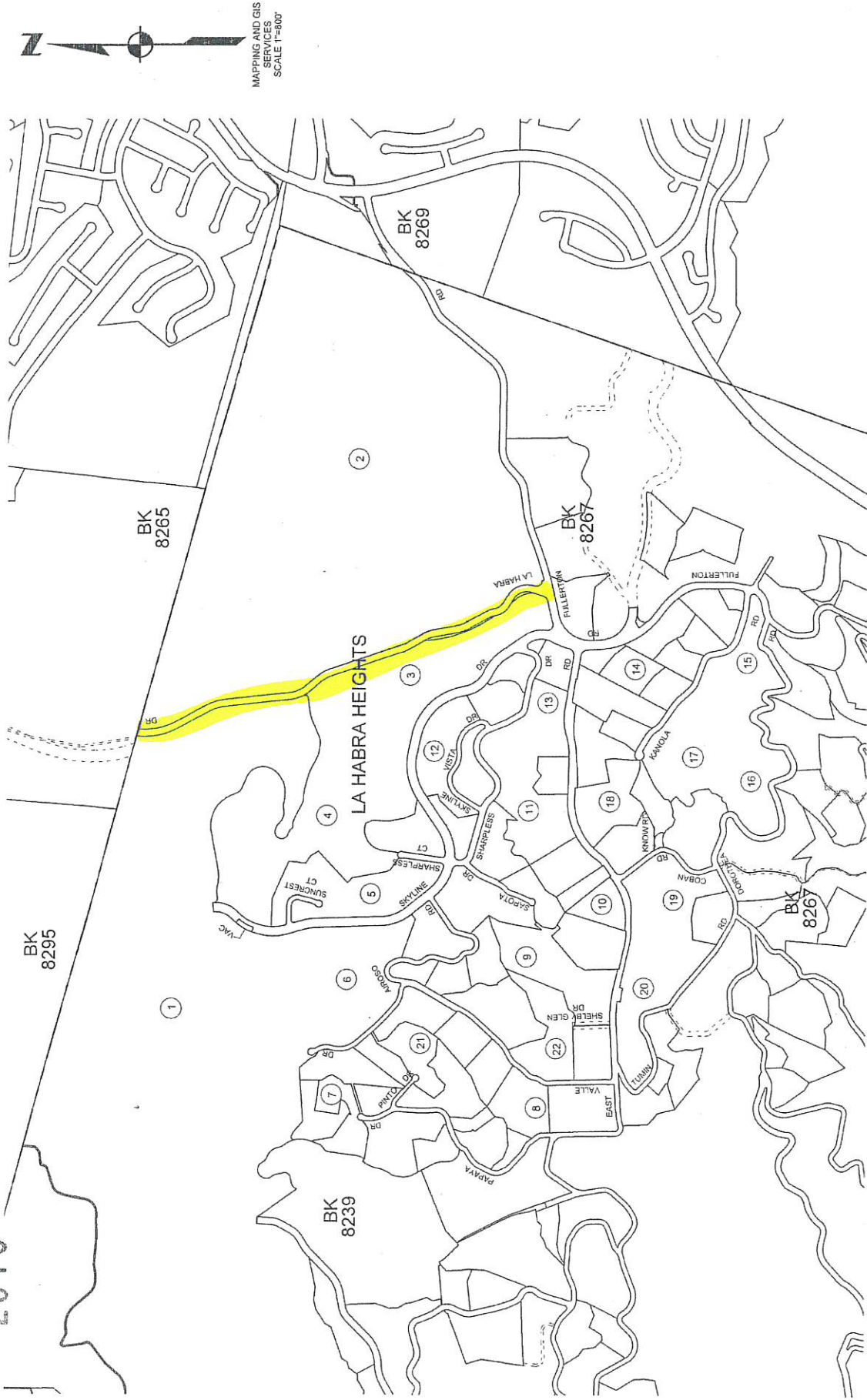
**EXHIBIT C**

**DEPICTION OF EASEMENT AREAS**

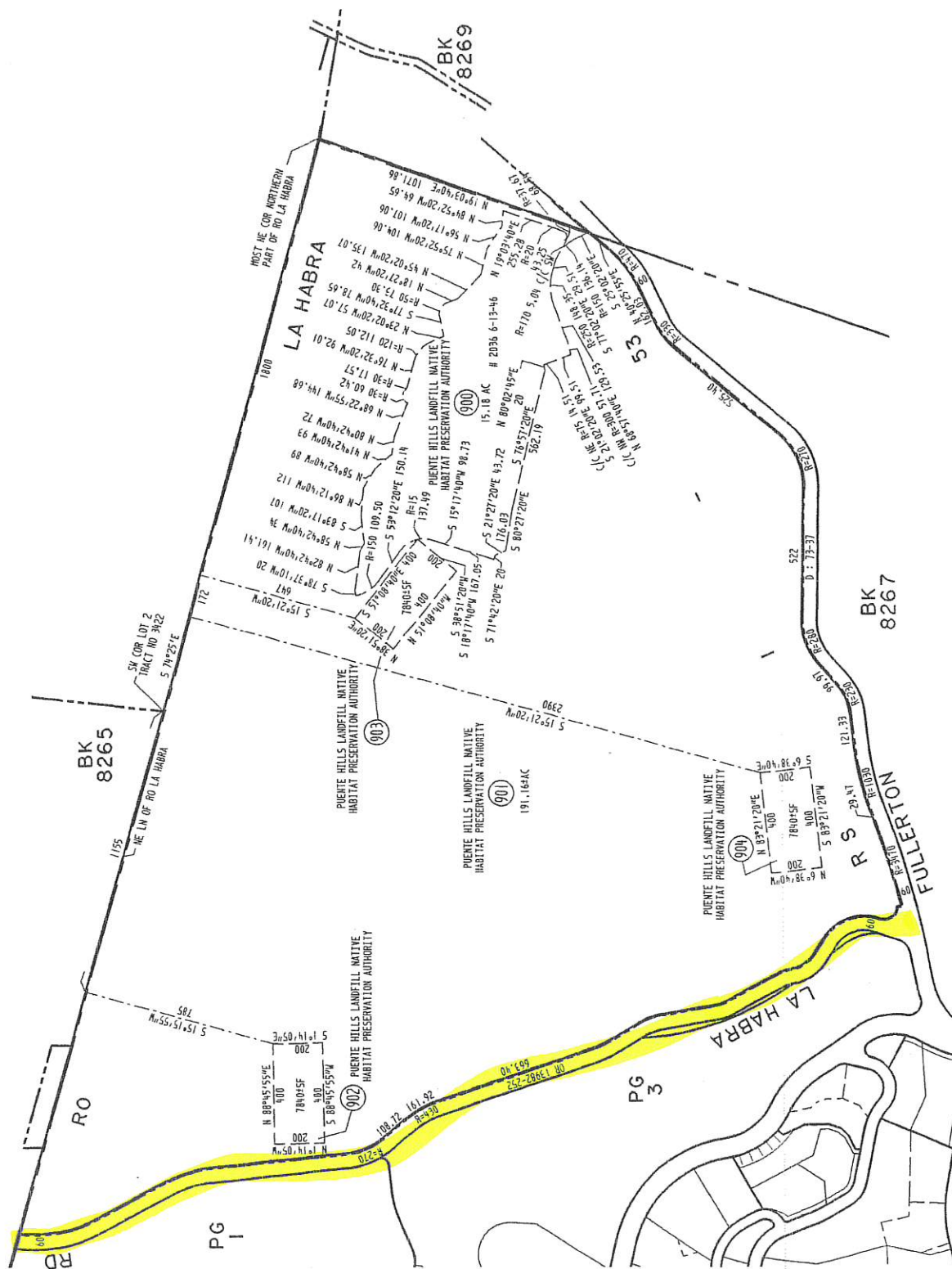
**EXHIBIT F**

**MAP OF LA HABRA ROAD EASEMENT**

2010



MAPPING AND GIS  
SERVICES  
SCALE 1"=800'



2691

