



## REPORT TO CITY COUNCIL

**To:** Honorable Mayor and Members of the City Council

**From:** Jason Simpson, City Manager  
**Prepared by:** Barbara Leibold, City Attorney

**Date:** September 27, 2022

**Subject:** Cooperative Agreement Between Western Riverside County Regional Conservation Authority and the City of Lake Elsinore

### **Recommendation**

Approve and authorize the City Manager to execute the Cooperative Agreement Between Western Riverside County Regional Conservation Authority and the City of Lake Elsinore For Acquisition of Conservation Lands Within the East Lake Specific Plan Area in substantially the form attached and in such final form as approved by the City Attorney and further authorize the City Manager or designee to take all actions and to execute such other ancillary documents necessary to implement the Agreement.

### **Background**

The southeastern shore of Lake Elsinore contains an approximately 3,063-acre area known as the "Back Basin." The Back Basin is located within the East Lake Specific Plan (ELSP).

As the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) was being negotiated and finalized in 2003 and 2004, so too was Amendment No. 6 to the ELSP. Amendment No. 6 was one of several land use projects in the region that were in the difficult position of going through its approval process while the new requirements of the MSHCP were being formulated, but not yet adopted. On October 9, 2003, the City of Lake Elsinore and Vandermost Consulting Services, Inc. (VCS) prepared an MSHCP consistency analysis for the ELSP in anticipation of adoption of Amendment No. 6 and the MSHCP.

The 2003 ELSP MSHCP Consistency Analysis proposed approximately 770 acres of conservation within the Back Basin to achieve consistency with MSHCP goals and objectives. On February 3, 2004, the County of Riverside, which at the time was responsible for the MSHCP, concurred that the 770-acre conservation proposal and related conservation measures proposed for the ELSP, "contains a suitable framework for determining consistency with the MSHCP." Further, the 770-acre conservation proposal was vetted through the U.S. Fish & Wildlife Service (USFWS) and the California Department of Fish & Wildlife (CDFW). The MSHCP was formally adopted on June 22, 2004, four months later.

While the 770-acre conservation proposal was specific to certain areas of the Back Basin, the boundaries of the conservation areas were generally designated without precise boundaries. To-date, approximately 647 acres, or 84%, of the 770-acre goal has been or is slated for conservation within the Back Basin. Approximately 123 acres, or 16%, of the 770-acre goal are needed to achieve the balance of 770 acres of conservation within the ELSP. Getting to 770 acres has been challenging.

The ELSP has been in a “catch-22” situation since the outset of the MSHCP. Without the 770 acres of conservation complete, some development projects may have an uncertain path to demonstrate consistency with the MSHCP, yet to achieve 770 acres of conservation, development needs to occur and there is no consistent agreed-upon process by which development can proceed. The other solution is for the remainder of the “770” to be acquired through the purchase of property from willing sellers.

RCA and City staff and legal counsels have met regularly since February 2022 to develop solutions to the “770.” Both staffs and counsels have spent significant effort sorting through the complexities and difficulties of conservation in the Back Basin. RCA and the City have consulted with the state and federal wildlife agencies numerous times on potential solutions to the “770.” After going through multiple proposals and thoroughly discussing paths forward, RCA and City staff concluded that acquisition of the remaining acres to complete the “770” is the most straightforward solution.

RCA has available grant funding from the California Natural Resources Agency (CNRA) to lead the Back Basin acquisition efforts that can achieve this long-standing conservation objective.

### **Discussion**

RCA staff and Executive Committee have proposed to “set aside” at least \$3 million of the CNRA grant to acquire the remaining 123 acres in the Lake Elsinore Back Basin to complete the 770-acre acquisition target. Doing so would benefit the MSHCP, RCA, and the City. The MSHCP would benefit from the conservation of critical habitat described for conservation within the Plan. The City would benefit from bringing resolution to an issue within its boundaries that dates to the inception of the MSHCP, and which has complicated the City’s economic development efforts. RCA would benefit from investing grant funds that have a near-term expiration date in an area that would assist a Member Agency with fulfilling its MSHCP commitments and where there are likely to be property owners willing to sell their land.

The proposed Cooperative Agreement sets forth the respective responsibilities and expectations of RCA and the City. Under the proposed Cooperative Agreement, RCA agrees to “ earmark” \$3 million of the CNRA grant funds for Back Basin conservation and memorialize the partnership between the City and RCA in attempting to complete the “770” through the land acquisition process. The City agrees to pay for the cost of land appraisals and up to 10% matching funds under the terms of the CNRA grant.

In summary, the Cooperative Agreement:

- Designates \$3 million of the CNRA grant to RCA for the Back Basin;
- Provides flexibility for the Executive Director to increase the amount for the Back Basin, if necessary and if grant funds remain available;

- Commits RCA to take the lead in the acquisition process for this effort, including taking ownership of the habitat once acquired;
- Requires the City to reimburse RCA for the costs of appraising property in the Back Basin (RCA will incur all other costs typical of an acquisition coming into RCA ownership);
- Requires the City to provide 10% of the funding for an acquisition in the unlikely event that CNRA does not fully reimburse RCA (CNRA withholds 10% of funding for each acquisition until it receives all the paperwork demonstrating completion of the acquisition);
- Commits RCA and the City to work together on acquisition of properties in the Back Basin using best efforts;
- Declares that eminent domain will not be used in this process;
- Ensures that RCA is under no obligation to complete the “770” with these funds nor to expend the entire \$3 million offered; and
- Acknowledges that CNRA controls the grant and that RCA must comply with CNRA.

City and RCA staff agree that this proposed Cooperative Agreement is in the mutual interest of RCA (and the MSHCP) and the City. The proposed Cooperative Agreement provides for shared costs, continued collaboration, and most importantly a tangible mechanism to allow this nearly 20-year-old matter to be resolved.

### **Fiscal Impact**

The City will be financially responsible for the cost of appraisals and up to 10% of the funding for acquisition in the unlikely event that CNRA does not fully reimburse RCA. RCA will be responsible for all other costs associated with the acquisitions.

### **Exhibits**

A - Draft Cooperative Agreement