

COASTAL CONSERVANCY

Staff Recommendation

December 2, 2021

**West Coyote Hills:** Acquisition of Neighborhood 3

Project No. 18-052-02

Project Manager: Deborah Ruddock

**RECOMMENDED ACTION:** Consideration and authorization to disburse up to \$10,134,450 to the City of Fullerton to acquire a 13.7-acre property in the West Coyote Hills area of north Orange County for open space, habitat protection, watershed management, and public access.

**LOCATION:** City of Fullerton, County of Orange

---

EXHIBITS

Exhibit 1: [Project Location Maps \(5\)](#)

Exhibit 2: [Photos](#)

Exhibit 3: [Letters of Support](#)

---

**RESOLUTION AND FINDINGS**

Staff recommends that the State Coastal Conservancy adopt the following resolution and findings.

Resolution:

The State Coastal Conservancy hereby authorizes a grant of an amount not to exceed ten million one hundred thirty-four thousand four hundred and fifty dollars (\$10,134,450) to the City of Fullerton (“the grantee”) to acquire a 13.7-acre property in the West Coyote Hills area of north Orange County known as Neighborhood 3 (a portion of APN 287-081-52) including (1) up to \$9,846,720 toward the total purchase price, and (2) up to \$287,730 toward estimated escrow and closing costs, subject to the following conditions:

1. Prior to the disbursement of funds for the acquisition, the grantee shall submit for the review and approval of the Executive Officer of the Conservancy (Executive Officer):
  - a. All relevant acquisition documents for the acquisition including, without limitation, the appraisal, purchase and sale agreement, deed, escrow instructions, environmental or hazardous materials assessment, and title report;

- b. A baseline conditions report; and
  - c. Evidence that sufficient funds are available to complete the acquisition.
2. The grantee shall pay no more than fair market value for the property, as established in an appraisal approved by the Executive Officer.
  3. The property acquired under this authorization shall be managed and operated for open space preservation, habitat protection, watershed management, and public access. The property shall be permanently dedicated to those purposes by an appropriate instrument approved by the Executive Officer.
  4. Conservancy funding shall be acknowledged by erecting and maintaining a sign on the property or in a nearby publicly viewable area, the design and location of which are to be approved by the Executive Officer.

Findings:

Based on the accompanying staff recommendation and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 5.5 of Division 21 of the Public Resources Code, regarding Integrated Marine and Coastal Resources.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.

---

## **STAFF RECOMMENDATION**

### **PROJECT SUMMARY:**

Staff recommends the Conservancy authorize a disbursement up to \$10,134,450 to the City of Fullerton (“the City”) to acquire a 13.7-acre property in the West Coyote Hills area of north Orange County known as Neighborhood 3 (“Property”) for open space, habitat protection, watershed management, and public access. This amount includes (1) up to \$9,846,720 toward fee acquisition, and (2) up to \$287,730 for escrow and closing costs. The anticipated sources of funding for the grant are appropriations to the Conservancy specifically for West Coyote Hills projects from the General Fund and Proposition 68.

The West Coyote Hills is the largest remaining tract of undeveloped land in north Orange County. The Property is located outside of the Coastal Zone (Exhibit 1). However, the area drains into Coyote Creek, a tributary of the San Gabriel River watershed, a coastal draining watershed. Consistent with Chapter 5.5 of Division 21, the proposed project to preserve open space in this heavily urbanized watershed will benefit coastal and marine water quality and natural resources by allowing continued absorption and natural filtration of stormwater and by reducing net outflows of stormwater runoff compared to urban development. Capturing stormwater onsite and minimizing runoff into Coyote Creek and the San Gabriel River supports and protects habitat, allows for improved flood management, and reduces erosion impacts in the watershed and at the shoreline, mitigating the need for costly interventions.

The City will acquire the Property from Pacific Coast Homes (“PCH”, “Seller”), a subsidiary of Chevron USA, pursuant to the terms of residential development entitlements approved in 2015 for the entire 510 acres of the West Coyote Hills. The Master Plan and Vesting Tentative Tract Map (“VTTM”) for the project allow development of up to 760 dwelling units, including 60 in Neighborhood 3. However, the VTTM, in addition to requiring the dedication of at least 283 acres of open space, provides the City an option to purchase additional land in the West Coyote Hills for open space, including the Property. The proposed Conservancy authorization is the result of the City exercising this option.

The fair market value of the Property is \$11,330,000 based on an appraisal approved by the Department of General Services (“DGS”) on October 25, 2021. Total estimated closing costs are \$339,900. A separate grant of \$1,535,450 to the City from the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (“Rivers and Mountains Conservancy”) will provide the funding needed to complete the purchase of the Property. The transaction is expected to close no later than December 31, 2021.

The Wildlife Conservation Board (“WCB”), California Natural Resources Agency, Rivers and Mountains Conservancy, State Parks, and the U.S. Fish and Wildlife Service (“USFWS”) have approved grant funding for a second property, Neighborhood 1, at a total cost of \$6,170,000. That transaction also is expected to close by the end of this calendar year.

Acquisition of Neighborhoods 1 and 3 will eliminate all development potential in the eastern West Coyote Hills. In combination with previously acquired undeveloped property (Neighborhood 2) and the City owned and managed Robert E. Ward Nature Preserve (“Preserve”), the purchases will result in the City owning and managing 115 acres of permanently protected contiguous open space. The contiguous open space acreage in the eastern portion of the West Coyote Hills would increase to 227 acres with the dedication of 102.3 acres (Area A) as required by the VTTM.

The VTTM obligates the Seller to construct eight miles of recreational trails in the West Coyote Hills in phases in conjunction with development in adjacent areas, including on the Property. The Seller is obligated to provide an endowment of up to \$3.84 million (plus CPI adjustments) for maintenance, repair, and operation of the trails and a nature center to be funded and built by the Seller at the Preserve. The VTTM also requires the Seller to provide a separate habitat endowment for a third-party habitat agency to manage the open space through a conservation easement approved by the USFWS.

### **Site Remediation**

The West Coyote Hills was a major oil field that ceased operation in the late 1970s. The Seller is required by the Purchase and Sale Agreement (“PSA”) to clean up remaining oil production infrastructure and any contamination resulting from oil production consistent with a Remedial Action Plan (“RAP”) approved by the Orange County Health Agency in January 2020. The Property must be remediated before public use of the acquired open space. The PSA allows the Seller to take one year after close of escrow to clean up the property. The approved fair market

value for the Property reflects a 2.5% discount from a full residential highest and best use valuation to account for the time it will take the seller to remediate the Property following escrow close.

The RAP proposes excavation and removal activities for locations where soil laboratory data exceeded health screening criteria and background levels of metals and specified other regulated substances. Structures at locations that have a high potential for causing damage to critical habitat are recommended to be left in place. The potential for remediation activities to destroy habitat will be evaluated prior to initiating the scope of work.

### **Major Acquisition**

Acquisition of Neighborhoods 1 and 3 are covered by a single purchase and sale agreement between the Seller and the City at a total cost of \$18.04 million. State agencies are providing \$16.4 million, thereby qualifying the purchase of the two parcels as a major acquisition under state law. Public Resources Code Section 5096.501(c) defines a “major acquisition” as one for which one or more state agencies will together spend more than \$15 million.

For major acquisitions, state law requires the “acquisition agency” to obtain an independent appraisal and an appraisal review from qualified appraisers. The independent appraiser must have no financial interest in the acquisition and must be a State of California licensed or certified real estate appraiser in good standing. The appraisal report prepared by the independent appraiser must follow specifications as to format. The Department of General Services (“DGS”) must review and approve both the appraisal and the appraisal review, and the appraisal review must be posted on the funding agencies’ websites no later than 30 days before consideration to authorize funding. The appraisal itself remains a confidential document until close of escrow.

Consistent with state law, the Conservancy in 2019, in consultation with WCB and with the concurrence of the City, retained a qualified appraiser to prepare an opinion of fair market value for both Neighborhoods 1 and 3 and a separate qualified appraiser to review the appraisal. The Conservancy submitted the final documents to DGS in August 2021, which DGS approved on October 25, 2021. Conservancy staff posted the appraisal review and the RAP on its website on October 28, 2021, along with a project justification statement also required by the statute

### **Conflict Resolution**

In addition to the ecosystem and water quality benefits of protecting open space in the West Coyote Hills, acquisition of Neighborhoods 1 and 3 will help resolve conflicts in the Fullerton community over future uses of the property. The West Coyote Hills is the largest remaining tract of undeveloped land in north Orange County. Since oil production ceased in the 1970s, the City has been working to implement a comprehensive redevelopment plan for the area, approving the first West Coyote Hills Specific Plan in 1977. Plan amendments followed, aimed at reducing overall development. Public scrutiny of development plans for the area began

intensifying with a series of City-sponsored public workshops in 2009 to discuss the PCH proposal for 760 homes. Opposition to the project and support for protecting the entire 510 acres grew during planning commission and city council consideration. Unsuccessful citizen referendum and litigation followed City council approval in 2015, leading all the way to the California Supreme Court, which ruled in favor of the developer and the City in December 2018.

Efforts by state legislators Senator Josh Newman and Assemblymember Sharon Quirk-Silva beginning in 2017 to help resolve conflict over the development resulted in significant state funding for West Coyote Hills conservation. Funding included appropriations to the Conservancy of General Fund and Proposition 68 funds totaling nearly \$20 million. These funds are available for land acquisition and other conservation activities and will help fund purchase of Neighborhood 3. The City also secured grants from California Natural Resources Agency, State Parks, and the Rivers and Mountains Conservancy toward purchase of the neighborhoods.

Talks between PCH, the City, and the community are ongoing for additional purchases of open space. The FY 2021-2022 budget trailer bill signed by the Governor in September 2021 (SB 170) appropriates \$28.5 million to the Conservancy for additional West Coyote Hills projects and activities, funding that could be used for land acquisition and management, public access, and resource enhancement projects.

**Site Description:**

The West Coyote Hills is the largest remaining tract of undeveloped land in north Orange County. It is located in the Coyote Creek watershed in the northwest portion of the City of Fullerton. The Coyote Creek watershed is a sub-watershed of the San Gabriel River, a coastal-draining watershed.

Neighborhood 3 is located in the northeastern portion of the 510-acre West Coyote Hills, a major producing oilfield for most of the 20<sup>th</sup> century that ceased operations in the late 1970s.

The surrounding area is a nearly built-out region with a population of more than two million residents (Exhibit 1). The surrounding areas consist of residential and commercial properties, parks, water reservoirs, and open space. The West Coyote Hills are largely surrounded by properties within the City of Fullerton with limited areas adjacent to the City of La Habra and City of La Mirada. Multiple water reservoirs for the City of Fullerton and the City of La Habra are located along the northern and western West Coyote Hills boundary. The 72.3-acre Robert E. Ward Nature Preserve is located immediately adjacent and to the south/southeast of the eastern half of the West Coyote Hills.

The majority of the oil field related structures and assets have been removed from the West Coyote Hills. The facilities, equipment, and infrastructure that remain include various underground and above ground piping, foundations, sealed and abandoned production or injection wells, and oilfield access roads.

In spite of the urban context and historical uses of the area, biological studies and surveys conducted at the West Coyote Hills report extensive and healthy coastal sage scrub habitat supportive of the federally threatened coastal California gnatcatcher, as well as the presence of

359 animal and plant species, including fully protected, threatened, endangered, and sensitive species (Exhibit 2). These include least Bell's vireo; tricolored blackbird; the fully protected white-tailed kite; the coastal cactus wren, and the intermediate mariposa lily. The West Coyote Hills are a stopover on the Pacific Flyway for migratory birds and serve as a regional point of habitat connectivity to the Puente Hills via Brea Creek as well as Coyote Creek to the north.

**Grant Applicant Qualifications:**

The City of Fullerton has a long history and track record with land transactions as a buyer and seller and using a combination of federal, state, regional, and local funding sources. Most of these transactions were accomplished through the City's redevelopment agency for purposes of constructing public facilities. The proposed acquisition of open space at West Coyote Hills mirrors most closely the City's 2001 acquisition of the 49-acre property known as East Coyote Hills. The Center for Natural Lands Management manages the open space preserve for East Coyote Hills and has been successful in maintaining gnatcatcher populations in that area.

The City has extensive experience managing grant funds. Over the past five years the City was awarded over 14 grants ranging from \$20,000 to \$2.2 million for total grant revenue of \$5.459 million. Previously the City received a Conservancy grant to restore Laguna Lake. Other grants awarded to the City included a \$200,000 Recreational Trail grant to construct the Union Pacific Trail and a \$2.220 million grant to construct a comprehensive Bicycle Boulevard.

**CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on September 23, 2021, in the following respects:

**Selection Criteria**

- 1. Extent to which the project helps the Conservancy accomplish the objectives in the Strategic Plan.** See the "Consistency with Conservancy's Strategic Plan" section below.
- 2. Project is a good investment of state resources.** The proposed project to acquire the 13.7 acre Property in the West Coyote Hills is a good investment of state resources because (1) it will contribute to meeting the state's land conservation goals as required by the Governor's 30 x 30 Executive Order; (2) it will advance state and regional water quality improvement goals; (3) it will help protect state and federal endangered and threatened species; (4) it will resolve major land use conflicts; and (5) it will support public trail recreation.
- 3. Project includes a serious effort to engage with tribes.** The Conservancy and WCB jointly hosted a government-to-government consultation with the Gabrieleño Band of Mission Indians - Kizh Nation ("Tribe") by Zoom in November 2020. The region where Gabrieleño culture thrived for more than eight centuries encompassed most of Los Angeles County, more than half of Orange County and portions of Riverside and San Bernardino counties.

Following a discussion of the proposed acquisition details, which included a discussion of the necessity for remediation of historical oil production facilities, tribal leaders expressed interest in working with the City in the future to develop interpretive signage/exhibits and programming related to the history and culture of the Tribe in the area. Conservancy staff informed City officials of this interest and shared City and Tribe contact information.

4. **Project benefits will be sustainable or resilient over the project lifespan.** Subject to Conservancy approval, the City will place a conservation easement on the Property and contract with the Center for Natural Lands Management or similar entity to manage the land for open space and habitat protection using endowment funds provided by the Seller.
  
5. **Project delivers multiple benefits and significant positive impact.** The proposed project to acquire and protect open space will protect significant plant and wildlife habitat; eliminate additional urban sprawl in the area with benefits to water quality in the watershed and in coastal and marine waters; result in less energy demand than development that otherwise would have occurred, thereby reducing greenhouse gas emissions; and help resolve long-standing conflict over development of the Property. In addition, the VTTM requires the Seller to construct a public trail network and provide an endowment for its operation and maintenance.
  
6. **Project planned with meaningful community engagement and broad community support.** Community discussion, political action, and litigation over the future of the West Coyote Hills has been ongoing for more than a decade, starting with a series of City-sponsored workshops in 2009 focused on the PCH development proposal for 760 homes. The broad community support for open space protection that emerged and help from area legislators resulted in significant state funding for West Coyote Hills conservation.

**PROJECT FINANCING**

<b>Coastal Conservancy</b>	<b>\$10,134,450</b>
General Fund	6,235,262.50
Proposition 68	3,899,187.50
 <i>Others:</i>	
Rivers and Mountains Conservancy	1,535,450
<b>Project Total</b>	<b>\$11,669,900</b>

Unless specifically labelled “Required Match” the other sources of funding listed above are provided as estimates. The Coastal Conservancy does not typically require matching funds, nor

does it require documentation of expenditures from other funders. Typical grant conditions require grantees to provide any funds needed to complete the project.

The anticipated sources of funds are a FY 2018-2019 appropriation to the Conservancy from the General Fund (\$6,235,262.50) and a FY 2019-2020 appropriation to the Conservancy of Proposition 68 funds (\$3,899,187.50).

The General Fund appropriation requires that funds be available “for expenditures to enhance public access and for other public purposes concerning the West Coyote Hills in the County of Orange.” Consistent with the appropriation, the proposed authorization will protect open space and wildlife habitat, improved watershed management, and allow for public access.

The Proposition 68 appropriation is for expenditures to “establish a conservancy program at West Coyote Hills consistent with subdivision (c) of Public Resources Code section 80133.” Subdivision (c) of section 80133 of Proposition 68 allocates funds to the Conservancy for a conservation program in the West Coyote Hills. Consistent with the appropriation and bond language, the proposed authorization will conserve 13.7 acres of the West Coyote Hills in permanent open space, protect wildlife habitat, and improve watershed management.

Other funding sources include a Rivers and Mountains Conservancy Grant from Proposition 1.

**CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:**

Chapter 5.5 of Division 21, Integrated Coastal and Marine Resources, authorizes the Conservancy to undertake coastal watershed and coastal and marine habitat water quality, sediment management, and living marine resources protection and restoration projects or award grants for those projects, to improve and protect coastal and marine water quality and habitats.

Consistent with Section 31220(a), Conservancy staff consulted with the State Water Resources Control Board and received confirmation that the proposed authorization is consistent with Chapter 3 (commencing with Section 30915) of Division 20.4 of the Public Resources Code.

The proposed project, acquisition of property in the West Coyote Hills, is consistent with Section 31220(b)(1) relating to reducing contamination of waters within the coastal zone or marine waters. The proposed project, while located outside of the Coastal Zone, will protect plant and wildlife habitat and provide water quality benefits for the Coyote Creek, a tributary in the San Gabriel River watershed, a coastal draining watershed.

The project is consistent with Section 31220(b)(2) relating to the protection or restoration of fish and wildlife habitat within coastal and marine waters and coastal watersheds. Acquisition of the Property for preservation and management as open space will protect fully protected, threatened, endangered, and sensitive wildlife species, including the California gnatcatcher.

The project is consistent with Section 31220(b)(6) relating to the acquisition, protection, and restoration of coastal wetlands, riparian areas, floodplains, and other sensitive watershed lands, including watershed lands draining to sensitive coastal or marine areas. The proposed



project will acquire and protect plant and wildlife habitat and provide water quality benefits for the Coyote Creek/San Gabriel River watershed, a coastal draining watershed.

The proposed project is also consistent with Section 31220(c), which requires projects funded pursuant to the chapter to include a monitoring and evaluation component. The grantee intends to enter into an agreement with the Center of Natural Lands Management or similar entity to manage and monitor the land for open space and habitat protection.

Section 31220(c) requires projects to be consistent, if relevant to the project, with an integrated watershed management program (31220 (c)(1)); a local watershed management plan (31220(c)(2)); and water quality control plans adopted by the State Water Resources Control Board and regional water quality control boards (31220(c)(3)). Consistent with subsections (c)(1) and (c)(2), the proposed project is consistent with the North Orange County Integrated Regional Water Management Plan and the Coyote Creek Watershed Management Plan.

**CONSISTENCY WITH CONSERVANCY'S [2018-2022 STRATEGIC PLAN](#) GOAL(S) & OBJECTIVE(S):**

Consistent with Goal 5, Objective 5.A. of the Conservancy's 2018-2022 Strategic Plan, the proposed project to acquire land in the West Coyote Hills will help protect a significant coastal watershed resource property in the San Gabriel – Coyote Creek watershed.

Consistent with Goal 6, Objective 6B, the proposed project will help protect and preserve coastal watershed land featuring a healthy presence of coastal sage scrub habitat, habitat that supports the coastal California gnatcatcher, a federally threatened species.

Consistent with Goal 6, Objective 6.D., the proposed project, by protecting open space lands from approved development, will help preserve the San Gabriel River – Coyote Creek watershed.

Consistent with Goal 6, Objective 6.G., the proposed project, by protecting open space lands from approved development, will improve water quality in the Coyote Creek and San Gabriel River with downstream benefits for coastal and ocean resources.

**CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/STATE WATER QUALITY CONTROL PLAN:**

Conservancy staff consulted with staff at the Santa Ana Regional Water Quality Control Board to assess consistency of the proposed project with the goals of the Coyote Creek Watershed Management Plan ("CCWMP"). After reviewing the proposed project, Board staff reported in October 2020 that the purchase of 13.7 acres of land in the West Coyote Hills meets the goals of that plan.

The CCWMP states "...the Coyote Hills serve important watershed, as well as habitat functions, both of which can only be further compromised by additional habitat loss and fragmentation. If

conserved, Coyote Hills will constitute the most significant natural open space within a vast sea of humanity in the Coyote Creek Watershed.”

The proposed project is consistent with the following CCWMP goals and objectives for West Coyote Hills:

Land

L-1. Habitat: Restore, maintain, and protect habitat quality and quantity.

L-3. Open Space: Enhance open space opportunities for the public.

Water

W-3. Water Quality: Protect groundwater resources to maximize beneficial uses

*The North Orange County Integrated Regional Water Management Plan (NOC IRWMP, 2010, Updated in 2017)*

The NOC IRWMP addresses 241,000 acres (376 square miles) encompassing the Northern Orange County Watershed Management Area. The proposed project is consistent with the plan’s regional and local objectives, specifically calling out in the 2017 update the need to protect the West Coyote Hills for preservation as open space.

Specifically, the proposed project meets the following NOC IRWMP objectives:

- Protect and enhance water quality
- Promote Flood Management
- Manage Runoff and Its Related Impacts from Existing and Future Land Uses
- Maximize Funding from State and Federal sources
- Enhance and Maintain Habitat

**CEQA COMPLIANCE:**

The proposed funding authorization is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations (“CCR”) Section 15313 because this project funds the acquisition of land for fish and wildlife habitat. The proposed project is also exempt under Section 15325 because it is an acquisition to preserve and restore the natural conditions of the area and to preserve open space for park purposes.

Upon approval of the project, Conservancy staff will file a Notice of Exemption.