



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: SEPTEMBER 6, 2022**

**FROM: PUBLIC UTILITIES DEPARTMENT      WARDS: ALL**

**SUBJECT: JOINT EXERCISE OF POWERS AGREEMENT TO JOIN THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY WITH THE PURPOSE OF FACILITATING THE FINANCING OF WATER-RELATED CAPITAL IMPROVEMENT PROJECTS UNDERTAKEN BY THE MEMBERS THAT ARE EXPECTED TO BENEFIT PUBLIC AGENCIES LOCATED WITHIN THE VICINITY OF, OR RECEIVING WATER FROM, THE UPPER SANTA ANA RIVER WATERSHED; RIVERSIDE'S PORTION OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY'S EXPENSES FOR SUBMITTING A WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT PROGRAM APPLICATION EXPENDITURE NOT TO EXCEED \$270,000**

## **ISSUES:**

Consider approval for joining the Upper Santa Ana River Watershed Infrastructure Financing Authority through the execution of a Joint Exercise of Powers Agreement; and consider approving an expenditure not to exceed \$270,000 to fund Riverside's portion of submitting a funding application and Water Infrastructure Finance and Innovation Act loan package to the U.S. Environmental Protection Agency for a regional suite of infrastructure projects.

## **RECOMMENDATIONS:**

That the City Council:

1. Approve joining the Upper Santa Ana River Watershed Infrastructure Financing Authority through the execution of a Joint Exercise of Powers Agreement and authorize the City Manager, or his designee, to execute any required documents;
2. Designate the Mayor or designee to represent the City of Riverside on the governing board of the Upper Santa Ana River Watershed Infrastructure Financing Authority; and
3. Approve an expenditure not to exceed \$270,000 to fund Riverside's portion of submitting a funding application and Water Infrastructure Finance and Innovation Act loan package to the U.S. Environmental Protection Agency for a regional suite of infrastructure projects.

## **BOARD RECOMMENDATION:**

The Board of Public Utilities met on July 25, 2022, and, after discussion, voted to recommend that the City Council approve an expenditure not to exceed \$270,000 to fund Riverside's portion of submitting a funding application and Water Infrastructure Finance and Innovation Act loan package to the U.S. Environmental Protection Agency for a regional suite of infrastructure projects; and of joining the Upper Santa Ana River Watershed Infrastructure Financing Authority through the execution of a Joint Exercise of Powers Agreement.

The Board also discussed and clarified that this item does not constitute approvals for any individual projects or funding for projects. All individual projects, including their financing that may be included in the WIFIA loan, will go through the usual approval process through the Board in concurrence with the City Purchasing Resolution.

## **BACKGROUND:**

### **Upper Santa Ana River Habitat Conservation Plan (USAR HCP)**

In October of 2014, the City Council approved the expenditure of \$325,000 for the City's share in participating in the planning efforts for the Upper Santa Ana River Habitat Conservation Plan. A Habitat Conservation Plan (HCP) is a planning level document that ensures anticipated impacts on a listed (threatened or endangered) species be minimized or mitigated by conserving the habitat upon which the species depends, thereby contributing to the recovery of the species as a whole. Developing an HCP is an approach to gaining regulatory approval for construction and maintenance activities requiring a state and federal permit.

The creation of the Upper Santa Ana River HCP provides a regional, sustainable, and cost-effective approach to reducing the impacts on listed or endangered species while also pursuing and planning for critical infrastructure projects and providing for continued maintenance of current facilities. San Bernardino Valley Municipal Water District (Valley District) is leading the effort to develop the HCP for eleven participating agencies. This HCP is vital to ensuring the success of planned and existing water supply projects while protecting listed or endangered species and habitats. The HCP partners have been working diligently over the last eight years to collect and evaluate scientifically defensible data to identify the current state of all listed species to mitigate impacts and determine mitigation costs to ensure the success of the HCP.

The Upper Santa Ana River HCP provides the City of Riverside with numerous cost-saving water supply and environmental benefits by providing the environmental permitting for the construction of local water supply projects. The projects listed in the HCP provide significantly lower costs than imported water supplies. One of the HCP projects will supply water to Riverside's water tributaries and provide an overall benefit to the river ecosystem. In restoring Riverside's water tributaries, RPU staff identified opportunities to provide recycled water to landscape irrigation customers and thus reducing potable water supplies for irrigation. Riverside's Habitat, Parks, and Water Project (RHPWP), developed by RPU staff, has the potential to provide the City with a reliable water supply of up to 9,750 acre-feet of water per year (AFY) due to its ability to reuse its current water supply.

The RHPWP consists of constructing two pipelines at the Riverside Regional Water Quality Control Plant. The pipelines, when completed, would deliver recycled water to Hole Creek, Hidden Valley Creek, Hidden Valley Wetlands, Anza Creek, Old Ranch Creek, Tequesquite

Creek, and Lake Evans Creek. Public parks, cemeteries, schools, and businesses, would also have the opportunity to receive recycled water from these pipelines.

### Water Infrastructure Finance and Innovation Act (WIFIA)

The WIFIA program was established by the federal Water Infrastructure Finance and Innovation Act of 2014. The federal program accelerates investment in our nation's water infrastructure by providing long-term, low-cost supplemental loans for regionally and nationally significant projects. Through a Joint Exercise of Powers Agreement (JPA), Valley District, San Bernardino Valley Water Conservation District (SBVWCD), and Yucaipa Valley Water District (YVWD) created the Upper Santa Ana River Watershed Infrastructure Financing Authority (USAR WIFA) in July of 2021. The development of the JPA creates favorable funding opportunities for the WIFIA program by combining mutually beneficial projects from multiple agencies.

To increase the success of receiving funds through this program, Valley District is investing \$90 million for future water supply projects through its cash reserves. YVWD also participates at 51% of the total project funding for several water supply projects in their service area. Together, Valley District and YVWD are submitting their projects to an infrastructure program called Watershed Connect. The USAR WIFA participating members govern the Watershed Connect program through a participating agency-appointed governing body. Many of the projects included in Watershed Connect could potentially benefit Riverside's water supply reliability. If Riverside elects to partner on any of these projects, Watershed Connect could serve as a financing option providing Riverside funding access to low-cost, flexible financing. The Watershed Connect partners are in the middle of completing the WIFIA application process. It would be advantageous for Riverside to join to access this funding mechanism for its water supply projects. The cost to Riverside is \$270,000 to join the application process with no future obligation. In addition, the JPA allows a participating agency to separate, if desired, without penalty.

### **DISCUSSION:**

The WIFIA Program offers eligible entities low, fixed interest rate financing for water projects. The interest rate is based on the U.S Treasury rate. It is calculated using the weighted average life of the loan rather than the loan maturity date, generally resulting in a lower interest rate. The WIFIA program offers flexible terms to its borrowers. Borrowers can customize their repayments to match their anticipated revenues and expenses for the life of the loan, which provides flexibility to phase in any necessary future rate increases. WIFIA loans may have a length of up to 35 years after the project, and payments can be deferred up to five years after project completion. Lastly, WIFIA loans can be combined with various funding sources. Because of the numerous benefits WIFIA has to offer, coupled with the governance and financing structure required by WIFIA, Valley District, SBVWCD, and YVWD pursued the creation of the USAR WIFA, which allowed them to become eligible for the EPA WIFIA program. The City of San Bernardino Municipal Water Department and Western Municipal Water District has also joined the USAR WIFA. In addition to Riverside's consideration to join, Big Bear Regional Wastewater Agency, the City of Colton, and the City of Rialto have expressed interest in becoming members.

Once an agency is ready to construct a project, the agency will apply for funding from the EPA through the WIFIA program. If funding is successfully secured, the agency will enter into a Project Agreement with the USAR WIFA that would define the payback terms specific to the project and the agency financing the project. The agreement would also include specific details related to

any EPA WIFA reporting and loan management. The USAR WIFA would act as the conduit providing access to the EPA financing, assistance, and management with any WIFA reporting to the EPA. Any costs associated with program administration of sustaining the JPA would be included in the Project Agreement. Therefore, there is no risk or financial obligation to participate in the JPA. Instead, JPA costs only apply once an agency moves forward to build projects using this financing tool, and the terms are defined in a project agreement.

A JPA formed pursuant to California Government Code, Title 1, Sec 6500, et seq. provides the necessary legal rights, protections, and flexibility to provide infrastructure finance for the separate member agencies. A JPA will support the program's regional scope and be funded through project agreements with member agencies. In addition, forming a regional JPA will increase the competitiveness of securing state and federal financing and is expected to impact loan interest rates and repayment terms positively.

Key points from the Upper Santa Ana River Watershed Infrastructure Financing Authority JPA agreement are as follows.

1. **Purpose:** The JPA is an organization separate from the member agencies with the powers to create and enter into contracts, incur debts and liabilities, and adopt rules and regulations for the operation of the JPA, amongst other powers provided by the agreement.
2. **Governance:** The JPA Board of Directors consists of one representative and an alternate from each member agency, designated by motion or resolution; the representative can be a governing board member or employee of the member agency. Each member agency has one vote, which will be equally weighted. All actions of the Board shall be approved by a majority vote.
3. **Meetings:** The agreement requires regular meetings to be held at least twice a month in accordance with provisions of the Brown Act; the JPA Board can reconsider meeting frequency.
4. **Membership:** Members include the founding agencies and additional members joining the JPA at later dates; the admission of additional members must be approved by the JPA Board. Any member may withdraw from the JPA by providing at least 180 days' written notification. Withdrawal of a member does not relieve that member agency from any obligations incurred by the agency on behalf of that agency.
5. **Risks:** The JPA Agreement states that the debts, liabilities, and obligations of the Authority, shall not be debts, liabilities, and obligations of any of the member agencies. Support for loans and other program funding will be transferred through individual project agreements with the member agencies.
6. **Revenue:** The JPA can secure bonds, loans, notes, and other indebtedness that are repaid with payments resulting from project agreements with member agencies.
7. **Project Agreements:** A document authorized by the governing Board of a member agency and the JPA Board to finance or refinance a project and specifies how the JPA will fund the project and how the member agency will pay the JPA.

Valley District and YVWD are the lead agencies for 28 proposed water infrastructure and supply projects for the region and have packaged these projects together in a program called Watershed

Connect. Watershed Connect will be the first suite of projects under the USAR WIFA to pursue EPA WIFIA funding. Valley District and YVWD submitted a loan package to the EPA last year for Watershed Connect and have spent \$640,000 to date in preparing a letter of interest, loan package, and application fee. The projects included in Watershed Connect are anticipated to cost \$442,157,232. Of the projects included in Watershed Connect, Riverside will have the opportunity, if approved in the future by the Board and Council, to partner on three water supply projects for an estimated cost of \$32,300,000. Because of Riverside's possible involvement in these future projects, Riverside has been asked to consider joining the JPA if interested in pursuing this financing opportunity, as well as to contribute funds towards the Watershed Connect effort and participate in the WIFIA loan application. If Watershed Connect successfully qualifies to obtain WIFIA funding, then the partners would enter into a Project Agreement. At this time, Riverside is only interested in partnering with Valley District and YVWD to share in the cost of seeking EPA WIFIA funding to provide Riverside with another financing option. If successful, Riverside would consider all funding possibilities including WIFIA, and present this information to the Board and Council for consideration.

The three Riverside projects included in Watershed Connect are Enhanced Recharge Phase 1A Liner, Enhanced Recharge Phase 1B, and the west branch of the RHPWP referred to in the background of this report.

Within the 1969 Judgment, Riverside is allowed to participate in "New Conservation" projects that capture stormwater from Seven Oaks Dam and recharge it to the Bunker Hill groundwater basin known as the Seven Oaks Dam Enhanced Recharge Project (ERP). The recharge facilities associated with these projects are located east of the City of Redlands and approximately two miles downstream from the Seven Oaks Dam. Participating in the enhanced recharge projects would allow Riverside to increase the extraction and export rights from the Bunker Hill basins by about 711 acre-feet per year in perpetuity from phase 1B. The projects for the ERP program are constructed in phases. Phase 1A was previously completed in early 2019. Phase 1A liner and Phase 1B are expected to be constructed by 2024. Riverside's share of the estimated costs for Phase 1B is about \$5,000,000 currently.

Moreover, the west branch of the RHPWP is estimated to be approximately \$10,300,000, and the east branch is approximately \$17,000,000. These amounts correspond to Riverside's share of the total costs of each project. Future budget appropriations will need to be made by the City Council to authorize funding for these projects. The first step is to consider adding these projects to the next water rate plan (FY 2023) to ensure the City has adequate funding for its share of the projects.

The RHPWP could increase the City's water supply up to 11,000 AFY by contributing up to 9,750 AFY of new water supply generated by the project, in addition to being used to convey additional recycled water that is currently left in the river. The RHPWP will also provide a reliable supply of water to the threatened Santa Ana sucker at five tributaries of the Santa Ana River and to Hidden Valley Wetlands. Because of the large size of the project, it has been broken out into a West Branch segment and the East Branch segment. At this time, the project included in Watershed Connect is the West Branch segment, which would run west of the City's wastewater treatment plant and deliver recycled water to landscape irrigation customers, two tributaries of the Santa Ana River, and Hidden Valley Wetlands. In the future and when necessary, the Board and City Council will be asked to consider these future water supply projects and if approved for construction, RPU could consider utilizing WIFIA Program funding secured through Watershed Connect to finance the projects. This is a keystone project for the entire watershed to meet the environmental benefits necessary to obtain approval from regulatory agencies for new water

supply and recycled water projects.

Valley District and YVWD have spent \$640,000 to date on supporting the WIFIA letter of interest and loan package application process for Watershed Connect. In addition, Valley District anticipates up to an additional \$1,500,000 could be necessary to complete and secure WIFIA funding for Watershed Connect. Riverside's portion of projects included in Watershed Connect equates to 15.62%. If Riverside decides to join this effort, Riverside would be asked to contribute \$100,000 to cover past expenses as well as to consider future expenses up to \$170,000 for a total Watershed Connect expense not to exceed \$270,000.

There are currently seven members of the JPA, as reflected in Exhibit A to the Executed Joint Exercise of Powers Agreement. Section 13 of that agreement provides that other public agencies may wish to participate in the JPA, and that a public agency can participate “upon such terms and conditions as approved by a unanimous vote of the Board, including establishment of an appropriate cost allocation for that Additional Member and payment by the Additional Member of an acceptable financial contribution to offset prior expenses or obligations incurred by the existing Members, if any.” The JPA then revises Exhibit A to reflect such additional member. Here, Riverside will request that the JPA Board vote to allow Riverside to participate as an additional member.

### **STRATEGIC PLAN ALIGNMENT:**

Joining the Upper Santa Ana River Watershed Infrastructure Financing Authority through the execution of a Joint Exercise of Powers Agreement will secure a financing opportunity to support sustainable, future water supply projects and contributes to **Strategic Priority No. 4 - Environmental Stewardship** and **Goal 4.2** – Sustainably manage local water resources to maximize reliability and advance water reuse to ensure safe, reliable and affordable water to our community; and **Strategic Priority No. 5 – High Performing Government** and **Goal 5.4** – Achieve and maintain financial health by addressing gaps between revenues and expenditure and aligning resources with strategic priorities to yield the greatest impact.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – The USAR WIFA will regularly meet under the provisions of the Ralph M. Brown Act and will be governed by a Board of Directors consisting of a representative from each member agency. In addition, any future financing of water supply projects through the USAR WIFA will occur through Project Agreement(s) that must be approved by City Council and by the JPA Board. All financing terms and conditions will be included in the project agreement and will be available to the public for their review. The manner in which the City would seek project funding would be completed in an open, public setting.
2. **Equity** – The USAR WIFA will provide Riverside with the opportunity to seek low-interest, flexible project financing for future water supply projects for its ratepayers. Any future financing through the USAR WIFA would be captured in a Cost of Service Study to ensure the equitable treatment of all ratepayers.
3. **Fiscal Responsibility** – By joining the USAR WIFA, Riverside will have the ability to obtain low-interest, flexible financing on future water supply projects through the Water Infrastructure Finance and Innovation Act Program, providing ratepayers with a more favorable option than standard bond financing.

4. **Innovation** – The USAR WIFA provides the region with an innovative opportunity by serving as a mechanism for member agencies to collaborate and achieve low-interest financing for future projects that benefit the region.
5. **Sustainability & Resiliency** – The USAR WIFA's purpose is to achieve regional water supply security, resilience to extended drought and the effects of climate change, and holistically enhance the health of the Upper Santa Ana River Watershed.

#### **FISCAL IMPACT:**

The total fiscal impact of partnering on the Watershed Connect effort and seeking the opportunity to utilize U.S. EPA WIFIA financing for the three Riverside projects is \$270,000. Sufficient funds are available in Public Utilities Professional Services Account No. 6210000-421100 to partner on the loan application. Joining the USAR WIFA JPA allows Riverside the opportunity to seek favorable WIFIA project financing in the future should the loan application be approved by the US EPA. Funds are not currently available to pay debt service on any awarded funds. Debt service costs and costs associated with loan progress reporting covenants would be identified and requested at the same time that project-specific agreements would be presented to Board and Council for their consideration.

Prepared by: Todd M. Corbin, Utilities General Manager  
Certified as to  
availability of funds: Edward Enriquez, Interim Assistant City Manager/Chief Financial Officer/City Treasurer  
Approved by: Kris Martinez, Assistant City Manager  
Approved as to form: Phaedra A. Norton, City Attorney

#### **Attachments:**

1. Executed Joint Exercise of Powers Agreement
2. Presentation