

**SPECIAL NOTICE REGARDING
CORONAVIRUS DISEASE 2019 (COVID-19)
AND PARTICIPATION IN PUBLIC MEETINGS**

On March 4, 2020, Governor Newsom declared a State of Emergency resulting from the threat of COVID-19. On September 16, 2021, Governor Newsom signed Assembly Bill No. 361 into law. Assembly Bill No. 361 amends Government Code section 54953(e) by adding provisions for remote teleconferencing participation in meetings by members of a legislative body, without the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions. The Upper Santa Ana River Watershed Financing Authority adopted a resolution determining, by majority vote, that, as a result of the declared State of Emergency, a meeting in person would present imminent risks to the health or safety of attendees. Accordingly, it has been determined that all meetings of the Upper Santa Ana River Watershed Financing Authority will be held pursuant to the Brown Act and will be conducted via teleconference. There will be no public access to the meeting venue.

**MEETING OF THE
UPPER SANTA ANA RIVER
WATERSHED INFRASTRUCTURE FINANCING AUTHORITY
WEDNESDAY, AUGUST 3, 2022 – 8:30 am**

PUBLIC PARTICIPATION

Public participation is welcome and encouraged. You may participate in the August 3, 2022, meeting of the Upper Santa Ana River Watershed Financing Authority online and by telephone as follows:

**Dial-in Info: (877) 853 5247 US Toll-free
Meeting ID: 818 8828 6875
PASSCODE: 3802020**

<https://sbvmwd.zoom.us/j/81888286875>

If you are unable to participate online or by telephone, you may also submit your comments and questions in writing for consideration by sending them to comments@sbvmwd.com with the subject line “Public Comment Item #” (insert the agenda item number relevant to your comment) or “Public Comment Non-Agenda Item”. Submit your written comments by 6:00 p.m. on Tuesday, August 3, 2022. All public comments will be provided to the Executive Director and may be read into the record or compiled as part of the record.

IMPORTANT PRIVACY NOTE: Participation in the meeting via the Zoom app is strongly encouraged. Online participants **MUST** log in with a Zoom account. The Zoom app is a free download.
Please keep in mind: (1) This is a public meeting; as such, the virtual meeting information is published on the World Wide Web and available to everyone. (2) Should you participate remotely via telephone, your telephone number will be your “identifier” during the meeting and available to all meeting participants; there is no way to protect your privacy if you elect to call in to the meeting.



Agenda

**UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY**
380 East Vanderbilt Way, San Bernardino, CA 92408

WEDNESDAY, AUGUST 3, 2022

CALL TO ORDER/PLEDGE OF ALLEGIANCE

1. PUBLIC COMMENT

Any person may address the Board on matters within its jurisdiction.

2. APPROVAL OF MINUTES

- 2.1 May 18, 2022, Meeting(Page 3)
[Watershed Connect Minutes 20220518](#)

3. DISCUSSION AND POSSIBLE ACTION ITEMS

- 3.1 Consider Resolution No. 011 Authorizing Remote Meetings for next 30 days(Page 10)
[Staff Memo - Consider Resolution No. 011 for Remote Meetings](#)
[Resolution No. 011](#)
- 3.2 Approval of the Membership of Western Municipal Water District(Page 14)
[Staff Memo - Approval of Western MWD Membership](#)
[Resolution No. 3222](#)

4. REPORTS (Discuss and Possible Action)

- 4.1 Executive Director's Report (Page 40)
[Executive Director's Report](#)

5. ANNOUNCEMENTS

6. ADJOURNMENT

PLEASE NOTE: Materials related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the District's office located at 380 E. Vanderbilt Way, San Bernardino, during normal business hours. Also, such documents are available on the District's website at www.sbvmd.com subject to staff's ability to post the documents before the meeting. The District recognizes its obligation to provide equal access to those individuals with disabilities. Please contact Melissa Zoba at (909) 387-9228 two working days prior to the meeting with any special requests for reasonable accommodation.

MINUTES OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY

Regular Meeting of the Board of Directors | May 18, 2022

ROLL CALL

Member Agency	Director	Attendance
San Bernardino Valley Municipal Water District	Paul Kielhold	Present
Yucaipa Valley Water District	Lonni Granlund	Present
San Bernardino Valley Water Conservation District	Betsy Miller	Present
San Bernardino Municipal Water Department	Miguel Guerrero	Present

Member Agency		Attendance
San Bernardino Valley Municipal Water District	T. Milford Harrison, Treasurer	Absent
San Bernardino Municipal Water Department	Cecilia “Toni” Callicott, Alternate	Absent
San Bernardino Valley Municipal Water District	Gil Botello, Alternate	Present
Yucaipa Valley Water District	Nyles O’Harra, Alternate	Present
San Bernardino Valley Municipal Water District	Heather Dyer, Executive Director	Present
San Bernardino Valley Municipal Water District	Jose Macedo, Secretary	Present

Staff Present	Agency
Michael Esquer	San Bernardino Valley Municipal Water District
Anthony Flordelis	San Bernardino Valley Municipal Water District
Joanna Gibson	San Bernardino Valley Municipal Water District
Wen Huang	San Bernardino Valley Municipal Water District
Chris Jones	San Bernardino Valley Municipal Water District
Adekunle Ojo	San Bernardino Valley Municipal Water District
Cindy Saks	San Bernardino Valley Municipal Water District
Shavonne Turner	San Bernardino Valley Municipal Water District
Melissa Zoba	San Bernardino Valley Municipal Water District

Laura Torres	SBVMWD Intern
Joseph Zoba	Yucaipa Valley Water District
Allison Edmisten	Yucaipa Valley Water District
Scott Heil	Varner & Brandt

Others in Attendance:	
Douglas Brown	Stradling Yocca Carlson & Rauth
Jonathan Guz	Stradling Yocca Carlson & Rauth
Jeff Herrin	AECOM
Lora Carpenter	Fieldman, Rolapp & Associates
Robert Porr	Fieldman, Rolapp & Associates

CALL TO ORDER

The Regular Meeting of the Upper Santa Ana River Watershed Infrastructure Financing Authority (USAR WIFA) was called to order by Chair Paul Kielhold at 8:30 a.m. Chair Kielhold led the Pledge of Allegiance. A quorum was noted present by roll call.

1. PUBLIC COMMENT

Chair Kielhold stated that any member of the public wishing to make any comments to the Authority may do so. There was no comment.

2. APPROVAL OF MINUTES

Action: The minutes of the April 6, 2022 meeting were approved with one correction by the following roll-call vote:

MOVED: Guerrero	SECONDED: Granlund	APPROVED: 4-0
AYES:	Granlund, Guerrero, Kielhold, Miller	
NOES:		
ABSTAIN:		
ABSENT:		

3. DISCUSSION AND POSSIBLE ACTION ITEMS

- 3.1 Consider Resolution No. 009 authorizing the Joint Powers Authority to conduct remote meetings for the period May 18, 2022, through June 17, 2022

Executive Director Heather Dyer introduced the resolution.

Action: Resolution No. 009 was adopted by the following roll-call vote:

MOVED: Granlund	SECONDED: Miller	APPROVED: 4-0
AYES:	Granlund, Guerrero, Kielhold, Miller	
NOES:		
ABSTAIN:		
ABSENT:		

RESOLUTION NO. 009

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY FOR THE PERIOD MAY 18, 2022, THROUGH JUNE 17, 2022, PURSUANT TO BROWN ACT PROVISIONS

- 3.2 Consider Approval of Resolution No. 010 Approving the Submission of a Water Infrastructure Finance and Innovation Act Loan Application and Related Documents to the U.S. Environmental Protection Agency

Executive Director Heather Dyer explained the Water Infrastructure Finance and Innovation Act (WIFIA) loan program and reminded that the joint powers authority (JPA) was formed for the specific purpose of facilitating this loan and other financing opportunities in order to construct water and energy resilient infrastructure into the future. It is envisioned to be a long-lasting tool for agencies in the region to identify funding and loans.

Over time, it is believed there will be more than \$5 billion in interconnected and related projects that add value to the watershed, Ms. Dyer continued. A Letter of Interest was submitted to the EPA in June 2021, and an invitation to submit the loan application was received in December 2021. The application for \$192 million is nearly ready, Ms. Dyer said.

Ms. Dyer detailed the benefits of the WIFIA loan program, including low interest rate, flexible terms, customized repayment schedules, deferral of payments, prepayment without penalty, and ability to combine with other federal funding.

The request today is for adoption of the resolution approving the submission of the loan application, Ms. Dyer explained. This will begin an approximately six-month period of review. Dyer noted that the SBVMWD and the YVWD teams have already met with the Standard & Poor's credit rating authority and received an A+ rating.

Ms. Dyer reviewed a summary of 28 total water supply and groundwater recharge projects, stormwater capture, recycled water, and energy resilience upgrades to be built over the next three years. The first phase includes \$436 million, she noted.

There is no other program like this in the United States right now, Ms. Dyer noted. She said she thinks other areas of California and the nation will be looking to replicate this model as it offers the opportunity to get a lot of infrastructure on the ground, allows flexibility to build costs in over time, and makes great strides toward becoming energy efficient and setting up a system to move forward in the future.

Each agency is responsible for paying back its portion of the loan, Ms. Dyer continued. The agencies are autonomous in how they operate and maintain the facilities built. Included in the resolution are installment agreements which establish between each owner-operator of the facilities and the JPA, that the JPA serves as a financial hub that receives money from the EPA and distributes it to the projects, then receives the payments from the owner-operators and makes the debt service payment to the EPA, Ms. Dyer explained.

The \$191.8 million loan application includes:

- Valley District for \$62 million (32.31 percent) for stormwater capture and purple pipe projects. Costs are being split with Western Municipal Water District (WMWD) and Riverside Public Utilities (RPU). WMWD is contributing cash for their share, and RPU intends to finance their amount and is going through the approval process.
- RPU for \$29.9 million (15.62 percent)
The cost split is based on the water rights split that was received for the water rights behind Seven Oaks Dam (28 percent WMWD and RPU, and 72 percent Valley District). This makes great strides toward perfecting water rights received approximately 15 years ago, Ms. Dyer added.
- Yucaipa Valley Water District for \$99.9 million (52 percent) for 17 projects

Heather Dyer reviewed the actions of the resolution:

- Authorize the form of the installment Purchase Agreement with Valley District and YVWD to be included in the loan application
- Approve the loan application and authorize the listed officers to take certain actions to ensure completion and submission of the application to the EPA

- Authorize the payment of the \$100,000 application fee
- Approve the form of a Memorandum of Understanding (MOU) with RPU
- Approve the Disclosure Policy

Chair Kielhold asked about the source of the application fee. Ms. Dyer advised that Valley District will pay the fee then invoice YVWD for reimbursement of 52 percent, and RPU and WMWD for their shares.

Director Guerrero asked about an MOU for WMWD. Ms. Dyer explained that the JPA agreement would be going to the WMWD Board this week and will be joining the JPA this month. Additionally, RPU is considering taking the agreement directly to their Board rather than the MOU, but the desire is to get the MOU form approved in case of any last-minute changes, Ms. Dyer explained.

Director Miller said she is excited to see the regional planning and the move toward implementation.

Action: Resolution No. 010 was adopted by the following roll-call vote:

MOVED: Granlund	SECONDED: Guerrero	APPROVED: 4-0
AYES:	Granlund, Guerrero, Kielhold, Miller	
NOES:		
ABSTAIN:		
ABSENT:		

RESOLUTION NO. 010

A RESOLUTION OF THE BOARD OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY APPROVING A WIFIA APPLICATION AND CERTAIN OTHER DOCUMENTS AND AUTHORIZING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH

4. REPORTS (Discuss and Possible Action)

4.1 Executive Director's Report

Executive Director Heather Dyer emphasized the magnitude of the project and recognized the team members.

Ms. Dyer advised the Board that she has been meeting with elected officials to tell the story of this program and the integrated planning of the past decade, and the message has resonated. She met recently with Senator Roscilie Ochoa-Bogh who expressed gratitude to the Board for support of the program. Ms. Dyer has also met with members of the budget committees and requested the State consider expending 25 percent of the program cost to make this a true State-federal-local partnership; it was well received. Staff continues to move forward to understand the budget process to see if there is an opportunity to get State funding directly to the program in order to make a real impact and stretch the dollars further, Ms. Dyer advised. Every dollar of local reserve that is not spent now can be used for additional infrastructure projects in the future, she noted.

RPU is working on taking the JPA agreement or the MOU to their utilities board in the next couple of weeks, Ms. Dyer reiterated, and said she will be making a presentation to that group. The presentation was given to the WMWD Engineering Committee two weeks ago and they are considering joining the JPA at their next Board meeting.

There is a great amount of traction and people are understanding the visionary nature of infrastructure now and into the future, Ms. Dyer noted. She also recognized the consulting team for their effort, advisement, and creativity. She thanked the Board for their extraordinary support.

5. ANNOUNCEMENTS

Director Granlund thanked Ms. Dyer and noted that this was Ms. Dyer's idea, and she has put in hours of time, thought and imagination to bring this all together.

Mr. Daniel Cozad said he is pleased to see the progress today, and although today is his last day as an employee of the San Bernardino Valley Water Conservation District, it has been great to see so many regional projects come together; and this one in record time with record cooperation. He noted that the District Board has asked him to help out with a few things, so this will not be the last time seeing him. He said the JPA, the District and the region is in good hands with Ms. Miller and the team.

6. ADJOURNMENT

Action: The meeting was adjourned at 8:27 a.m.



APPROVAL CERTIFICATION
I hereby certify to approval of the
foregoing Minutes of the Upper Santa
Ana River Watershed Infrastructure
Financing Authority.

Respectfully submitted,

Lynda J. Kerney
Contract Assistant

Secretary

Date _____

UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY



DATE: August 3, 2022

TO: Board of Directors

FROM: Heather Dyer, Executive Director

SUBJECT: Consider Resolution No. 011 Authorizing Remote Meetings for the Next 30 Days pursuant to Brown Act Provisions

Staff Recommendation:

Adopt Resolution No. 011 authorizing remote teleconference of the Board of Directors and Technical Advisory Committee of the Authority for the next 30 days.

Summary:

On May 18, 2022, the Board adopted Resolution No. 009 authorizing remote teleconference meetings for a period of 30 days ending June 17, 2022. To continue teleconference meetings in accordance with the Brown Act, the Board of Directors is required to adopt a new resolution.

Background:

Assembly Bill 361 ("AB 361"), effective on October 1, 2021, amends Government Code 54953 to provide authority and specific requirements for public agencies to hold virtual meetings during a proclaimed state of emergency and remain in compliance with the Brown Act. In accordance with Government Code Section 54953 (e)(3), the Board must review the need and make findings for continuing the teleconferencing as authorized by AB 361 at least once every thirty (30) days until the Governor terminates the state of emergency. With the adoption of Resolution No. 011, the Board is reaffirming its findings and compliance to AB 361 for the next 30 days ending September 2, 2022.

Fiscal Impact:

There is no fiscal impact associated with the requested action.

Attachment:

Resolution No. 011

RESOLUTION NO. 011

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY FOR THE PERIOD AUGUST 3, 2022, THROUGH SEPTEMBER 2, 2022, PURSUANT TO BROWN ACT PROVISIONS.

WHEREAS, the Upper Santa Ana River Watershed Infrastructure Financing Authority (Authority) is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the Upper Santa Ana River Watershed Infrastructure Financing Authority's legislative bodies are open and public, as required by the Ralph M. Brown Act (Gov't Code § 54950 *et seq.*), so that any member of the public may attend, participate, and watch the Authority's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the Authority's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the state of emergency continues to directly impact the ability of the members to meet safely in person; and

WHEREAS, such conditions now exist in the Authority, specifically, a state of emergency has been proclaimed due to an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19); and

WHEREAS, the San Bernardino County Department of Health has recommended measures to promote social distancing; and

WHEREAS, the Board of Directors has determined that the state of emergency continues to directly impact the ability of the members to meet safely in person; and

WHEREAS, the Board of Directors does hereby find that the current state of emergency with respect to COVID-19, local official recommendations to promote social distancing, and conditions causing imminent risk to the health and safety of attendees have caused, and will continue to cause, conditions of peril to the safety of persons within the Authority that are likely to be beyond the control of services, personnel, equipment, and facilities of the Authority, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency, the Board of Directors does hereby find that the legislative bodies of the Upper Santa Ana River Watershed Infrastructure Financing Authority shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Proclamation of Local Emergency. The Board hereby proclaims that a local emergency now exists throughout the Authority, and declares that meeting in person would not comply with local official recommendations to promote social distancing and would present imminent risk to the health and safety of attendees.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of a State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The Executive Director and legislative bodies of the Upper Santa Ana River Watershed Infrastructure Financing Authority are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect on August 3, 2022, and shall be effective until the earlier of (a) September 2, 2022, or (b) such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the Upper Santa Ana River Watershed Infrastructure Financing Authority may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

ADOPTED this 3rd day of August, 2022.

Paul Kielhold
Chair

Jose Macedo
Secretary

UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY



DATE: August 3, 2022

TO: Board of Directors

FROM: Heather Dyer, Executive Director

SUBJECT: Consider the Approval of the Membership of the Western Municipal Water District

Staff Recommendation:

That the Board 1) determines that the Western Municipal Water District (“Western”) meets the conditions for membership of the Authority and 2) unanimously admit Western as a Member of the Authority.

Summary:

On May 18, 2022, the Board of the Western Municipal Water District (“Western”) voted to join the Authority by passing Resolution No. 3222. Section 13 of the Joint Exercise of Powers Agreement gives the Authority’s Board the discretion to admit additional members based on the following criteria, which Western has met:

- Common powers specified in the Declaration of Purpose
- Credit Worthiness, and
- Benefits to the Watershed Connect Program and other Authority Members

Background:

Western Municipal Water District (“Western”) is a partner with the San Bernardino Valley Municipal Water District (“Valley District”) in the Enhanced Recharge Project, which is the largest single project in the Watershed Connect Program. The relationship between both agencies is over 50 years old. Both agencies are the court-designated Watermaster for the San Bernardino Basin in accordance with the 1969 Western-San Bernardino Judgment and they have been great stewards of the annual basin water accounting and many basin sustainability projects.

The initial members of the Authority are namely 1) San Bernardino Valley Water Conservation District 2) San Bernardino Valley Municipal Water District, and 3) Yucaipa Valley Water District. Any other members are defined by the agreement are additional members; however, all the initial members and anticipated additional

UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY

members including Western were included in the Exhibit A of the initial Joint Exercise of Powers Agreement.

Western is financing its portion of the project cost on a cash basis; therefore, it is not applying for a WIFIA loan. Nonetheless, Western is joining the Authority as a true partner to be a formal part of the Watershed Connect and have access to the regional infrastructure finance mechanism in the future.

An updated No. 3222 has been requested from Western, which will clearly designate the Director to serve on this Authority's Board and the Alternate.

Fiscal Impact:

There is no fiscal impact associated with the requested action.

Attachment:

Resolution No. 3222

RESOLUTION NO. 3222

WESTERN MUNICIPAL WATER DISTRICT

**A RESOLUTION OF THE BOARD OF DIRECTORS AUTHORIZING
THE EXECUTION OF A JOINT EXERCISE OF POWERS
AGREEMENT TO JOIN THE UPPER SANTA ANA WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY**

WHEREAS, Western Municipal Water District (“Western”), acting pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “JPA Law”), may enter into a joint exercise of powers agreement with one or more other public agencies pursuant to which such contracting parties may jointly exercise any power common to them and, pursuant to Government Code § 6588, exercise certain additional powers; and

WHEREAS, on July 20, 2021 the San Bernardino Municipal Valley District (“Valley District”), San Bernardino Valley Water Conservation District (“Conservation District”), Yucaipa Valley Water District (“YVWD”), and the City of San Bernardino have established the Upper Santa Ana Watershed Infrastructure Financing Authority (“USAWIFA”, the “Financing JPA”) Pursuant to the JPA Law, Western wishes to join Valley District, Conservation District, YVWD and the City of San Bernardino, and Additional Members in the future, in issuing revenues bonds or incurring other financial obligations from time-to-time; and

WHEREAS, under California law and the Joint Exercise of Powers Agreement, the Financing JPA will be a public entity separate and apart from Valley District, Conservation District, YVWD, the City of San Bernardino and Western, and future Additional Members, and the debts, liabilities and obligations of the Financing JPA will not be the debts, liabilities or obligations of Valley District, Conservation District, YVWD, the City of San Bernardino, Western or the Additional Members or any representatives serving on the governing body of the Financing JPA; and

WHEREAS, the Board of Directors of Western has reviewed the Joint Exercise of Powers Agreement and the provisions of the California Environmental Quality Act ("CEQA") and has considered whether any direct or indirect physical changes to the environment will result from entering into the Joint Exercise of Powers Agreement and from creating the Financing JPA, and has considered whether taking either or both of those actions may possibly have a significant effect on the environment.

NOW, THEREFORE, the Board of Directors of the Western Municipal Water District hereby finds, determines, declares and resolves as follows:

SECTION 1. The statements, findings, and determinations set forth above and in the preambles of the documents approved by this resolution are true and correct.

SECTION 2. The form of the Joint Exercise of Powers Agreement attached hereto as Exhibit A is hereby approved. The President or Vice-President of Western, acting singly, are each hereby authorized to execute and deliver the Joint Exercise of Powers Agreement substantially in the approved form, with such changes, insertions and omissions as may be recommended by Valley District General Counsel or Stradling Yocca Carlson & Rauth, a Professional Corporation, as Bond Counsel, said execution being conclusive evidence of such approval.

SECTION 3. The Board of Directors of Western does hereby determine that authorizing (1) the joining of the Financing JPA, (2) the execution of the Joint Exercise of Powers Agreement, and (3) all steps that are reasonably convenient or necessary to join the Financing JPA, does not constitute a project or projects under CEQA because: the proposed actions represent administrative activities of the Valley District that will not result in direct or indirect physical changes in the environment (Section 15378(b)(5) of the CEQA Guidelines); and it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, and thus the proposed action is not subject to CEQA (Section 15061(b)(3) of the CEQA Guidelines).

SECTION 4. _____ is hereby appointed the initial representative of Western to serve on the board of directors of USARWIFA and _____ is hereby appointed the initial alternate to serve on the board of directors of USARWIFA.

SECTION 5. The President, the Vice-President, the General Manager and any other proper officer of Western, acting singly, are each hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by the Joint Exercise of Powers Agreement.

SECTION 6. Unless otherwise defined herein, all terms used herein and not otherwise defined shall have the meanings given such terms in the Joint Exercise of Powers Agreement unless the context otherwise clearly requires.

SECTION 7. This resolution shall take effect immediately.

ADOPTED at a regular meeting of the Board of Directors at Riverside, California, this 18th day of May, 2022.

AYES: Dennstedt, Torres, Gardner, Rizvi, Roughton

NOES: None.


ABSTAIN: None.

ABSENT: None.



BRENDA DENNSTEDT
President

ATTEST:



MIKE GARDNER
Secretary

EXHIBIT A

JOINT EXERCISE OF POWERS AGREEMENT

CREATING THE

UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY

JOINT EXERCISE OF POWERS AGREEMENT

by and among

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT,

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT,

YUCAIPA VALLEY WATER DISTRICT,

and

THE OTHER PARTIES SET FORTH IN EXHIBIT A

creating the

**UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY**

July 20, 2021

JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, dated July 20, 2021, by and among the SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT, a municipal water district that is duly organized and existing under and by virtue of the laws of the State of California (the “San Bernardino Valley Municipal Water District”), the SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT, an independent special district that is organized and existing under and by virtue of the laws of the State of California (the “San Bernardino Valley Water Conservation District”), the YUCAIPA VALLEY WATER DISTRICT, a county water district that is organized and existing under and by virtue of the laws of the State of California (the “Yucaipa Valley Water District”), and the other parties set forth in Exhibit A as it may be revised from time to time, each a public agency that is organized and existing under and by virtue of the laws of the State of California (the “Additional Members”).

DECLARATION OF PURPOSE

A. Chapter 5 of Division 7 of Title 1 of the California Government Code, Government Code sections 6500 et seq., (the “Act”) authorizes the San Bernardino Valley Municipal Water District, the Yucaipa Valley Water District and the Additional Members to create a joint exercise of powers entity which has the power to exercise any powers common to the San Bernardino Valley Municipal Water District, the Yucaipa Valley Water District and the Additional Members and to exercise additional powers granted to it under the Act. This Agreement creates such an agency, which shall be known as the Upper Santa Ana River Watershed Infrastructure Financing Authority (the “Authority”) for the purposes and to exercise the powers described herein.

B. The Members have determined to develop a means to facilitate the financing of the implementation of a coordinated regional water infrastructure program to provide a more reliable and affordable water supply to the Members and their respective rate payers, consisting 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 Santa Ana River watershed (the “Upper Santa Ana River Watershed Infrastructure Program”).

C. The Members, through the development and implementation of the Upper Santa Ana River Watershed Infrastructure Program (also known as Watershed Connect), aim to invest in projects to modernize aging infrastructure and to address issues facing the region and its Members, such as the impacts of climate change, drought and the need for cooperative water management to assure safe and reliable drinking water and environmental restoration.

D. The Members are each authorized to plan for, design, construct, operate, maintain, repair and replace water-related facilities and to buy, sell, lease and use property and to incur indebtedness for public purposes pursuant to the California Water Code, the California Government Code and other laws of the State of California.

E. The Members desire to use any and every power common to them and the other powers granted to the Authority pursuant to the Act for the purpose of financing the costs of the various projects comprising Upper Santa Ana River Watershed Infrastructure Program.

F. Article 4 of the Act, Government Code sections 6584 et seq., (known as the “Marks-Roos Local Bond Pooling Act of 1985”) authorizes and empowers joint powers agencies like the Authority to issue bonds and to purchase bonds issued by, or to make loans to, the Members for financing public capital improvements, working capital, liability and other insurance needs, or projects whenever there are

significant public benefits, as determined by the Authority. The Marks-Roos Local Bond Pooling Act of 1985 further authorizes and empowers the Authority to sell bonds so issued or purchased to public or private purchasers at public or negotiated sale.

G. The Members desire to explore all financing options to fully implement the Upper Santa Ana River Watershed Infrastructure Program, including, but not limited to, entering into one or more loan agreements with the United States Environmental Protection Agency under its Water Infrastructure Finance and Innovation Act program and other funding options, including the use of the Marks Roos Local Bond Pooling Act of 1985.

TERMS OF AGREEMENT

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings herein specified.

“*Act*” shall mean Articles 1, 2 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, Government Code sections 6500 et seq., as amended.

“*Additional Members*” shall mean a Member other than the San Bernardino Valley Municipal Water District, the Yucaipa Valley Water District, San Bernardino Valley Water Conservation District and any other initial Members.

“*Agreement*” shall mean this Joint Exercise of Powers Agreement creating the Authority, as it may be amended from time to time.

“*Authority*” shall mean the Upper Santa Ana River Watershed Infrastructure Financing Authority created by this Agreement.

“*Board*” or “*Board of Directors*” shall mean the governing board of the Authority.

“*Bonds*” shall have the same meaning as in Government Code section 6585(c), and in addition shall include, without limitation, bonds, loans, notes and any other evidences of indebtedness of the Authority authorized and issued pursuant to the Act or other available financing mechanism.

“*Director*” shall mean a member of the Board appointed to the Board pursuant to Section 4(b) of this Agreement.

“*Indenture*” shall mean each indenture, trust agreement, loan agreement, resolution or other such instrument pursuant to which Bonds are issued.

“*Members*” shall mean San Bernardino Valley Municipal Water District, Yucaipa Valley Water District, San Bernardino Valley Water Conservation District and the Additional Members listed in Exhibit A of this Agreement.

“*Project*” shall mean generally water-related capital improvement projects, including, but not limited to, wastewater treatment, recycled water or water reuse, stormwater capture, water conveyance, groundwater storage, alternative energy, environmental preservation or ecosystem restoration projects, identified in a Project Agreement financed or refinanced by the Authority for the benefit of the Member or Members who are parties to such Project Agreement.

“*Project Agreement*” shall mean an agreement entered into by one or more Members and the Authority pursuant to which the Authority agrees to finance or refinance a Project specified in such agreement and the Member(s) is obligated to make payments to the Authority with respect to the financial obligations incurred by the Authority for purposes of financing or refinancing the applicable Project, all in accordance with the terms and conditions of any such Project Agreement.

“*State*” shall mean the State of California.

Section 2. Purpose. This Agreement is made pursuant to the Act for the purpose of assisting in the financing and refinancing of the Projects of the Members, working capital for the Members and other costs described in the Act by exercising the powers referred to in this Agreement and providing an organizational framework for the implementation of the financing of the Upper Santa Ana River Watershed Infrastructure Program. Any Bonds issued by the Authority shall be solely for Projects benefiting the Member or Members, as provided in the applicable Project Agreement.

Section 3. Term. This Agreement shall become effective as of the date hereof (the “Effective Date”) and shall continue in full force and effect until (i) the date which is the 40th anniversary of the Effective Date or (ii) the date on which the Members terminate this Agreement in writing; provided however this Agreement shall not terminate so long as any Bonds or other obligations of the Authority remain outstanding under the terms of any Indenture, Project Agreement, contract, agreement, or other instrument pursuant to which such Bonds are issued or other obligations are incurred.

Section 4. The Authority.

(a) *Creation of the Authority.* There is hereby created pursuant to the Act an authority and public entity to be known as the “Upper Santa Ana River Watershed Infrastructure Financing Authority.” As provided in the Act, the Authority shall be a public entity separate from the Members. The geographic boundaries of the Authority shall be coextensive with the boundaries of all of the Members. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members. Notwithstanding any other provision of this Agreement, the Authority shall have no power to incur any debt, liability or obligation that is not subject to and limited by the preceding sentence, including but not limited to any debt, liability or obligation to a public retirement system or otherwise for pension, health care or other retirement benefits.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State of the State in the manner that is set forth in Section 6503.5 of the Act, and, to the extent required, with the Local Agency Formation Commission under Section 6503.8 of the Act. Such notice shall also be filed with the office of the Finance Director of the State.

(b) *Governing Board.* The Authority shall be administered by a Board of Directors, which is hereby established, consisting of one (1) Director for each Member, whom shall be designated by the Member by motion or resolution of the governing board of the Member, which motion or resolution shall be filed with the Authority.

Each Member shall, from time to time, designate a Director and an alternate, which shall be a governing board member of the Member or employee of the Member, to represent the Member on the Board. The alternate shall be entitled to all rights as a Director, including rights of voting in the absence of the Director. Directors and alternates shall serve for so long as they are either serving a term to the governing body of, or are in the active employ of, the appointing Member, unless earlier removed from such position as Director or alternate, as applicable, by the governing body of the appointing Member.

Directors and alternates shall serve at the pleasure of the governing board of the appointing Member and may be removed at any time, with or without cause, in the sole discretion of the appointing Member's governing board.

Directors shall not receive any compensation by the Authority for serving as such, but shall be entitled to reimbursement for any expenses actually incurred and not reimbursed by the Member that appointed such Director in connection with serving as a Member, if the Board shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose. Members may provide for per diem or other compensation for their appointed Director from the Member's own funds, provided such is not a charge against the Authority.

(c) *Meetings of Board.*

(1) The Board shall hold regular meetings on the first and third Wednesdays of each calendar month at 8:30 A.M. at the offices of the San Bernardino Valley Municipal Water District unless the Board determines to meet at an alternate time or location in accordance with California law. The Board may suspend the holding of regular meetings so long as there is no need for Authority business. The Board may hold special meetings at any time and from time to time in accordance with law, provided that, so long as required by the Act, any action taken regarding the sale of Bonds shall occur by resolution placed on a noticed and posted meeting agenda for a regular meeting of the Authority.

(2) All regular and special meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code), or any successor legislation hereafter enacted.

(3) The Secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as practicable after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to the Members.

(4) A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings from time to time.

(d) *Voting.* Each Director representing his or her appointing Member shall have one vote. Unless specified to the contrary herein, all actions of the Board shall be approved on the affirmative vote of a majority of the quorum of Directors present at the meeting. In the event of a tie vote among the Directors voting, the matter will not be considered to have passed.

(e) *Officers; Duties; Bonds.*

(1) The officers of the Authority shall be the Chair, Vice Chair, Executive Director, Secretary and Treasurer, who will each serve at the pleasure of the Board.

(2) The Director to the Authority from the San Bernardino Valley Municipal Water District, or his or her alternate or designee, shall serve as the first Chair of the Authority for one-year from the Effective Date. After such period, the Chair shall be elected by a vote of the Board for a one year term. The Chair shall preside at all meetings of the Authority.

(3) The Board shall select from its members a Vice Chair who shall serve as Vice Chair of the Authority. The term of office of the Vice Chair shall be one year. Following the expiration of such term, a Vice Chair shall be elected by a vote of the Board. The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair. In case of a vacancy in the

position of the Chair, the Vice Chair shall perform the duties of the Chair, until such time as a new Chair is selected or appointed.

(4) The General Manager of the San Bernardino Valley Municipal Water District is hereby designated as the initial Executive Director of the Authority. By a vote of the Board, the Authority may give notice to San Bernardino Valley Municipal Water District of its desire to replace the initial Executive Director. The Authority and San Bernardino Valley Municipal Water District shall engage in a good faith discussion of this desire for a period of at least thirty (30) days. If following the thirty-day period the Authority and the San Bernardino Valley Municipal Water District have not been able to resolve any outstanding issues, the Board may remove or appoint a new Executive Officer pursuant to a vote.

The Executive Director shall be responsible for execution and supervision of the affairs of the Authority. Except as otherwise authorized by resolution of the Board, the Executive Director or the Executive Director's designee shall sign all contracts, deeds and other instruments executed by the Authority. In addition, subject to the applicable provisions of any Indenture providing for a trustee or other fiscal agent, the Executive Director is designated as a public officer or person who has charge of, handles or has access to any property of the Authority, and shall file an official bond if so required by the Board pursuant to Section 6505.1 of the Act. In addition to the powers, duties and responsibilities provided herein, the Executive Director shall have such powers, duties and responsibilities as may be hereinafter granted or imposed, as the case may be, by the Board.

(5) The Clerk of the Board of the San Bernardino Valley Municipal Water District shall serve as the initial Secretary until such time as the Board may appoint a replacement. The Secretary shall keep the records of the Authority, shall act as Secretary at the meetings of the Authority and record all votes, and shall keep a record of the proceedings of the Authority in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to the office.

(6) The Treasurer of the San Bernardino Valley Municipal Water District shall serve as the initial Treasurer of the Authority until the Board may appoint a replacement. The Treasurer of the Authority shall have the powers, duties and responsibilities that are specified in Sections 6505 and 6505.5 of the Act. The Treasurer of the Authority is designated as a public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond as required by the Board pursuant to Section 6505.1 of the Act. The cost of the bond shall be paid by the Authority.

(7) So long as required by Sections 6505 and 6505.5 of the Act, the Treasurer of the Authority shall prepare or cause to be prepared: (a) a special audit as required pursuant to Section 6505 of the Act every year during the term of this Agreement; and (b) a report in writing on the first day of July, October, January and April of each year to the Board and the Members, which report shall describe the amount of money held by the Treasurer of the Authority for the Board, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Bonds to the extent that such trustee or other fiduciary provides regular reports covering such amounts).

(8) The services of the officers shall be without compensation by the Authority. The San Bernardino Valley Municipal Water District may provide such other administrative services as required by the Authority.

(9) The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

(10) All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, relief, disability, worker's compensation and other benefits which apply to the activities of officers, agents or employees of the Members when performing their respective functions within such Member's territorial limits, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially for or on behalf of the Authority under the provisions of this Agreement.

(11) None of the officers, agents or employees, if any, directly employed by the Authority shall be deemed, by reason of their employment by the Authority, to be employed by a Member or, by reason of their employment by the Authority, to be subject to any of the requirements or benefits to any of the Members.

(12) The Members hereby confirm their intent and agree that, as provided in Section 4(a) hereof and in the Act, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members, and they do not intend by the following sentence to impair this provision. Notwithstanding Section 4(a) hereof, the confirmation provided immediately above, and the Act, each Member shall indemnify, defend and hold harmless the Authority and each other Member and each of the Authority and the other Member's officers, directors, employees, attorneys and agents from and against any and all costs, expenses, losses, claims, damages, and liabilities directly or indirectly arising out of or in connection with any negligent or wrongful act or omission of such Member in the performance of this Agreement, and the Members intend that each Member provide indemnity or contribution in proportion to that Member's responsibility for any such claim, damage, loss, judgment, liability, expense or other cost, as determined under principles of comparative negligence. Each Member may elect to defend itself in any such action with counsel of its choice, the reasonable fees of such counsel to be paid by such Member providing indemnification under this section. Notwithstanding the provisions of Section 895.6 of the Government Code of the State, a Member shall not have any right to contribution from the Authority. This paragraph shall survive the termination of this Agreement.

(13) In any event, the Authority shall cause all records regarding the Authority's formation, existence, operations, any Bonds issued by the Authority, obligations incurred by it and proceedings pertaining to its termination to be retained for at least six (6) years following termination of the Authority or final payment of any Bonds issued by the Authority, whichever is later.

(14) Confirmation of officers shall be the first order of business at the first meeting of the Authority, regular or special, held in each calendar year.

(15) No Board member, officer, agent or employee of the Authority, without prior specific or general authority under this agreement or by a vote of the Board, shall have any power or authority to bind the Authority by any contract, to pledge its credit, or to render it liable for any purpose in any amount.

Section 5. Powers. The Authority shall have any and all powers which are common powers of the Members, and the powers separately conferred by law upon the Authority. All such powers, whether common to the Members or separately conferred by law upon the Authority, are specified as powers of the Authority, except any such powers which are specifically prohibited to the Authority by applicable law. The Authority's exercise of its powers is subject to the restrictions upon the manner of exercising the powers of the San Bernardino Valley Municipal Water District.

The Authority is hereby authorized, in its own name, to do all acts necessary or convenient for the exercise of its powers, including, but not limited to, any or all of the following: to sue and be sued; to

make and enter into contracts; to employ agents, consultants, attorneys, accountants, and employees; to acquire, hold or dispose of property, whether real or personal, tangible or intangible, wherever located; to issue Bonds or otherwise incur debts, liabilities or obligations, except for any debt, liability or obligation to a public retirement system or otherwise for pension, health care or other retirement benefits, to the extent authorized by the Act or any other applicable provision of law and to pledge any property or revenues or the rights thereto as security for such Bonds and other indebtedness

Notwithstanding the foregoing, the Authority shall have any additional powers conferred under the Act or under applicable law, insofar as such additional powers may be necessary to accomplish the purposes set forth in Section 2 hereof.

This section shall be subject to the limitations on the powers of the Authority set forth in Section 4(a).

Section 6. Termination of Powers. The Authority shall continue to exercise the powers herein conferred upon it until the termination of this Agreement in accordance with Section 3 hereof.

Section 7. Fiscal Year and Budgeting. The first fiscal year of the Authority shall be the period from the effective date of this Agreement to June 30, 2022. Each subsequent fiscal year of the Authority shall be the period from July 1 of each year through June 30 of the succeeding year, unless changed by resolution of the Board.

The Authority shall develop, circulate, and approve an annual budget for the funding of its administrative and other functions. The budget shall be prepared by the Executive Director. No later than March 1 prior to the beginning of the fiscal year for which the budget is to operate, the Executive Director shall present and circulate to all Members the proposed budget, for review and analysis. The circulated budget shall include the underlying presumptions and worksheets upon which it is based. The Executive Director or his or her designee, shall be reasonably available to respond promptly to any inquiries or information requests regarding the proposed budget. No later than thirty (30) days after presentation of the budget, the Board shall meet to deliberate and pass upon the budget. The Board may accept, reject, or modify in any way the budget as proposed by the Executive Director.

Initially, the San Bernardino Valley Municipal Water District shall perform the accounting and revenue collection functions of the Authority, tracking and securing the funding from the Members pursuant to the approved annual budget, and consistent with the approved cost allocations among the Members approved therewith. The San Bernardino Valley Municipal Water District shall perform such functions until such time as a different Member or other entity is selected by the Board to perform the accounting and revenue collection functions of the Authority and tracking and securing the funding from the Members pursuant to the approved annual budget.

In the event of any delinquency, the San Bernardino Valley Municipal Water District may request the Authority to appoint it, or any other Member or group of Members, to represent the Authority, as its agent, in securing collection of unpaid and owing amounts from any delinquent Member or Members. The reasonably incurred costs of such collection efforts may be reimbursed to the agent authorized by the Authority to go forward with them, and may be added as an administrative cost to other Members, or as a credit against future amounts owing to the Authority from such authorized agent.

Section 8. Disposition of Assets. Upon termination of this Agreement pursuant to Section 3 hereof, any surplus money in possession of the Authority or on deposit in any fund or account of the Authority shall be returned in proportion to any contributions made as required by Section 6512 of the Act. The Board is vested with all powers of the Authority for the purpose of concluding and dissolving

the business affairs of the Authority. After rescission or termination of this Agreement pursuant to Section 3 hereof, all property of the Authority, both real and personal (except for any surplus money, which shall be distributed pursuant to the first sentence of this Section), shall be distributed to the Members in proportion to their contributions.

Section 9. Contributions and Advances. Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by a Member for any of the purposes of this Agreement. Administrative costs owed to the Authority are intended to be recovered pursuant to the terms of the Project Agreement executed by the Members. Only Members executing a Project Agreement shall be required to pay such administrative costs.

Section 10. Bonds.

(a) *Authority to Issue Bonds.* When authorized by the Act or other applicable provisions of law and by resolution of the Board, the Authority may issue Bonds for the purpose of raising funds for the exercise of any of its powers or to otherwise carry out its purposes under this Agreement. Said Bonds shall have such terms and conditions as are authorized by the Board. The issuance of Bonds shall be approved by the affirmative vote of a majority of the total number of Directors of the Authority.

(b) *Bonds Limited Obligations.* The Bonds, including the principal and any purchase price thereof, and the interest and premium, if any, thereon, shall be special obligations of the Authority payable solely from, and secured solely by, the revenues, funds and other assets that are pledged therefor under the applicable Indenture(s), and shall not constitute a charge against the general credit of the Authority or the Members. The Bonds shall not be secured by a legal or equitable pledge of, or lien or charge upon or security interest in, any property of the Authority or any Members (other than property of the Member executing a Project Agreement to secure such Bonds, and only to the extent set forth in such Project Agreement) or any Authority income or receipts or any Member's income or receipts (other than income or receipts of the Member executing a Project Agreement and only to the extent set forth in such Project Agreement) except the property, income and receipts pledged therefor under the applicable Indenture(s). The Bonds shall not constitute a debt, liability or obligation of the State or any public agency thereof, including any Member, other than the special obligation of the Authority as described above. Neither the faith and credit nor the taxing power of the State or any public agency thereof, including any Member, shall be pledged to the payment of the principal or purchase price of, or the premium, if any, or interest on the Bonds, nor shall the State or any public agency or instrumentality thereof, including any Member, in any manner be obligated to make any appropriation for such payment. The Authority shall have no taxing power.

No covenant or agreement contained in any Bond or Indenture shall be deemed to be a covenant or agreement of any director, officer, agent or employee of the Authority or a Member, in his or her individual capacity, and no director or officer of the Authority executing a Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance of such Bond.

Section 11. Agreement not Exclusive. This Agreement shall not be exclusive and shall not be deemed to amend or alter the terms of other agreements between the Members, except as the terms of this Agreement shall conflict therewith, in which case the terms of this Agreement shall prevail.

Section 12. Project Agreements. The rights and obligations of the Members and the Authority with respect to any Bonds issued by the Authority shall be set forth in the respective Project Agreements to be authorized by the Board of the Authority and the governing board of the participating

Members and executed and delivered by the Authority and the participating Members. Each Project Agreement shall include (i) a confirmation of the Member that such Member has the legal authority to carry out the project activities related to the applicable Project and (ii) provisions to ensure that such Member will comply with the provisions of any Indenture related to such Project Agreement.

Section 13. Additional Members. It is recognized that public agencies other than the original Members to this Agreement may wish to participate in the Authority. As determined by the Board of Directors, in its sole discretion, any such public agency must have the common powers specified in the Declaration of Purpose, above, must be credit worthy, and must provide benefits to the Upper Santa Ana River Watershed Infrastructure Program and to the other Members. Any proposed Additional Member must meet all established principles or requirements adopted by any Member with respect to potential participation in the Upper Santa Ana River Watershed Infrastructure Program that are in effect at the time the proposed Additional Member applies to become a Member. Additional public agencies may become Members 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 Authority shall revise Exhibit A to reflect such Additional Member and shall attach the revised Exhibit A as a replacement exhibit. Such replacement Exhibit A shall not constitute an amendment to this Agreement.

Section 14. Withdrawal of a Member. Any Member seeking to withdraw from the Authority shall give at least one hundred eighty (180) days written notice of its election to do so. Such written notice must state the date on which the withdrawal shall be effective. Notice must be given to each Director of the Board and to the Executive Director. The application of the withdrawing Member shall include a plan for the allocation to the withdrawing Member any reimbursement or payment to the Authority of any appropriate costs, expenses, or obligations of the Authority, assumed by or benefitting such withdrawing Member, previously incurred by the Authority. Upon withdrawal, the withdrawing Member shall no longer be a Member, and shall no longer have any obligations under this Agreement; provided that the withdrawing Member shall remain liable for its share of debt service with respect to any outstanding Bonds or amounts payable under a Project Agreement. Any Member that withdraws shall remain subject to the provisions of Section 4(e)(12) with respect to any event or occurrence taking place before such Member withdraws.

Section 15. Accounts and Reports. All funds of the Authority shall be strictly accounted for in books of account and financial records maintained by the Authority, including a report of all receipts and disbursements. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles and by each Indenture for outstanding Bonds (to the extent that such duties are not assigned to a trustee for owners of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by the Members and their representatives.

The Authority shall require that each Indenture shall provide that if a trustee is appointed thereunder, such trustee shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of such Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out the requirements of this Section 15.

(a) Audits. The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority in compliance with the requirements of the Act. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section 15, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

(b) *Audit Reports.* The Treasurer of the Authority, as soon as practicable after the close of each fiscal year but in any event within the time necessary to comply with the requirements of the Act, shall file a report of the audit performed pursuant to this Section 15(b) as required by the Act and shall send a copy of such report to public entities and persons in accordance with the requirements of the Act.

Section 16. Funds. Subject to the provisions of each Indenture for outstanding Bonds providing for a trustee to receive, have custody of and disburse funds which constitute Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to accounting procedures approved by the Board and shall make the disbursements required by this Agreement or otherwise necessary to carry out the provisions and purposes of this Agreement.

Section 17. Technical Advisory Committee. The Authority shall establish a Technical Advisory Committee. The Technical Advisory Committee shall be comprised of one representative of each Member that is an employee of the Member or a consultant appointed by such Member with expertise in water and/or wastewater capital improvement projects. The Technical Advisory Committee will meet from time to time to review materials relevant to Projects to be financed by the Authority, including draft Project Agreements, and shall periodically report to the Board regarding its review of such materials.

Representatives on the Technical Advisory Committee shall serve in such capacity for so long as they are in the active employ of, or contracted by, the appointing Member, unless earlier removed from such position by the governing board of the appointing Member. Representatives on the Technical Advisory Committee shall serve at the pleasure of the governing board of the appointing Member and may be removed at any time, with or without cause, in the sole discretion of the appointing Member's governing board.

The Board shall appoint a Chair and Vice Chair of the Technical Advisory Committee. The term of each of the Chair and Vice Chair of the Technical Advisory Committee shall be one year.

All regular and special meetings of the Technical Advisory Committee shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code), or any successor legislation hereafter enacted.

Section 18. Adoption of Certain Codes and Policies. The Authority shall, by resolution, adopt a Conflict of Interest Code, an investment policy and a debt management policy to the extent required by law. Such Conflict of Interest Code, investment policy and debt management policy may initially be the respective code or policies of the San Bernardino Valley Municipal Water District.

Section 19. Notices. Notices and other communications hereunder to the parties shall be sufficient if delivered to the clerk or secretary of the governing body of each party.

Section 20. Effectiveness. This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of the Members when each party has executed a counterpart of this Agreement.

Section 21. Severability. Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

Section 22. Successors; Assignment. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, neither party may assign any right or obligation hereunder without the consent of the other.

Section 23. Amendment of Agreement. This Agreement may be amended by supplemental agreement executed by all of the Members at that time; provided, however, that this Agreement may be terminated only in accordance with Section 3 hereof and, provided further, that such supplemental agreement shall be subject to any restrictions contained in any Bonds or documents related to any Bonds to which the Authority is a party.

Section 24. Waiver of Personal Liability. No Member, member of the Board, officer, counsel, employee or other agent of the Authority or the Members shall be individually or personally liable for any claims, losses, damages, costs, injury and liability of any kind, nature or description arising from the actions of the Authority or the actions undertaken pursuant to this Agreement, and the Authority shall defend such Members, members of the Board, officers, counsel, employees or other agent of the Authority against any such claims, losses, damages, costs, injury and liability. Without limiting the generality of the foregoing, no Member, member of the Board, officer, counsel, employee or other agent of the Authority or of any Member shall be personally liable on any Bonds or be subject to any personal liability or accountability by reason of the issuance of Bonds pursuant to the Act and this Agreement. To the full extent permitted by law, the Board shall provide for indemnification by the Authority of any person who is or was a member of the Board, or an officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member of the Board, or an officer, employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in the course and scope of his or her office, employment or agency. In the case of a criminal proceeding, the Board may provide for indemnification and defense of a member of the Board, or an officer, employee or other agent of the Authority to the extent permitted by law.

Section 25. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

Section 26. Miscellaneous. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 27. Duties. Where reference is made to duties to be performed for the Authority by a public official or employee, such duties may be performed by that person's duly authorized deputy or assistant. Where reference is made to actions to be taken by a Member, such action may be exercised through the officers, staff or employees of such Member in the manner provided by law.

Section 28. Principal Office. The principal office of the Authority shall be the principal office of the San Bernardino Valley Municipal Water District unless the Board designates a different principal office by motion or resolution.

Section 29. Controlling Law. THIS AGREEMENT IS MADE IN THE STATE, UNDER THE CONSTITUTION AND LAWS OF THE STATE AND IS TO BE CONSTRUED AS A CONTRACT MADE AND TO BE PERFORMED IN THE STATE.

Section 30. Complete Agreement. Except as provided in Section 11 hereof, this Agreement is the complete and exclusive statement of the agreement among the parties with respect to the subject matter hereof, which supersedes and merges all prior proposals, understandings, and other agreements,

whether oral, written, or implied in conduct, between the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers or officials thereunto duly authorized, as of the day and year first above written.

SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT

By Paul Kielhold
President

ATTEST:

Hatter Dyer
Secretary

YUCAIPA VALLEY WATER DISTRICT

By: _____
President

ATTEST:

Secretary

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers or officials thereunto duly authorized, as of the day and year first above written.


SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT

By _____
President

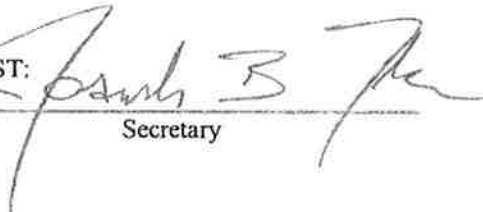
ATTEST:

Secretary

YUCAIPA VALLEY WATER DISTRICT

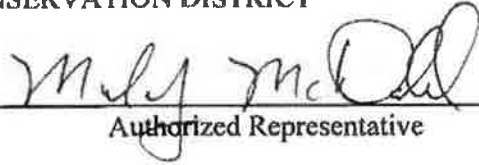
By: 

President

ATTEST: 

Secretary

SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT

By: 
Authorized Representative

ATTEST:

Secretary

BIG BEAR AREA REGIONAL WASTEWATER
AGENCY

By: _____
Authorized Representative

ATTEST:

Secretary

CITY OF COLTON

By: _____
Authorized Representative

ATTEST:

Secretary

SAN BERNARDINO MUNICIPAL WATER
DEPARTMENT

By: _____
Authorized Representative

ATTEST:

Secretary

WESTERN MUNICIPAL WATER DISTRICT

By: 
Authorized Representative

ATTEST: 
Secretary

EXHIBIT A

AUTHORITY MEMBERS

1. San Bernardino Valley Municipal Water District
2. Yucaipa Valley Water District
3. Big Bear Regional Wastewater Agency
4. City of Colton
5. San Bernardino Municipal Water Department
6. San Bernardino Valley Water Conservation District
7. Western Municipal Water District

UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY



DATE: August 3, 2022
TO: Board of Directors
FROM: Heather Dyer, Executive Director
SUBJECT: Executive Director's Report

Recommendation:
Receive and File

Major Updates:

I. City of Riverside Public Utilities Membership

Staff presented at the July 25th meeting of the City of Riverside Public Utilities where the Board considered joining the Authority; final approval is by the City Council, and it could come early as this month or next month. Riverside Public Utilities is also considering how they might participate and fund the joint projects included in the Watershed Connect program.

II. WIFIA Loan Application

The loan application on behalf of Valley District, Yucaipa Valley Water District, and potentially Riverside Public Utilities was submitted to the United States Environmental Protection Agency (EPA) on May 26, 2022. The loan review and underwriting process is expected to take up to six (6) months. The loan amount is \$191.8 million, and the final amount could be higher or lower based on other funding sources and construction bids. Starting around October, several loan documents will be brought to the Board for consideration including but not limited to the final form of Installment Purchase Agreements with the borrowing agencies and the Term Sheet with the EPA.

III. Build America, Build America Act (BABAA) Program Waiver for Projects in Design Planning

BABAA was passed in November 2021 and imposed procurement requirements to help build a resilient supply chain and manufacturing base for critical products in the United States. However, a wide range of construction

UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY

products used in the water sector are not currently manufactured domestically and complying with BABAA will increase the cost and delay the construction of many projects. Due to advocacy from many water agencies, including the Authority, the EPA issued a [program waiver](#) on June 22, 2022 exempting projects that initiated project design planning prior to May 14, 2022; all the projects in Watershed Connect Phase 1 that are part of the existing loan application meets this criteria.

IV. [2022 Letters of Interest \(LOI\)](#)

The EPA will be accepting LOIs starting on September 6, 2022. Staff is engaging with Upper Watershed stakeholders on potential projects to be included in a potential 2022 LOI; staff will return to the Board for approval before proceeding with a LOI. The EPA estimates that it may provide approximately \$5.5 billion in credit assistance and may finance approximately \$11 billion in water infrastructure investment under this round. There is no cost to submit a LOI to the EPA, however, participating agencies will be responsible for the consulting cost of preparing the LOI.