



Santa Clara Valley Water District Board of Directors Meeting

Headquarters Building Boardroom
Join Zoom Meeting: <https://valleywater.zoom.us/j/84454515597>

***AMENDED/APPENDED CLOSED SESSION AND REGULAR MEETING AGENDA**

**Tuesday, January 10, 2023
11:00 AM**

***ITEMS AMENDED AND/OR APPENDED SINCE THE ORIGINAL PUBLICATION OF THIS AGENDA
ARE IDENTIFIED BY AN ASTERISK (*) HEREIN**

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

DISTRICT BOARD OF DIRECTORS

John L. Varela, Chair Pro Tem -
District 1
Barbara Keegan - District 2
Richard P. Santos - District 3
Jim Beall - District 4
Nai Hsueh - District 5
Tony Estremera - District 6
Rebecca Eisenberg - District 7

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body, will be available to the public through the legislative body agenda web page at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to participate in the legislative body's meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

RICK L. CALLENDER, ESQ.
Chief Executive Officer

MICHELE L KING, CMC
Clerk of the Board
(408) 265-2600
Fax (408) 266-0271
www.valleywater.org

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.

**Santa Clara Valley Water District
Board of Directors**

***AMENDED/APPEDED
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*****IMPORTANT NOTICES AND PARTICIPATION INSTRUCTIONS*****

Santa Clara Valley Water District (Valley Water) Board of Directors/Board Committee meetings are held as a “hybrid” meetings, conducted in-person as well as by telecommunication, and is compliant with the provisions of the Ralph M. Brown Act.

To maximize public safety while still maintaining transparency and public access, members of the public have an option to participate by teleconference/video conference or attend in-person. To observe and participate in the meeting by teleconference/video conference, please see the meeting link located at the top of the agenda. If attending in-person, you are required to comply with Ordinance 22-03 - AN ORDINANCE OF THE SANTA CLARA VALLEY WATER DISTRICT SPECIFYING RULES OF DECORUM FOR PARTICIPATION IN BOARD AND COMMITTEE MEETINGS located at <https://s3.us-west-2.amazonaws.com/valleywater.org.if-us-west-2/f2-live/s3fs-public/Ord.pdf>

In accordance with the requirements of Gov. Code Section 54954.3(a), members of the public wishing to address the Board/Committee at a video conferenced meeting, during public comment or on any item listed on the agenda, should use the “Raise Hand” tool located in the Zoom meeting link listed on the agenda, at the time the item is called. Speakers will be acknowledged by the Board Chair in the order requests are received and granted speaking access to address the Board.

- Members of the Public may test their connection to Zoom Meetings at: <https://zoom.us/test>
- Members of the Public are encouraged to review our overview on joining Valley Water Board Meetings at: <https://www.youtube.com/watch?v=TojJpYCxXm0>

Valley Water, in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access and/or participate in Valley Water Board of Directors/Board Committee meetings to please contact the Clerk of the Board’s office at (408) 630-2711, at least 3 business days before the scheduled meeting to ensure that Valley Water may assist you.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has not been prepared with a view to informing an investment decision in any of Valley Water’s bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water’s bonds, notes or other obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access System for municipal securities disclosures and Valley Water’s Investor Relations website, maintained on the World Wide Web at

h t t p s : / / e m m a . m s r b . o r g / a n d
https://www.valleywater.org/how-we-operate/financebudget/investor-relations, respectively.

Under the Brown Act, members of the public are not required to provide identifying information in order to attend public meetings. Through the link below, the Zoom webinar program requests entry of a name and email address, and Valley Water is unable to modify this requirement. Members of the public not wishing to provide such identifying information are encouraged to enter "Anonymous" or some other reference under name and to enter a fictional email address (e.g., attendee@valleywater.org) in lieu of their actual address. Inputting such values will not impact your ability to access the meeting through Zoom.

Join Zoom Meeting:

<https://valleywater.zoom.us/j/84454515597>

Meeting ID: 844 5451 5597

Join by Phone:

1 (669) 900-9128, 84454515597#

1. CALL TO ORDER:

1.1. Roll Call.

2. TIME CERTAIN:

11:00 AM

Notice to the Public: The Board of Directors meets in Closed Session in accordance with the Ralph M. Brown Act. Following the conclusion of Closed Session discussion, the Board will return for the remaining items on the regular meeting agenda.

2.1. CLOSED SESSION

[22-1451](#)

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant Exposure to Litigation Pursuant to Government Code Section
54956.9(d)(2)
One Potential Case

2.2. CLOSED SESSION

[23-0031](#)

CONFERENCE WITH LEGAL COUNSEL -INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4)
One Potential Case

2.3. CLOSED SESSION

[23-0032](#)

CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
San Francisco Baykeeper v. Santa Clara Valley Water District
Santa Clara County Superior Court Case Number 22CV403523

- 2.4. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Stop the Pacheco Dam Project Coalition v. Santa Clara Valley Water
District (Santa Clara Co. Superior Court, Case No. 22CV399384)

[23-0033](#)

1:00 PM

- 2.5. District Counsel Report on Closed Session.
- 2.6. Pledge of Allegiance/National Anthem.
- 2.7. Orders of the Day.
A. *Approximate Discussion Time (Board); and*
B. *Adjustments to the Order of Agenda Items.*
- 2.8. Time Open for Public Comment on any Item not on the Agenda.
Notice to the public: Members of the public who wish to address the Board on any item not listed on the agenda should access the "Raise Hand" tool located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Board Chair in order requests are received and granted speaking access to address the Board. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Board action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board may take action on any item of business appearing on the posted agenda.

- 2.9. Election of Board Chair and Vice Chair for Year 2023.

[22-1342](#)

Recommendation: Nominate and elect a new Chairperson and Vice Chairperson for the Calendar Year 2023.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Board Governance Policy GP-5.3](#)
[Attachment 2: Chair and Vice Chair Term History](#)

Est. Staff Time: 5 Minutes.

- 2.10. Conduct a Public Hearing to Consider Adopting a Resolution of Necessity Relating to Acquisition of Real Property Interests from the Santos/Alviso Partnership, L.P., a California Limited Partnership, Necessary to Complete the South San Francisco Bay Shoreline Phase I Economic Impact Area 11 Project, Project No. 00044026, APN 015-25-012, Real Estate File No. 2044-13 (San Jose, District No. 3). [22-1436](#)

Recommendation:

- A. Open and conduct the Public Hearing to consider adoption of a Resolution of Necessity relating to acquisition of real property interests from the Santos/Alviso Partnership, L.P., a California Limited Partnership, Necessary to Complete the South San Francisco Bay Shoreline Phase I Economic Impact Area 11 Project, Project No. 00044026;
- B. Close the Public Hearing; and
- C. Adopt the Resolution of Necessity DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE SOUTH SAN FRANCISCO BAY SHORELINE PHASE 1 ECONOMIC IMPACT AREA 11 PROJECT NO. 00044026 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*), by two-thirds vote.

Manager: Bhavanni Yerrapotu, 408-630-2735

Attachments: [Attachment A: Gov. Code § 84308, Santos/Alviso](#)
[Attachment 1: Project Map](#)
[Attachment 2: Resolution](#)
[Attachment 3: Notice of Intention](#)
[Attachment 4: Appraisal](#)
[Attachment 5: PowerPoint](#)

Est. Staff Time: 5 Minutes.

*2.11 Monthly Drought Emergency Response and Water Supply Update. [23-0064](#)

Recommendation: Receive an update on water supply conditions in Santa Clara County and staff's drought response efforts and provide direction to staff, as necessary.

Manager: Aaron Baker, 408-630-2135

Attachments: [*Supplemental Agenda Memo](#)
[*Supplemental Attachment 1: PowerPoint](#)
[*Supplemental Attachment 2: Drought Response Report](#)
[*Supplemental Attachment 3: January 2023 Water Tracker](#)

Est. Staff Time: 15 Minutes

2.12. Receive Watersheds and Water Utility Operations and Maintenance and Asset Renewal Program Overviews, and Review Draft 5-Year Plans for FY 2024-2028. [22-1393](#)

Recommendation: Receive Information on the Watersheds and Water Utility Operations and Maintenance and Asset Renewal Programs, and Review the Draft 5-Year Plans.

Manager: Luz Penilla, 408-630-2228

Attachments: [Attachment 1: PowerPoint](#)
[Attachment 2: Draft Watersheds FY2024-28 O&M Plans](#)
[Attachment 3: Draft WUE FY24-28 O&M Plan](#)

Est. Staff Time: 10 Minutes.

*2.13 Receive an Update on the Pacheco Reservoir Expansion Project, Project No. 91954002 (Santa Clara County, Merced County, District 1). [23-0065](#)

Recommendation: Receive information on the Pacheco Reservoir Expansion Project.

Manager: Christopher Hakes, 408-630-3796

Attachments: [Attachment 1: PREP Planning Study Report](#)
[*Supplemental Agenda Memo](#)
[*Supplemental Attachment 1: PowerPoint](#)

Est. Staff Time: 5 Minutes

*2.14 Work Study Session on the Capital Improvement Program's Preliminary Fiscal Year 2024-2028 Five-Year Plan; Preliminary Fiscal Year 2023-24 Groundwater Production Charges; and Proposed Adjustments and Modifications to the Safe, Clean Water and Natural Flood Protection Program.

[23-0066](#)

- Recommendation:
- A. Review and approve the Capital Improvement Program's (CIP) Preliminary Fiscal Year 2024-2028 (FY 24-28) Five-Year Plan list of projects for the Watershed Stream Stewardship Fund (Fund 12) and the Water Utility Enterprise Fund (Fund 61);
 - B. Review and approve the CIP Evaluation Team's recommendation to include the RWTP Ammonia Storage & Metering Facility Upgrade Project, a Fund 61 project, in the CIP's Draft FY 24-28 Five-Year Plan;
 - C. Review proposed adjustments and modifications to the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program) Fund (Fund 26);
 - D. Set the time and place for a public hearing to consider modifications to the Safe, Clean Water Program (Fund 26) Projects; and
 - E. Discuss and provide direction on the preliminary FY 2023 -24 (FY 24) Groundwater Production Charge analysis.

Manager: Melanie Richardson, 408-630-2035
Darin Taylor, 408-630-3068

Attachments: [Attachment 1: CIP Preliminary FY 2024-28 Five-Year Plan](#)
[Attachment 2: Project Plan Updates](#)
[Attachment 3: Funding Filters for Prioritization Matrix](#)
[Attachment 4: Proposed Adjustments and Modifications](#)
[Attachment 5: Resolution No. 99-21](#)
[Attachment 6: Resolution No. 12-10](#)
[Attachment 7: Draft Public Hearing Notice](#)
[*Supplemental Agenda Memo](#)
[*Supplemental Attachment 1: PowerPoint](#)

Est. Staff Time: 90 Minutes

3. CONSENT CALENDAR: (3.1-*3.2) (Est. Time: 5 Minutes)

Notice to the public: There is no separate discussion of individual consent calendar items. Recommended actions are voted on in one motion. If an item is approved on the consent vote, the specific action recommended by staff is adopted. Items listed in this section of the agenda are considered to be routine by the Board, or delegated to the Board Appointed Officers (BAOs) yet required by law or contract to be Board approved (EL-7.10). Any item may be removed for separate consideration at the request of a Board member. Whenever a resolution is on the consent calendar, a roll call vote will be taken on the entire calendar. Members of the public wishing to address the Board on any consent items should submit a request to speak to the Clerk of the Board.

- 3.1. Set Time and Place of a Public Hearing for the Santa Clara Valley Water District Board of Directors to Determine the Necessity for Directors to be Compensated for up to 15 Days per Calendar Month and to Consider Directors' Compensation for Calendar Year 2023. [22-1340](#)

- Recommendation:
- A. Set a time and place for a public hearing at 1:00 p.m., on February 14, 2023 at the Santa Clara Valley Water District, 5700 Almaden Expressway, San Jose, California, for the Board of Directors to:
 - i. Consider evidence and determine if there is an operational need for Directors to be compensated for up to 15 days per calendar month; and
 - ii. Consider Directors' compensation for calendar year 2023, pursuant to Chapter 2, Division 10 of the California Water Code; and
 - B. Direct the Clerk of the Board to publish notice of public hearing in a newspaper of general circulation within Santa Clara County.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Public Hearing Notice](#)

- *3.2. Accept the CEO Bulletin for the Weeks of December 9, 2022 - January 5, 2023. [23-0043](#)

Recommendation: Accept the CEO Bulletin.

Manager: Rick Callender, 408-630-2017

Attachments: [Attachment 1: 122222 CEO Bulletin](#)
[Attachment 2: 010523 CEO Bulletin](#)

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

- *4.1. Adopt a Resolution Setting the Time and Place of Regular Meetings of the Santa Clara Valley Water District Board of Directors. [22-1341](#)

Recommendation:

- A. Consider the schedule for the regular meetings of the Board, currently held on the second and fourth Tuesday of each month, beginning at 1:00 p.m. respectively, or as designated by the Clerk of the Board to accommodate closed session subject matter;
- B. Discuss and identify, if necessary, 2023 Board meeting recess dates; and
- C. If a new regular Board meeting schedule is approved, adopt the Resolution SETTING TIME AND PLACE OF MEETINGS OF THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY WATER DISTRICT AND RESCINDING RESOLUTION NO. 22-10.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Resolution 22-10](#)
[Attachment 2: Draft Resolution](#)
[*Attachment 3: Handout 4.1-A-Beall/Keegan Memo](#)

Est. Staff Time: 5 Minutes.

- 4.2. Consider the December 5, 2022, Board Policy and Planning Committee Recommendation to Add a Task to the Committee's 2023 Work Plan to Perform an Identified Process to Incorporate a Board Code of Conduct into the Board Governance Policies. [22-1476](#)

Recommendation:

- A. Consider recommendations resulting from the December 5, 2022, Board Policy and Planning Committee meeting to add a task to the Committee's 2023 Work Plan to perform an identified process to incorporate a Board Code of Conduct into the Board Governance Policies;
- B. Approve recommended update to the Board Policy and Planning Committee's 2023 Work Plan; and/or
- C. Provide feedback and recommendations to staff as necessary.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Sample Codes of Conduct](#)
[Attachment 2: Prior Public Comments](#)

Est. Staff Time: 5 Minutes.

- *4.3. Board Committee Reports. [23-0046](#)

Attachments: [*Handout 4.7-A: 121222 CIP Meeting Summary](#)

5. WATER UTILITY ENTERPRISE:

*5.1. (ITEM REMOVED FROM AGENDA) Approve Agreement with Parsons Transportation Group Inc. for Construction Management Services for the Rinconada Water Treatment Plant Reliability Improvement Project Phases 3-6, Project No. 93294057, for a Not-to-Exceed Fee of \$30,106,678 (Los Gatos, District 7).

5.2. Approve the Design-Build Agreement for the Coyote Pumping Plant Adjustable Speed Drive Replacement Project, Project No. 91234002, Contract No. C0675, Planet Bid File No. VW0073, with Kiewit Infrastructure West Co. for Phase 1 (Design and Pre-construction Services) for a Not-to-Exceed Fee of \$4,314,077, (Morgan Hill, District 1). [22-1311](#)

Recommendation: Approve the Design-Build Agreement for the Coyote Pumping Plant Adjustable Speed Drive Replacement Project, Project No. 91234002, Contract No. C0675, Planet Bid File No. VW0073, with Kiewit Infrastructure West Co. for Phase 1 (design and pre-construction services) for a not-to-exceed fee of \$4,314,077.

Manager: Emmanuel Aryee, 408-630-3074

Attachments: [Attachment A: Gov. Code § 84308, DB Agmt Kiewit](#)
[Attachment 1: Design-Build Agreement](#)

Est. Staff Time: 5 Minutes.

6. WATERSHEDS:

7. ASSISTANT CHIEF EXECUTIVE OFFICER:

- 7.1. Authorize Acquisition of a Real Property Interest from Janice M. Schultz, [22-1373](#)
Trustee, for the Anderson Dam Tunnel Project as part of the Federal Energy Regulatory Commission Order Compliance Project, Under the Anderson Dam Seismic Retrofit Project, Project No. 91864006, APNs 729-37-020, -021, and -022, Real Estate File No. 9186-49 (Morgan Hill, District 1).

Recommendation: A. Authorize the Chief Executive Officer to execute a Right of Way Agreement between Janice M. Schultz, Trustee, and the Santa Clara Valley Water District, for acquisition of APNs 729-37-020, -021, and -022, located at 17520, 17530, and 17540 Hoot Owl Way, Morgan Hill, CA, based upon the terms and conditions as set forth in the Agreement; and
 B. Authorize the Chief Executive Officer to accept the Grant Deed from Janice M. Schultz, Trustee.

Manager: Chris Hakes, 408-630-3796

Attachments: [Attachment A: Gov. Code § 84308, Janice Schultz](#)
 [Attachment 1: Right of Way Agreement](#)
 [Attachment 2: Grant Deed No. 9186-49](#)

Est. Staff Time: 5 Minutes.

8. EXTERNAL AFFAIRS:

9. CHIEF EXECUTIVE OFFICER:

- *9.1. CEO and Chiefs' Report. [23-0047](#)

Attachments: [*Handout 9.1-A: Civ Eng](#)
 [*Handout 9.1-B: Comm](#)

Est. Staff Time: 5 Minutes.

10. ADMINISTRATION:

*10.1 Update on the Countywide Flood Emergency and Determination that the
Countywide Flood Emergency Conditions Continue to Constitute an
Emergency.

[23-0062](#)

- Recommendation:
- A. Receive an update on the January 4, 2023, atmospheric river event; and
 - B. Determine by a four-fifths vote of the Board that there is a need to continue the emergency action declared by the Chief Executive Officer (CEO) on January 4, 2023, pursuant to California Public Contract Code §22050 to address the countywide flood emergency.

Manager: Tina Yoke, 408-630-2385

Attachments: [Attachment 1: Declaration of Emergency](#)

11. DISTRICT COUNSEL:

12. ADJOURN:

- 12.1. Board Member Reports/Announcements.
- 12.2. Proposed Future Board Member Agenda Items.
- 12.3. Clerk Review and Clarification of Board Requests.
- 12.4. Adjourn to Special Meeting at 12:00 p.m., on January 18, 2023.