



Santa Clara Valley Water District Board of Directors Meeting

HQ. Bldg. Boardroom, 5700 Almaden Expressway, San Jose, California
Join Zoom Meeting: <https://valleywater.zoom.us/j/84454515597>

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

**Tuesday, January 24, 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 - District 1
Barbara Keegan, Vice Chair - 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**

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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>

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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 <https://emmas.msrbo.org/> and <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

[23-0097](#)

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

2.2. CLOSED SESSION

[23-0070](#)

CONFERENCE WITH LEGAL COUNSEL

INITIATION OF LITIGATION

Pursuant to Government Code Section 54956.9(d)(4)

One Potential Case

1:00 PM

2.3. District Counsel Report on Closed Session.

2.4. Pledge of Allegiance/National Anthem.

2.5. Orders of the Day.

A. *Approximate Discussion Time (Board); and*

B. *Adjustments to the Order of Agenda Items.*

2.6. 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.

2.7. Receive Santa Clara Valley Water District's 2022 Government Relations Program Report and 2023 Legislative Outlook. [22-1423](#)

- Recommendation:
- A. Receive information on the 2022 Valley Water government relations advocacy and stakeholder engagement program;
 - B. Receive 2023 legislative outlook from federal and state consultants; and
 - C. Provide input on current and future challenges, goals, and accomplishments since the last presentation to the Board of Directors.

Manager: Marta Lugo, 408-630-2237

Attachments: [Attachment 1: 2023 Legislative Policy Proposals and Guiding Prin](#)
[Attachment 2: Key Legislation in 2022](#)

Est. Staff Time: 10 Minutes

- *2.8. Conduct a Public Hearing on Proposed Modifications to Projects under Priorities D and E of the Renewed Safe, Clean Water and Natural Flood Protection Program.

[23-0128](#)

- Recommendation:
- A. Open and conduct the public hearing to receive comments on the renewed Safe, Clean Water and Natural Flood Protection Program's following projects:
 - i. D3: Sediment Reuse to Support Shoreline Restoration;
 - ii. D4: Fish Habitat and Passage Improvement;
 - iii. D6: Restoration of Natural Creek Functions;
 - iv. E2: Sunnyvale East and Sunnyvale West Channels Flood Protection; and
 - v. E4: Upper Penitencia Creek Flood Protection Project;
 - B. Close the public hearing;
 - C. Review and Approve the Proposed Text Adjustments to D3: Sediment Reuse to Support Shoreline Restoration;
 - D. Adopt the resolution APPROVING THE MODIFICATION TO D3: SEDIMENT REUSE TO SUPPORT SHORELINE RESTORATION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
 - E. Adopt the resolution APPROVING THE MODIFICATION TO PROJECT D4: FISH HABITAT AND PASSAGE IMPROVEMENT PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
 - F. Adopt the resolution APPROVING THE MODIFICATION TO D6: RESTORATION OF NATURAL CREEK FUNCTIONS PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
 - G. Adopt the resolution APPROVING THE MODIFICATION TO E2: SUNNYVALE EAST AND SUNNYVALE WEST CHANNELS FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM; and
 - H. Adopt the resolution APPROVING THE MODIFICATION TO E4: UPPER PENITENCIA CREEK FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM.

Manager: Melanie Richardson, 408-630-2035

Attachments: [Attachment 1: D3 Proposed Modifications](#)
[Attachment 2: D4 Proposed Modifications](#)
[Attachment 3: D6 Proposed Modifications](#)
[Attachment 4: E2 Proposed Modifications](#)
[Attachment 5: E4 Proposed Modifications](#)
[*Supplemental Agenda Memo](#)
[*Supplemental Attachment 1: Project D3 Resolution](#)
[*Supplemental Attachment 2: Project D4 Resolution](#)
[*Supplemental Attachment 3: Project D6 Resolution](#)
[*Supplemental Attachment 4: Project E2 Resolution](#)
[*Supplemental Attachment 5: Project E4 Resolution](#)
[*Supplemental Attachment 6: Public Notice Ad](#)

Est. Staff Time: 15 Minutes

- 2.9. Conduct a Public Hearing to Consider Adopting a Resolution of Necessity Relating to Acquisition of a Real Property Interest from an Unknown Owner, Necessary to Construct the Coyote Creek Flood Management Measures Project (Project No. 91864007), Valley Water File 4021-305 (San Jose, District 3). [23-0008](#)

Recommendation:

- A. Open and conduct the Public Hearing to consider adoption of a Resolution of Necessity (RON) relating to the acquisition of a real property interest from Unknown Owner, necessary to complete the Coyote Creek Flood Management Measures Project;
- B. Close the Public Hearing; and
- C. Adopt the Resolution DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN FOR THE COYOTE CREEK FLOOD MANAGEMENT MEASURES PROJECT, PROJECT NO. 91864007, by two-thirds vote (5 out of 7).

Manager: Bhavani Yerrapotu, 408-630-2735

Attachments: [Attachment A: Gov. Code § 84308](#)
[Attachment 1: Easement Deed No. 4021-305](#)
[Attachment 2: Resolution](#)
[Attachment 3: Courtesy Notices](#)

Est. Staff Time: 10 Minutes

3. CONSENT CALENDAR: (3.1 - *3.7) (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. Adopt Plans and Specifications and Authorize Advertisement for Bids for the Federal Energy Regulatory Commission (FERC) Order Compliance Project Coyote Percolation Dam Replacement Project, Project No. 91864009, Contract No. C0693 (San Jose) (District 1). [23-0129](#)

Recommendation: A. Adopt Plans and Specifications and Authorize Advertisement for Bids for the FERC Order Compliance Project (FOCP) Coyote Percolation Dam Replacement Project, per the Notice to Bidders; and
 B. Authorize the Designated Engineer to issue addenda, as necessary, during the bidding process.

Manager: Bhavani Yerrapotu, 408-630-2735

Attachments: [Attachment 1: Map](#)
[Attachment 2: Project Delivery Process Chart](#)
[Attachment 3: Plans](#)
[Attachment 4: Specifications](#)
[*Supplemental Agenda Memo](#)
[*Supplemental Attachment 1: Notice to Bidders](#)

- *3.2. (MOVED TO ITEM 4.4) Santa Clara Valley Water District Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022, and other Independent Auditor's Reports.

- 3.3. Adopt a Resolution Declaring February 2023 as National Black History Month. [23-0005](#)
Recommendation: Adopt the RESOLUTION DECLARING FEBRUARY 1 TO FEBRUARY 28, 2023, AS NATIONAL BLACK HISTORY MONTH.
Manager: Marta Lugo, 408-630-2237
Attachments: [Attachment 1: Resolution](#)
- 3.4. Declaration of November 8, 2022, General Election and Official Results for Board of Directors Districts 6 and 7 and Appointment of Directors to Represent Districts 1 and 4. [23-0013](#)
Recommendation: A. Accept the County of Santa Clara Registrar of Voters' Certificates of Election Results and Statement of Votes for District 6 and District 7, declaring the totals to be the final results of the election, and declaring elected the person having received the highest number of votes for this office; and
B. Accept the Santa Clara County Registrar of Voters' Certificate of Election Facts and Request to Fill Elective Office by Appointment for District 1 and District 4.
Manager: Michele King, 408-630-2711
Attachments: [Attachment 1: Certificates of Election Results Districts 6 and 7](#)
[Attachment 2: Certificate of Election Districts 1 and 4](#)
- *3.5. (MOVED TO ITEM 8.1) Approve Amendments to the 2023 Legislative Policy Proposals and Guiding Principles.
- *3.6. Accept the CEO Bulletin for the Weeks of January 6-19, 2023. [23-0101](#)
Recommendation: Accept the CEO Bulletin.
Manager: Rick Callender, 408-630-2017
Attachments: [Attachment 1: 011923 CEO Bulletin](#)
- *3.7. Approval of Minutes. [23-0044](#)
Recommendation: Approve the minutes.
Manager: Michele King, 408-630-2711
Attachments: [Attachment 1: 112222 CS and Regular Meeting Minutes](#)

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

- 4.1. Review the Fiscal Year 2023 Board Policy Planning Calendar. [23-0006](#)

Recommendation: Review the Fiscal Year 2023 Board Policy Planning Calendar.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: FY22-23 Board Planning Calendar](#)

Est. Staff Time: 5 Minutes

- *4.2. Review of 2023 Board Committee Appointments. [23-0132](#)

Recommendation:

- A. Review, revise if necessary, and approve individual Board Committee purpose descriptions;
- B. Create or disband Board Committee(s), as necessary;
- C. Review and approve the proposed 2023 Board Committee appointments as submitted by 2023 Board Chair; and
- D. Appoint new Board Committee Representatives, as necessary.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Board Committee Detailed List](#)

[Attachment 2: Board Committee Short List](#)

[*Supplemental Agenda Memo](#)

[*Supplemental Attachment 1: Proposed Committee Appointments](#)

Est. Staff Time: 5 Minutes

- 4.3. Board Committee Reports.

- *4.4. Santa Clara Valley Water District Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022, and other Independent Auditor's Reports. (PREVIOUSLY LISTED AS ITEM 3.2) [23-0124](#)

Recommendation: Accept the Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022, and other Independent Auditor's Reports.

Manager: Darin Taylor, 408-630-3068

Attachments: [*Original Board Agenda Memo](#)

[*Supplemental Agenda Memo](#)

[*Supplemental Attachment 1: FY 2021-22 ACFR](#)

Est. Staff Time: 5 Minutes

5. WATER UTILITY ENTERPRISE:

6. WATERSHEDS:

- *6.1. Approve Amendment No. 2 to Agreement No. A4325G, with Horizon Water and Environment, LLC, for Environmental Planning and Permitting Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, Increasing the Not-to-Exceed Fee by \$2,730,094 for a Total Not-to-Exceed Fee of \$10,198,324 (Morgan Hill) (District 1). [23-0133](#)

Recommendation: Approve Amendment No. 2 to Agreement No. A4325G with Horizon Water and Environment, LLC for Environmental Planning and Permitting Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, increasing the not-to-exceed Fee by \$2,730,094, for a total not-to-exceed Fee of \$10,198,324.

Manager: John Bourgeois, 408-630-2990

Attachments: [Attachment A: Gov. Code §84308](#)
[*Supplemental Agenda Memo](#)
[*Supplemental Attachment 1: Amendment No. 2](#)

Est. Staff Time: 5 Minutes

7. ASSISTANT CHIEF EXECUTIVE OFFICER:

8. EXTERNAL AFFAIRS:

- *8.1. Approve Amendments to the 2023 Legislative Policy Proposals and Guiding Principles. (PREVIOUSLY LISTED AS ITEM 3.5) [23-0111](#)

Recommendation: Review and approve amendments to the 2023 Legislative Policy Proposals and Guiding Principles.

Manager: Marta Lugo, 408-630-2237

Attachments: [Attachment 1: Policy Proposals and Guiding Principles Edits](#)

Est. Staff Time: 5 Minutes

9. CHIEF EXECUTIVE OFFICER:

- 9.1. Receive and Discuss the Overview of the Santa Clara Valley Water District's Fiscal Year 2023-24 First Pass Biennial Budget. [22-1474](#)

Recommendation: Receive and discuss the overview of the Santa Clara Valley Water District's Fiscal Year 2023-24 First Pass Biennial Budget.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: PowerPoint](#)

Est. Staff Time: 20 Minutes

*9.2. CEO and Chiefs' Report.

[23-0136](#)

- Attachments: [*Handout 9.2-A: Office of Civic Engagement Update](#)
[*Handout 9.2-B: Office of Government Relations Activities](#)
[*Handout 9.2-C: Watersheds O&M Report](#)

10. ADMINISTRATION:

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

[23-0096](#)

- Recommendation:
- A. Receive an update on the Flood Emergency; 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](#)

Est. Staff Time: 5 Minutes

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 Regular Meeting at 1:00 p.m., on February 14, 2023.