



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, February 28, 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

***AMENDED/APPEDED AGENDA**

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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=ToJpYCxXm0>

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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 <http://semmma.msrb.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 [23-0188](#)
CONFERENCE WITH LEGAL COUNSEL INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4)
Three Potential Cases

- *2.2. CLOSED SESSION [23-0228](#)
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)

1:00 PM

- *2.3. District Counsel Report on Closed Session. (PREVIOUSLY LISTED AS ITEM 2.2)
- *2.4. Pledge of Allegiance/National Anthem. (PREVIOUSLY LISTED AS ITEM 2.3)
- *2.5. Orders of the Day. (PREVIOUSLY LISTED AS ITEM 2.4)
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.
(PREVIOUSLY LISTED AS ITEM 2.5)

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. Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's Annual Report for Fiscal Year 2021-2022.
(PREVIOUSLY LISTED AS ITEM 2.6)

[23-0054](#)

Recommendation: Receive the Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's Annual Report for Fiscal Year 2021-2022(FY2021-2022).

Manager: Melanie Richardson, 408-630-2035

Attachments: [Attachment 1: IMC FY2021-2022 Letter to Board](#)
[Attachment 2: IMC FY2021-2022 Annual Report](#)
[Attachment 3: IMC Notes for Future Annual Reports](#)

Est. Staff Time: 10 Minutes

- *2.8. (ITEM MOVED TO MARCH 14, 2023 BOARD MEETING) Conduct a Public Hearing to Consider Adopting a Resolution of Necessity Relating to the Acquisition of Real Property Interests from Ananya Kaewphokha, Necessary to Complete the Coyote Creek Flood Management Measures Project, Project No. 91864007 (San Jose, District 2). (PREVIOUSLY LISTED AS ITEM 2.7)

- *2.9. Conduct a Public Hearing to Consider Adopting a Resolution of Necessity Relating to the Acquisition of Real Property Interests from S&A Investment Holdings, LLC, Necessary to Complete the Coyote Creek Flood Management Measures Project, Project No. 91864007 (San Jose, District 3). (PREVIOUSLY LISTED AS ITEM 2.8)

[23-0180](#)

Recommendation:

- A. Open and conduct the Public Hearing to consider adopting a Resolution of Necessity relating to the acquisition of real property or Interests from S&A Investment Holdings, LLC necessary to complete the Coyote Creek Flood Management Measures Project, Project No. 91864007;
- 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 COYOTE CREEK FLOOD MANAGEMENT MEASURES PROJECT (PROJECT NO. 91864007) (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, et seq.), by a two-thirds vote (5 out of 7).

Manager: Bhavani Yerrapotu, 408-630-2735

Attachments: [Attachment A: Gov Code 84308](#)
[Attachment 1: Easement Deeds No. 4021-304 and 4021-385](#)
[Attachment 2: Resolution](#)
[Attachment 3: Notice of Intent](#)
[Attachment 4: PowerPoint](#)

Est. Staff Time: 20 Minutes

- *2.1 0. Conduct a Public Hearing to Consider Adopting a Resolution of Necessity Relating to the Acquisition of Real Property Interests from Union Pacific Railroad Company, Necessary to Complete the Coyote Creek Flood Management Measures Project, Project No. 91864007 (San Jose, District 3). (PREVIOUSLY LISTED AS ITEM 2.9)

[23-0181](#)

Recommendation:

- A. Open and Conduct a Public Hearing to consider adopting a Resolution of Necessity relating to the Acquisition of Real Property or Interests from Union Pacific Railroad Company necessary to complete the Coyote Creek Flood Management Measures Project, Project No. 91864007;
- 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 COYOTE CREEK FLOOD MANAGEMENT MEASURES PROJECT (PROJECT NO. 91864007) (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, et seq.), by a two-thirds vote (5 out of 7).

Manager: Bhavani Yerrapotu, 408-630-2735

Attachments: [Attachment A: Gov Code 84308](#)
[Attachment 1: Easement Deeds No. 4021-303 and 4021-384](#)
[Attachment 2: Resolution](#)
[Attachment 3: Notice of Intent](#)
[Attachment 4: Power Point](#)

Est. Staff Time: 20 Minutes

- *2.11 (ITEM REMOVED FROM AGENDA) Conduct a Public Hearing to Consider Adopting a Resolution of Necessity Relating to the Acquisition of Real Property Interests from SJ Sierra Group, LLC, Necessary to Complete the Coyote Creek Flood Management Measures Project, Project No. 91864007 (San Jose, District 3). (PREVIOUSLY LISTED AS ITEM 2.10)

- *2.1 Conduct a Public Hearing to Consider Adopting a Resolution of
2. Necessity Relating to the Acquisition of Real Property Interests from
Terreno Berryessa, LLC, Necessary to Complete the Coyote Creek
Flood Management Measures Project, Project No. 91864007 (San
Jose, District 3). (PREVIOUSLY LISTED AS ITEM 2.11)

[23-0184](#)

Recommendation: A. Open and conduct a Public Hearing to consider
adopting a Resolution of Necessity relating to
acquisition of real property or interests from Terreno
Berryessa, LLC necessary to complete the Coyote
Creek Flood Management Measures Project, Project
No. 91864007;
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 COYOTE CREEK FLOOD
MANAGEMENT MEASURES PROJECT, NO.
91864007 (CODE OF CIVIL PROCEDURE
SECTIONS 1245.220, et seq.), by two-thirds vote (5 out
of 7).

Manager: Bhavani Yerrapotu, 408-630-2735

Attachments: [Attachment A: Gov Code 84308](#)
[Attachment 1: Easement Deeds No. 4021-302 and 4021-383](#)
[Attachment 2: Resolution](#)
[Attachment 3: Notice of Intent](#)
[Attachment 4: PowerPoint](#)

Est. Staff Time: 20 Minutes

3. CONSENT CALENDAR: (3.1 - *3.8) (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 a Resolution Declaring March 2023 as National Women's History Month. [23-0094](#)
Recommendation: Adopt the Resolution DECLARING MARCH 2023 AS NATIONAL WOMEN'S HISTORY MONTH.

Manager: Marta Lugo, 408-630-2237
Attachments: [Attachment 1: Resolution](#)
- 3.2. Adopt a Resolution Declaring March 2023 as Irish American Heritage Month. [23-0095](#)
Recommendation: Adopt the Resolution DECLARING MARCH 2023 AS IRISH AMERICAN HERITAGE MONTH.

Manager: Marta Lugo, 408-630-2237
Attachments: [Attachment 1: Resolution](#)
- 3.3. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the Federal Energy Regulatory Commission (FERC) Order Compliance Project Coyote Creek Flood Management Measures Project, Project No. 91864007, Contract No. C0690, (San Jose), (District 2, 3 and 6). [23-0197](#)
Recommendation: A. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the FERC Order Compliance Project (FOCP) Coyote Creek Flood Management Measures 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: Location Map](#)
[Attachment 2: Notice to Bidders](#)
[Attachment 3: Project Delivery Process](#)
[Attachment 4: Plans](#)
[Attachment 5: Specifications](#)

- 3.4. Consider and Approve New Membership Nomination for Appointment for Two-Year Term to the Agricultural Water Advisory Committee, and New Membership Nominations for Appointments and Re-Appointment for Two-Year Terms to the Environmental and Water Resources Committee. [22-1439](#)

Recommendation: Consider and Approve New Membership Nomination for Appointment for Two-Year Term to the Agricultural Water Advisory Committee, and New Membership Nominations for Appointments and Re-Appointment for Two-Year Terms to the Environmental and Water Resources Committee.

Manager: Candice Kwok-Smith, 408-630-3193

Attachments: [Attachment 1: Gil Application, Redacted](#)
[Attachment 2: Pathman Application, Redacted](#)
[Attachment 3: Jacobson Application, Redacted](#)
[Attachment 4: Resolution 17-75](#)

- 3.5. Approve Recommended Positions on Federal Legislation: H.R. 186 (McClintock) - Water Supply Permitting Coordination Act; S. 24 (Feinstein)/H.R. 516 (Lieu) - Fighting Homelessness Through Services and Housing Act; and Other Legislation That May Require Urgent Consideration for a Position by the Board. [22-1462](#)

Recommendation: A. Adopt a position of "Support" on H.R. 186 (McClintock) - Water Supply Permitting Coordination Act; and
B. Adopt a position of "Support and Amend" on S. 24 (Feinstein)/H.R. 516 (Lieu) - Fighting Homelessness Through Services and Housing Act.

Manager: Marta Lugo, 408-630-2237

- *3.6. Adopt Recommended Positions on State Legislation: AB 30 (Ward) [23-0251](#)
Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program, *AB 400 (Blanca, Rubio) Local Agency Design-Build Projects: Authorization, SB 23 (Caballero) Expedited Permitting for Water Supply and Flood Risk Reduction Projects, *SB 532 (Wiener) Ballot Measures: Local Taxes and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

Recommendation: A. Adopt a position of "Support" on: AB 30 (Ward) Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program;
B. *Adopt a Position of "Support" on: AB 400 (Blanca, Rubio) Local agency design-build projects: authorization;
C. Adopt a position of "Support" on: SB 23 (Caballero) Expedited Permitting for Water Supply and Flood Risk Reduction Projects; and
D. *Adopt a position of "Support" on: SB 532 (Wiener) Ballot measures: local taxes.

Manager: Rachael Gibson, 408-630-2884

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

- *3.7. Accept the CEO Bulletin for the Weeks of February 10 Through 23, 2023. [23-0220](#)

Recommendation: Accept the CEO Bulletin.

Manager: Rick Callender, 408-630-2017

Attachments: [Attachment 1: 022323 CEO Bulletin](#)

- *3.8. Approval of Minutes. [23-0221](#)

Recommendation: Approve the minutes.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: 011823 Special Meeting Minutes](#)
[Attachment 2: 012423 CS and Regular Meeting Minutes](#)

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

- 4.1. Review the Fiscal Year 2023 Board Policy Planning Calendar. [23-0200](#)

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. Consider Staff Recommendation to Assign Initial Review Jurisdiction of Valley Water Facility Naming/Renaming Requests to the Diversity & Inclusion Ad Hoc Committee. [23-0201](#)

Recommendation: A. Consider staff recommendation to assign initial review jurisdiction of Valley Water Facility Naming/Renaming requests to the Diversity & Inclusion (D&I) Ad Hoc Committee; and
B. Approve staff recommendation to assign initial jurisdiction of Valley Water Facility Naming/Renaming requests to the D&I Ad Hoc Committee.

Manager: Marta Lugo, 408-630-2237

Attachments: [Attachment 1: Administrative Work Procedure W-630-100](#)

Est. Staff Time: 5 Minutes

- *4.3. Board Committee Reports. [23-0262](#)

Attachments: [*Handout 4.3-A: 012523 SCWPIMC Summary](#)

5. WATER UTILITY ENTERPRISE:

6. WATERSHEDS:

- 6.1. Receive and Discuss the Proposed Revisions to the Amended and Restated Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority, Agreement A2247 (Palo Alto, District 7). [23-0126](#)

Recommendation: A. Receive information and discuss proposed revisions to the draft second Amended and Restated Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority, Agreement No. A2247; and
B. Support staff recommendations in items A through E of the proposed substantive revisions section below.

Manager: Bhavani Yerrapotu, 408-630-2735

Est. Staff Time: 10 Minutes.

7. ASSISTANT CHIEF EXECUTIVE OFFICER:

- 7.1. Review and Authorize Distribution of Santa Clara Valley Water District's Capital Improvement Program Draft Fiscal Years 2024-28 Five-Year Plan. [22-1257](#)

Recommendation: A. Review the Capital Improvement Program's Draft Fiscal Years 2024-28 Five-Year Plan; and
B. Authorize release of the document to all cities and land use authorities in Santa Clara County and the County of Santa Clara for review as to its consistency with their General Plans.

Manager: Melanie Richardson, 408-630-2035

Attachments: [Attachment 1: Draft FY 2024-2028 Five-Year Plan](#)
[Attachment 2: Project Plan Updates](#)
[Attachment 3: PowerPoint](#)

Est. Staff Time: 20 Minutes

8. EXTERNAL AFFAIRS:

9. CHIEF EXECUTIVE OFFICER:

- 9.1. Receive and approve the Mid-Year Operating and Capital Budget Adjustments to the Fiscal Year 2022-23 Rolling Biennial Adopted Budget. [23-0051](#)

Recommendation: Approve the Mid-Year Operating and Capital Budget Adjustments to the Fiscal Year 2022-23 Rolling Biennial Adopted Budget.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: FY22-23 Mid-Year Budget Adjustments \(items 1-4\)](#)
[Attachment 2: FY22-23 Mid-Year Budget Adjustments \(item 5\)](#)
[Attachment 3: SCVWD Resolution No. 22-31](#)

Est. Staff Time: 5 Minutes

- 9.2. Formalize Lunar New Year as a Valley Water Observed Holiday in Accordance with the Newly Adopted State Holiday; Adopt a Resolution in Recognition of the Lunar New Year as a Newly Designated Annual Holiday at Santa Clara Valley Water District; and Approve Staff's Recommendation to Provide a Paid Holiday in Observation of the 2023 Lunar New Year Commemoration. [23-0190](#)

Recommendation: A. Formalize Lunar New Year as a Valley Water Observed Holiday, in Accordance with the Newly Adopted State Holiday;
 B. Adopt the Resolution in RECOGNITION OF LUNAR NEW YEAR AS A NEWLY DESIGNATED ANNUAL HOLIDAY AT SANTA CLARA VALLEY WATER DISTRICT; and
 C. Approve staff's recommendation to provide a paid Holiday in observance of the 2023 Lunar New Year Commemoration.

Manager: Marta Lugo, 408-630-2237

Attachments: [Attachment 1: Resolution](#)

Est. Staff Time: 5 Minutes

- *9.3. CEO and Chiefs' Report. [23-0263](#)

Attachments: [*Handout 9.3-A: OGR](#)

[*Handout 9.3-B: OCE](#)

10. ADMINISTRATION:

11. DISTRICT COUNSEL:

12. ADJOURN:

12.1. Board Member Reports/Announcements.

12.2. Proposed Future Board Member Agenda Items.

12.2-A: Board Policy and Planning Calendar

[23-0222](#)

Attachments: [Attachment 12.2-A: Board Policy and Planning Calendar](#)

12.3. Clerk Review and Clarification of Board Requests.

12.4. Adjourn to Regular Meeting at 1:00 p.m., on March 14, 2023.