

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

***AMENDED/APPEDED
AGENDA**

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

Tuesday, February 27, 2018

4:00 PM

District Administration Building Conference
Room B-108

5750 Almaden Expressway, San Jose, California

1. CALL TO ORDER:

1.1. Roll Call.

2. TIME CERTAIN:

4:00 PM

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

[18-0092](#)

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Silicon Valley Foundation for a Better Environment v. SCVWD and

California Department of Fish and Wildlife

Santa Clara County Superior Court, Case No. 17CV31886

2.2. CLOSED SESSION

[18-0120](#)

CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6(a)

Agency Designated Representatives: Norma Camacho, Anil Comelo,

Michael Baratz, Laura Harbert, Dania Torres Wong, Esq.

Employee Organizations: Employees Association, Engineers Society,

Professional Managers Association

6:00 PM

2.3. District Counsel Report.

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: This item is reserved for persons desiring to address the Board on any matter not on this agenda. Members of the public who wish to address the Board on any item not listed on the agenda should complete a Speaker Card and present it to the Clerk of the Board. The Board Chair will call individuals to the podium in turn. 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 Fourth Annual Report for Fiscal Year 2016-2017. [18-0106](#)

- Recommendation:
- A. Receive the Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's Fourth Annual Report for Fiscal Year 2016-2017; and
 - B. Provide direction to staff as appropriate.

Manager: Ngoc Nguyen 408-630-2632

Attachments: [Attachment 1: SCW IMC's Letter to the Board](#)
[Attachment 2: IMC General Recommendations](#)
[Attachment 3: IMC FY17 Annual Report](#)

Est. Staff Time: 10 Minutes

3. CONSENT CALENDAR: (3.1 - 3.5) (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 complete a Speaker Card and present it to the Clerk of the Board.

- 3.1. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the Coyote Creek Levee Rodent Damage Repair Downstream of SR 237, Project No. 62084001, Task No. 5171, Contract No. C0637 (Milpitas) (District 3). [17-0823](#)

Recommendation: A. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the Coyote Creek Levee Rodent Damage Repair Downstream of SR 237 Project (Project), per the Notice to Bidders; and
B. Authorize the Designated Engineer to issue addenda, as necessary, during bidding.

Manager: Ngoc Nguyen, 408-630-2632

Attachments: [Attachment 1: Notice to Bidders](#)
[Attachment 2: Project Location Map](#)
[Attachment 3: Project Delivery Process Chart](#)

- 3.2. Amendment No. 4 to Standard Consultant Agreement A3618A in the Amount of \$240,813 with NV5, Inc., Formerly Known as Nolte Associates, Inc., for the Design of the Pope/Chaucer Street Bridge Replacement at San Francisquito Creek, Project No. 26284001 (Palo Alto, Menlo Park) (District 7). [17-0871](#)

Recommendation: Approve Amendment No. 4 to Agreement A3618A with NV5, Inc., formerly known as Nolte Associates, Inc., to provide \$240,813 for additional professional engineering design services for the Pope/Chaucer Street Bridge Replacement Project at San Francisquito Creek, for a new Total Not-To-Exceed Fee of \$750,610.

Manager: Ngoc Nguyen, 408-630-2632

Attachments: [Attachment 1: Amendment No. 4](#)

- 3.3. Semi-Annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities Aimed at Influencing District Decisions, in Accordance with District Ordinance 10-01. [18-0060](#)

Recommendation: Receive the Semi-Annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities for the period July 1, 2017 through December 31, 2017.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Lobbyist Report](#)

- 3.4. Update on the Condition of the Almaden Valley Pipeline Inspection and Rehabilitation Project, and Determination that the Condition of the Almaden Valley Pipeline Continues to Constitute an Emergency (San Jose, Los Gatos, Unincorporated Santa Clara County) (Districts 4 and 7). [18-0077](#)

Recommendation: A. Receive an update on the Almaden Valley Pipeline Inspection and Rehabilitation Project; 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 on December 5, 2017, pursuant to California Public Contract Code §22050, to repair the Almaden Valley Pipeline (San Jose, Los Gatos, Unincorporated Santa Clara County) (Districts 4 and 7).

Manager: Christopher Hakes, 408-630-3796

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

- *3.5. CEO Bulletins for the Weeks of February 9 - 15, and 16 - 22, 2018. [18-0119](#)

Recommendation: Accept the CEO Bulletins.

Manager: Norma Camacho, 408-630-2084

Attachments: [Attachment 1: 021518 CEO Bulletin](#)
[*Attachment 2: 022218 CEO Bulletin](#)

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

- 4.1. Review of 2018 Board Committee Appointments. [18-0065](#)

Recommendation: A. Review and approve the 2018 Board committee appointments as submitted by Board Chair in Attachment 1; and
 B. Appoint new Board Committee Representatives, as necessary.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Committee Appointment Summary](#)

Est. Staff Time: 5 Minutes

- 4.2. Consider the Board Audit Committee's Recommendation to Expand the Scope of Services of Agreement No. A4046F, Performance Audit of Lower Silver Creek Flood Protection Project Consultant Agreement (A3277G) with RMC Water and Environment. [17-0833](#)

Recommendation:

- A. Discuss and consider the Board Audit Committee's recommendation to expand the scope of the Lower Silver Creek Flood Protection Performance Audit to include:
 - i. A financial review to ensure that there was no double billing and no billing for work that was not done, including additional analysis on the October 27, 2015, verbal report to the Board that considers whether the invoices followed appropriate financial review and approval processes and followed appropriate preparation and submittal processes; and
 - ii. A review of media allegations in newspaper reports and video and ensure that they have been addressed.
- B. If the Board accepts the Board Audit Committee's recommendation, approve Amendment No. 3 to Standard Consultant Agreement No. A4046F, Performance Audit of Lower Silver Creek Flood Protection Project Consultant Agreement (A3277G) with RMC Water and Environment to expand the scope of services and increase the not-to-exceed amount by \$193,500 for a new, Not-to-Exceed amount of \$292,887.

Manager: Norma Camacho, 408-630-2084

Attachments: [Attachment 1: Amendment No. 3](#)
[Attachment 2: Audit Tasks and Cost Breakdown](#)

Est. Staff Time: 5 Minutes

- 4.3. Environmental Justice Policy Discussion. [18-0068](#)

Recommendation: Discuss and consider three Proposed Environmental Justice Policy Recommendations from the Board Policy and Planning Committee:

- A. Discuss and Consider a Proposed Environmental Justice Policy Statement;
- B. Discuss and Consider a Proposed Environmental Justice Legislative Guiding Principle; and
- C. Discuss and Consider a Proposed Executive Limitation on Environmental Justice Implementation.

Manager: Rachael Gibson, 408-630-2884

Est. Staff Time: 5 Minutes

4.4. District Sponsorship Policy Discussion.

[18-0085](#)

Recommendation: Discuss and consider two proposed Sponsorship Policy recommendations from the Board Policy and Planning Committee:

- A. Discuss and consider revising the sponsorship limit set forth in Executive Limitation 5.4 from \$2,500 to \$5,000, and
- B. Discuss and consider authorizing staff to approve sponsorships at any amount provided that the approved sponsorship budget is not exceeded.

Manager: Rachael Gibson, 408-630-2884

Attachments: [Handout 4.4-A, Trish Mulvey](#)

Est. Staff Time: 5 Minutes

4.5. Fiscal Year 2018 Board Policy Planning and Performance Monitoring Calendars.

[17-0519](#)

Recommendation: Review, discuss and revise, the Fiscal Year 2018 Board Policy Planning and Performance Monitoring Calendars.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: Policy Planning Calendar](#)
[Attachment 2: Performance Monitoring Calendar](#)

Est. Staff Time: 5 Minutes

4.6. Board Committee Reports.

5. WATER UTILITY ENTERPRISE:

5.1. Resolution Memorializing the Process to Regulate Groundwater Extraction under the Sustainable Groundwater Management Act, if Needed.

[18-0023](#)

Recommendation: Adopt the Resolution MEMORIALIZING THE PROCESS TO REGULATE GROUNDWATER EXTRACTION UNDER THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT, IF NEEDED.

Manager: Garth Hall, 408-630-2750

Attachments: [Attachment 1 - Resolution](#)
[Attachment 2 - Presentation](#)

Est. Staff Time: 5 Minutes

- 5.2. Review and Authorize Distribution of the District's Draft Fiscal Years 2019-23 Capital Improvement Program (CIP). [18-0098](#)

Recommendation: Review the Draft Fiscal Years 2019-23 CIP and authorize release of the document to all cities in Santa Clara County (SCC) and the County of Santa Clara for review as to its consistency with their General Plans.

Manager: Katherine Oven, 408-630-3126

Attachments: [Attachment 1: Draft FY 2019-2023 CIP](#)
[Attachment 2: Planned Annual Construction Program](#)

Est. Staff Time: 5 Minutes

6. WATERSHEDS:

- 6.1. Amendment Nos. 1 to Consultant Agreements A3932A in the amount of \$882,952 and A3933A in the amount of \$533,170 with Harris and Associates for Construction Management Services for the Permanente Creek Flood Protection Project (Project) - Rancho San Antonio Detention Basin and McKelvey Park Detention Basin, Project No. 26244001 (Cupertino and Mountain View) (District 5). [17-0861](#)

Recommendation: A. Approve Amendment No. 1 to Agreement A3932A with Harris and Associates to provide \$882,952 for additional construction management services for the Permanente Creek Flood Protection Project - Rancho San Antonio Detention for a new Not-To-Exceed Fee of \$2,153,362, and extend the Agreement term to March 31, 2019; and
B. Approve Amendment No. 1 to Agreement A3933A with Harris and Associates to provide \$533,170 for additional construction management services for the Permanente Creek Flood Protection Project - McKelvey Park Detention for a new Not-To-Exceed Fee of \$3,303,021, and extend the Agreement term to February 29, 2020.

Manager: Ngoc Nguyen, 408-630-2632

Attachments: [Attachment 1: Amendment No. 1 to Agreement A3932A](#)
[Attachment 2: Amendment No. 1 to Agreement A3933A](#)

Est. Staff Time: 5 Minutes

- *6.2. Authorization to Apply for and Accept a Grant from the United States Natural Resources Conservation Service (NRCS) for the Cunningham Flood Detention Facility Certification Project, Project No. 40264011 (San Jose) (District 1).

[18-0069](#)

Recommendation:

- A. Authorize the Chief Executive Officer (CEO) to execute and submit a grant application, including the Supplemental Watershed Agreement No. 3 a component of the application, to NRCS for the Cunningham Flood Detention Facility Certification Project (Project).
- B. Authorize the CEO, if the NRCS grant is awarded to the District, to:
 1. Accept and execute a grant agreement for funding in the amount of \$4,243,516, with the Natural Resources Conservation Service (NRCS) for the Cunningham Flood Detention Facility Certification Project (Project);
 2. Sign and submit invoices and requests to NRCS for grant fund disbursements to be made pursuant to the Cooperative Agreement between SCVWD and NRCS to Construct the Lake Cunningham Water Control Structure on the Lower Silver Creek Watershed; and
 3. Delegate such other authority as is needed to provide management and support services required for performance of the work and administration pursuant to the grant agreement, as deemed necessary and appropriate.

Manager: Ngoc Nguyen, 408-630-2632

Attachments: [Attachment 1: NRCS Supplemental Watershed Agmt No. 3](#)
[Attachment 2: Notice of Grant and Agreement Award](#)

Est. Staff Time: 5 Minutes

7. EXTERNAL AFFAIRS:

- 7.1. Recommended Position on State Legislation: Proposition 68 SB 5 [17-0816](#)
California Drought, Water, Parks, Climate, Coastal Protection, and
Outdoor Access For All Act of 2018, AB 1876 (Frazier) Delta Stewardship
Council Membership, and Other Legislation Which May Require Urgent
Consideration for a Position by the Board.

Recommendation: A. Adopt a position of "Support" on: Proposition 68 SB 5
 (De Leon) California Drought, Water, Parks, Climate,
 Coastal Protection, and Outdoor Access For All Act of
 2018; and
 B. Adopt a position of "Oppose" on: AB 1876 (Frazier)
 Delta Stewardship Council Membership.

Manager: Rachael Gibson, 408-630-2884

Attachments: [Attachment 1: Proposition 68 Funding Detail](#)

Est. Staff Time: 5 Minutes

- 7.2. Recommended Positions on Federal Legislation: HR 4492 (Mast) - Water Infrastructure Finance and Innovation Reauthorization Act of 2017 and S 2329 (Hoeven) - Water Infrastructure Finance and Innovation Reauthorization Act of 2018; HR 4525 (Pallone) - Living Shorelines Act of 2017; HR 4490 (Cartwright) and S 2176 (Whitehouse) - Safeguarding America's Future and Environment (SAFE) Act; H.R. 1654 (McClintock) and S 677 (Barasso)- Water Supply Permitting Coordination Act; HR 519(Buck)-Water and Agriculture Tax Reform Act; and HR 3009 (Duncan) -Sustainable Water Infrastructure Investment Act.

[17-0909](#)

- Recommendation:
- A. Adopt a position of "Support and Amend" on: HR 4492 (Mast) - Water Infrastructure Finance and Innovation Reauthorization Act of 2017, and S 2329 (Hoeven) - Water Infrastructure Finance and Innovation Reauthorization Act of 2018;
 - B. Adopt a position of "Support" on: HR 4525 (Pallone) - Living Shorelines Act of 2017;
 - C. Adopt a position of "Support" on: HR 4490 (Cartwright) and S 2176 (Whitehouse) - Safeguarding America's Future and Environment (SAFE) Act;
 - D. Adopt a position of "Support" on H.R. 1654 (McClintock) and S 677 (Barasso) - Water Supply Permitting Coordination Act;
 - E. Adopt a position of "Support and Amend" on HR 519 (Buck) - Water and Agriculture Tax Reform Act; and
 - F. Adopt a position of "Support and Amend" on: HR 3009 (Duncan) - Sustainable Water Infrastructure Investment Act.

Manager: Rachael Gibson, 408-630-2884

Est. Staff Time: 5 Minutes

8. CHIEF EXECUTIVE OFFICER:

- 8.1. Chief Executive Officer Report.

9. ADMINISTRATION:

10. DISTRICT COUNSEL:

11. ADJOURN:

- 11.1. Board Member Reports/Announcements.
- 11.2. Proposed Future Board Member Agenda Items.
- 11.3. Clerk Review and Clarification of Board Requests.

- 11.4. Adjourn to Regular Meeting at 1:00 p.m., on March 13, 2018, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.