



Santa Clara Valley Water District Board of Directors Meeting

Teleconference Zoom Meeting

***AMENDED/APPENDED**
***11:00 AM CLOSED SESSION AND 1:00 PM REGULAR**
MEETING
AGENDA

Tuesday, November 10, 2020
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

Nai Hsueh, Chair, District 5
Tony Estremera, Vice Chair, District 6
John L Varela, District 1
Barbara Keegan, District 2
Richard P. Santos, District 3
Linda J. LeZotte, District 4
Gary Kremen, 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 for public inspection at the Office of the Clerk of the Board at the Santa Clara Valley Water District Headquarters Building, 5700 Almaden Expressway, San Jose, CA 95118, 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 attend Board of Directors' 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

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the Board of Directors, District staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

Members of the public wishing to address the Board during a video conferenced meeting on an item not listed on the agenda, or any item listed on the agenda, should use the "Raise Hand" or "Chat" tools located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Board Chair in the order requests are received and granted speaking access to address the Board.

Santa Clara Valley Water District (District), in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access and/or participate in District Board meetings to please contact the Clerk of the Board's office at (408) 630-2711, at least 3 business days before the scheduled District Board meeting to ensure that the District 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 the District 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 /](http://www.valleywater.org) 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/95531214897>

Meeting ID: 955 312 14897

Join by Phone:

1 (669) 900-9128, 95531214897#

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 [20-1012](#)
CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4) - Six Potential
Cases
- 2.2. CLOSED SESSION [20-1030](#)
PUBLIC EMPLOYEE EMPLOYMENT
Pursuant to Government Code Section 54957(b)(1)
Title: District Counsel
- *2.3. CLOSED SESSION [20-1054](#)
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1):
White, et al. v. SCVWD, et al. (Santa Clara Co. Superior Court, No.
18CV321600 (Lead))

*2.4. CLOSED SESSION

[20-1056](#)

CONFERENCE WITH LEGAL COUNSEL

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8:

Setting Negotiation Parameters for Price and Terms of Payment for

Acquiring Property Interest in APN 015-32-042 and APN 015-32-043

Negotiators: Rick Callender, Melanie Richardson, Rechelle Blank, Eli

Serrano, Bill Magleby, Rachael Gibson, Don Rocha, Sunshine Julian

Other Negotiating Parties: City of San Jose

1:00 PM

Rejoin Zoom Meeting:

<https://valleywater.zoom.us/j/95531214897>

Meeting ID: 955 312 14897

Join by Phone:

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*2.5. District Counsel Report on Closed Session. (PREVIOUSLY LISTED AS ITEM 2.3)

*2.6. Pledge of Allegiance/National Anthem. (PREVIOUSLY LISTED AS ITEM 2.4)

*2.7. Orders of the Day. (PREVIOUSLY LISTED AS ITEM 2.5)

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.
(PREVIOUSLY LISTED AS ITEM 2.6)

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" or "Chat" tools 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.

3. CONSENT CALENDAR: (3.1 - *3.6) (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. Notice of Completion of Contract and Acceptance of Work for the [20-1057](#)
Rinconada Water Treatment Plant Reliability Improvement Project, Balfour
Beatty Infrastructure, Inc., Contractor, Project No. 93294057, Contract No.
C0601 (Los Gatos) (District 7).

- Recommendation: A. Accept the work on the Rinconada Water Treatment Plant
Reliability Improvement Project, Project No. 93294057,
Contract No. C0601 as complete; and
- B. Direct the Clerk of the Board to sign the Notice of
Completion of Contract and Acceptance of Work and
submit for recording to the Santa Clara County
Clerk-Recorder.

Manager: Heath McMahon, 408-630-3126

Attachments: [Attachment 1: Notice of Completion](#)
[Attachment 2: Construction Photos](#)
[Attachment 3: Project Delivery Process Chart](#)
[*Supplemental Board Agenda Memo](#)
[*Supplemental Attachment 1: Construction Contract Acceptance](#)
[*Supplemental Attachment 2: Project Completion Letter](#)
[*Handout 3.1-A, Frederickson email](#)

- 3.2. Revision to 2020 Board Committee Appointment - San Luis and [20-0996](#)
Delta-Mendota Water Authority, Division 4 - Board of Director Alternate
and Delta Habitat Conservation and Conveyance Program Committee
Alternate.

Recommendation: Approve the revised Board Committee Appointments for the
San Luis and Delta-Mendota Water Authority Division 4 Board
of Director Alternate and the Delta Habitat Conservation and
Conveyance Program Committee Alternate.

Manager: Michele King, 408-630-2711

- 3.3. Consider Membership Nomination for Committee Appointment to the Safe, Clean Water Independent Monitoring Committee. [20-1018](#)
Recommendation: Consider the membership appointment for Committee Appointment to the Safe, Clean Water Independent Monitoring Committee (SCW IMC).
Manager: Michele King, 408-630-2711
Attachments: [Attachment 1: SCVWD Resolution No. 13-61](#)
[Attachment 2: Membership Application \(Fohner\)](#)
- 3.4. Consider the October 21, 2020, Board Audit Committee Recommendation to Accept Audit Report of the Water Utility Enterprise Funds for the Fiscal Year Ended June 30, 2019. [20-1021](#)
Recommendation: A. Consider the October 21, 2020, Board Audit Committee Recommendation to accept the Audit Report of the Water Utility Enterprise Funds for the Fiscal Year ended June 30, 2019; and
B. Accept the Audit Report of the Water Utility Enterprise Funds for the Fiscal Year ended June 30, 2019.
Manager: Darin Taylor, 408-630-3068
Attachments: [Attachment 1: FY Ending 2019 WUE Funds Audit Report](#)
Est. Staff Time: 10 Minutes
- *3.5. Accept the CEO Bulletin for the Weeks of October 23-November 5, 2020. [20-0990](#)
Recommendation: Accept the CEO Bulletin.
Manager: Rick Callender, 408-630-2017
Attachments: [Attachment 1: 110520 CEO Bulletin](#)
- *3.6. Approval of Minutes. [20-0957](#)
Recommendation: Approve the minutes.
Manager: Michele King, 408-630-2711
Attachments: [Attachment 1: 100720 Special Meeting Minutes](#)
[Attachment 2: 101320 Regular Meeting Minutes](#)

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

- 4.1. Proposed Conversion of Santa Clara Valley Water District (Valley Water) [20-0876](#)
Fish and Aquatic Habitat Collaborative Effort (FAHCE) Ad Hoc
Committee to a Standing Board Committee.

Recommendation: Consider and approve the Fish and Aquatic Habitat
Collaborative (FAHCE) Ad Hoc Committee's recommendations
to:

- a. Convert the FAHCE Ad Hoc Committee to a Standing
Board Committee;
- b. Expand the purpose of the Committee by adding a third
purpose to identify and track progress of District and
non-District activities that may affect the FAHCE
Settlement Agreement and implementation; and
- c. Name the Standing Board Committee the "Stream
Planning and Operations Committee".

Manager: Vincent Gin, 408-630-2633

Attachments: [Attachment 1: Board Governance Policy GP-8](#)

Est. Staff Time: 5 Minutes

- 4.2. Consider the October 21, 2020, Board Audit Committee [20-1022](#)
Recommendation to Receive and Discuss the Final Audit Report and
Management Response for the Real Estate Services Audit Conducted by
TAP International, Inc.

Recommendation: Consider the October 21, 2020, Board Audit Committee
recommendation to receive and discuss the Final Audit Report
and Management Response for the Real Estate Services Audit
conducted by TAP International, Inc.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: Final Real Estate Services Audit Report](#)

Est. Staff Time: 10 Minutes

- *4.3. Board Committee Reports. [20-1037](#)

Attachments: [*Handout 4.3-A: 101920 EWRC Summary](#)
[*Handout 4.3-B: 102620 BPPC Summary](#)
[*Handout 4.3-C: 102820 Water Commission Summary](#)
[*Handout 4.3-D: 110920 WSEC Agenda](#)
[*Handout 4.3-E: 111820 Water Commission Agenda](#)

- 4.4. Proposed Future Board Member Agenda Items.

5. WATER UTILITY ENTERPRISE:

6. WATERSHEDS:

- 6.1. Approve Amendment No. 3 to Agreement No. A3967A with Wood Rodgers, Inc. for Design Consultant Services for the Lower Penitencia Creek Improvements Project, Project No. 40334005, CAS No. 4680, Increasing the fee by \$455,132 for a Total Revised Not-to-exceed Fee of \$2,573,886 (Milpitas) (District 3).

[19-0806](#)

Recommendation: Approve Amendment No. 3 to Agreement No. A3967A with Wood Rodgers, Inc. (Consultant), for design consultant services for the Lower Penitencia Creek Improvements Project, increasing the not-to-exceed fee by \$455,132 resulting in a revised total not-to-exceed amount of \$2,573,886 and extending the Agreement term.

Manager: Rechelle Blank, 408-630-2615

Attachments: [Attachment 1: Amendment No. 3](#)

Est. Staff Time: 5 Minutes

- 6.2. Consider the Initial Study and Mitigated Negative Declaration; Adopt the Resolutions (2) Making Responsible Agency Findings, and Authorizing Land Lot Line Adjustment and Exchange of Real Property; and Authorize the Chief Executive Officer to Execute the Joint Use Agreement and All Necessary Documents to Affect the Lot Line Adjustment and Real Property Exchange, with the City of Cupertino for the Regnart Creek Trail Project. (Cupertino) (District 5).

[20-0883](#)

- Recommendation:
- A. Consider the potential environmental effects of the project as discussed in the Initial Study and Mitigated Negative Declaration prepared by the City of Cupertino (City);
 - B. Adopt the resolution MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT TO RELY ON THE INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION PREPARED BY THE LEAD AGENCY (CITY OF CUPERTINO) FOR THE REGNART CREEK TRAIL PROJECT;
 - C. Approve and authorize the Chief Executive Officer (CEO) to execute the Joint Use Agreement between the City of Cupertino and the Santa Clara Valley Water District (Valley Water).
 - D. Adopt the resolution AUTHORIZING LOT LINE ADJUSTMENT AND EXCHANGE OF REAL PROPERTY WITH THE CITY OF CUPERTINO; and
 - E. Authorize the CEO to execute all necessary legal instruments to effect the lot line adjustment and real property exchange with the City of Cupertino, including but not limited to a certificate of lot line adjustment, a quitclaim deed to the City of Cupertino, a certificate of acceptance for a quitclaim deed from the City of Cupertino, and all other documents reasonably necessary to carry out the intent of the resolution authorizing lot line adjustment and exchange of real property with the City of Cupertino.

Manager: Rechelle Blank, 408-630-2615

Attachments: [Attachment 1: Location Map](#)
[Attachment 2: Resolution Authorizing Lot Line Adjustment](#)
[Attachment 3: Joint Use Agreement](#)
[Attachment 4: Resolution Making Responsible Agency Findings](#)
[Attachment 5: Mitigated Negative Declaration](#)
[*Handout 6.2-A, Revised Att. 1, Location Map](#)

Est. Staff Time: 5 Minutes

7. **ASSISTANT CHIEF EXECUTIVE OFFICER:**
8. **EXTERNAL AFFAIRS:**
9. **CHIEF EXECUTIVE OFFICER:**

9.1. Authorize the Chief Executive Officer to Apply for and Submit a Grant from the California Department of Water Resources; Adopt a Resolution Authorizing a Proposal for Funding and Designating a Representative to Execute an Agreement and Amendments; Authorize District Counsel to Execute Attorney's Certification; and Authorize the Chief Executive Officer or Designee to Sign and Submit Invoices and Requests for Reimbursement, and Provide Management Support Services, as Deemed Necessary and Appropriate, for the Lower Penitencia Creek Improvements Project, Project No. 40334005 (San Jose) (District 3).

[20-0936](#)

Recommendation:

- A. Authorize the Chief Executive Officer (CEO) or designee to execute and submit a grant application in the amount of \$9 million to the California Department of Water Resources (DWR) and if the grant is awarded, to execute the agreement and any amendments thereto, for the Lower Penitencia Creek Improvements Project (Project No. 40334005);
- B. Adopt the resolution AUTHORIZING A PROPOSAL FOR FUNDING FROM THE DEPARTMENT OF WATER RESOURCES AND DESIGNATING A REPRESENTATIVE TO EXECUTE THE AGREEMENT AND ANY AMENDMENTS THERETO, FOR THE LOWER PENITENCIA CREEK IMPROVEMENTS PROJECT;
- C. Authorize the District Counsel to execute the Attorney's Certification form required as part of the grant application;
- D. Authorize the CEO or designee to submit the grant application by the deadline of November 20, 2020 while staff concurrently conducts an internal review of the grant terms and conditions. If the grant is awarded, and staff determines all terms and conditions can be met by Valley Water, a subsequent agenda item will be scheduled for Board approval to accept the grant;
- E. Provided a grant agreement is entered into between Valley Water and DWR, delegate authority to the CEO or designee to sign and submit invoices and requests to DWR for grant fund reimbursements to be made pursuant to the Grant Agreement; and
- F. Delegate to the CEO or designee such other authority as 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: Darin Taylor, (408) 630-3068

Attachments: [Attachment 1: Resolution](#)
 [Attachment 2: Attorney's Certification Form](#)
 [Attachment 3: Project Map](#)

Est. Staff Time: 5 Minutes

*9.2. CEO and Chiefs' Report.

[20-1068](#)

Attachments: [*Handout 9.2-A, Communications Unit Update](#)
 [*Handout 9.2-B, Civic Engagement Unit Update](#)

10. ADMINISTRATION:

11. DISTRICT COUNSEL:

12. ADJOURN:

12.1. Board Member Reports/Announcements.

12.2. Clerk Review and Clarification of Board Requests.

12.3. Adjourn to Special Meeting at 1:00 p.m., on November 17, 2020, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.