

# Proposed Adjustments and Modifications to Safe, Clean Water and Natural Flood Protection Program

## Summary

Infrastructure construction projects in the renewed Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program) are experiencing significant cost increases. Among the projects with a major cost escalation is Project E1: Coyote Creek Flood Protection, with an approximately \$162 million increase. These increased costs are impacting the Safe, Clean Water fund's financial health, resulting in staff's recommendation that the Valley Water Board of Directors provide direction on balancing the overall fund and delivering the voter-approved Safe, Clean Water Program. Furthermore, Valley Water staff has identified the need to modify Project D3: Sediment Reuse to Support Shoreline Restoration due to changed circumstances.

Therefore, staff is recommending modifying projects D3: Sediment Reuse to Support Shoreline Restoration, D4: Fish Habitat and Passage Improvement, D6: Restoration of Natural Creek Functions, E2: Sunnyvale East and Sunnyvale West Channels Flood Protection, and E4: Upper Penitencia Creek Flood Protection.

## Background

On November 3, 2020, Santa Clara County voters overwhelmingly approved Measure S, a renewal of Valley Water's Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program). Voters first approved a community-focused program to address our waterways and water supply in 2000 as the Clean, Safe Creeks and Natural Flood Protection Plan, then again in 2012 as the Safe, Clean Water and Natural Flood Protection Program.

The Safe, Clean Water Program addresses the following six community priorities:

**Priority A:** Ensure a Safe, Reliable Water Supply

**Priority B:** Reduce Toxins, Hazards, and Contaminants in our Waterways

**Priority C:** Protect Our Water Supply and Dams from Earthquakes and Other Natural Disasters

**Priority D:** Restore Wildlife Habitat and Provide Open Space

**Priority E:** Provide Flood Protection to Homes, Businesses, Schools, Streets, and Highways

**Priority F:** Support Public Health and Public Safety for Our Community

Each of these priorities has specific operational and capital projects, which have key performance indicators (KPIs) to keep them on track in meeting the overall Safe, Clean

Water Program priorities. KPIs are considered the measurement for the delivery of each project and represent Valley Water's commitment to the voters.

To ensure transparency, accountability and fiscal responsibility, the renewed Safe, Clean Water Program will continue to be monitored by an independent monitoring committee (IMC), an external citizen oversight committee. The Safe, Clean Water Program also requires that staff develop 5-year implementation plans, a change control process, and conduct independent audits every five years.

As changes may be required throughout the implementation of the Safe, Clean Water Program, staff has developed a change control process, which outlines the differences between adjustments and modifications to the Program and identifies the different processes for implementing both. In summary, "adjustments" are project changes that do not impact KPIs, such as updates to text, financial allocation or schedule, and can be approved by the Valley Water Board during a public board meeting. Any changes to KPIs are considered "modifications." Modifications to KPIs or decisions to not implement a project require a public hearing, which must be publicly noticed.

## **Proposed Adjustments and Modifications to the Program**

### ***Project D3: Sediment Reuse to Support Shoreline Restoration***

The Sediment Reuse to Support Shoreline Restoration project under the renewed Safe, Clean Water Program is a countywide project. This project has continued from the 2012 Safe, Clean Water and Natural Program (2012 Program) but with an expanded scope.

Under the 2012 Program, the project purpose was to "reuse local sediment from streams flowing into San Francisco Bay to create and rehabilitate habitat in the South Bay Salt Ponds Restoration." Titled "D8: South Bay Salt Ponds Restoration Partnership," the project description stated that "In partnership with the U.S. Fish and Wildlife Services (FWS), clean sediment is applied to appropriate locations to improve the success of the South Bay Salt Ponds Restoration effort." The Project KPI included "Establish agreement with FWS to reuse sediment at locations to improve the success of Salt Pond restoration activities."

Under the renewed Safe, Clean Water Program that voters approved in 2020, the project's purpose and scope are expanded in terms of sediment source and its use. Regarding the sediment source, the current project description states, "reuse local sediment through Valley Water's Stream Maintenance Program, capital projects and other local sources to create and restore tidal marsh habitat." Regarding usage, the project description states that "Sediment may be reused to support the South Bay Salt Pond Restoration project or other environmental enhancement and restoration projects."

As in the years past, in FY2021-22 under the renewed Safe, Clean Water Program, Valley Water delivered sediment for Pond A8 at Alviso for South Bay Salt Pond Restoration. This was done under the current agreement with USFWS, which remains in effect until December 2023.

However, Valley Water has paused delivering sediment to Pond A8 following USFWS direction in July 2022 that it needs to renew permits, which could take approximately two years. Meanwhile, the expansion in the use of sediment to projects beyond the South Bay Salt Pond Restoration Project under the renewed Safe, Clean Water Program creates new opportunities for the sediment to be reused for Valley Water environmental enhancement and restoration projects not requiring a partnership agreement.

In the coming years, sediment may be used for enhancement and restoration projects, such as at Pond A4, Ogier Ponds, or similar projects. However, sediment reuse at these projects would require conducting CEQA analysis and compliance, and determining the Quality Assurance Test Procedure, which would take some years. Once CEQA is completed, Valley Water could continue the reuse of sediment placement for restoration.

Therefore, to better align the renewed Safe, Clean Water Program with these changing conditions, staff is recommending a modification to KPI #1, along with text adjustments to the project name and benefits, to accurately capture the current project purpose of supporting restoration projects beyond Shoreline Restoration efforts.

*Proposed Text Adjustments:*

**Section:** Project name  
SEDIMENT REUSE TO SUPPORT ~~SHORELINE~~ RESTORATION  
PROJECTS

**Section:** Description

This project reuses local sediment removed through Valley Water's Stream Maintenance Program, capital projects and other local sources to create and restore tidal marsh, **riparian, or wetland** habitats. Sediment may be reused to support the South Bay Salt Pond Restoration project or other environmental enhancement and restoration projects. Valley Water removes sediment from streams to maintain their capacity to carry floodwaters. To secure environmentally appropriate reuse sites, **partnership agreements may be required**. ~~this project continues the existing partnership with the U.S. Fish and Wildlife Service (FWS) and explores partnerships with others.~~ This project also funds site improvements necessary to facilitate sediment delivery to the reuse sites.

Beneficial reuse of sediment has become a key component in tidal marsh, **riparian or wetland** restoration around the ~~Bay~~ **bay and throughout the county**. As sea levels rise, natural sedimentation and vegetation rates cannot keep up and tidal zones are in danger of being submerged, erasing environmental gains from restoration work. By delivering clean sediment from local creeks that would have naturally flowed into the San Francisco ~~or~~ **Monterey Bays**, this project accelerates natural marsh-building processes and helps to keep up with sea-level rise. Activities necessary for sediment

reuse may include testing, transport, cover material, and site improvements required for access.

**Section: Benefits**

- Accelerates progress of important tidal wetland restoration projects, **including tidal marsh, wetland, and riparian habitat**
- Reduces disposal costs for sediment that has been removed from local channels
- Reduces disposal of clean fill into local landfills
- Addresses climate change

*Proposed modification to the KPI:*

KPI #1: ~~Maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities.~~ **Reuse sediment meeting applicable screening criteria at available Valley Water or partnership project sites to support restoration.**

***Project D4: Fish Habitat and Passage Improvement***

This project helps restore and maintain healthy fish populations, especially steelhead, by improving fish passage and habitat. Sites may include Alamitos Creek at Almaden Lake and County of Santa Clara-owned Ogier Ponds, where humanmade creek alterations disrupt fish migration. Project D4, which includes coordinating and partnering with other external parties, incorporates studies of streams throughout the county to determine what and where habitat improvements will most benefit steelhead. These studies can be used by regional partners to implement complementary habitat enhancements.

The Project has five (KPIs) including KPI #1 to “Complete planning and design for one (1) creek/lake separation” and KPI #2 to “Construct one (1) creek/lake separation project in partnership with local agencies.”

The KPIs do not identify specific projects. Pursuant to the renewed Safe, Clean Water Program, Valley Water continues to proceed with planning and design to separate the Ogier Ponds complex from Coyote Creek and deliver KPI #1. This effort was initiated under the 2012 Program.

In 2021, the Board chose the Almaden Lake Improvement Project, which would separate Alamitos Creek from Almaden Lake and return it to naturally flow into the Guadalupe River, to be constructed under KPI #2. However, since then, the Almaden Lake Improvement Project construction cost estimates have nearly tripled, making project construction unfeasible.

Meanwhile, Ogier Ponds are now part of the Anderson Dam Seismic Retrofit Project (ADSRP) as a mitigation measure to help offset some of the project impacts. Therefore,

staff is recommending that the Board select the Ogier Ponds project to be constructed under KPI #2, while the Almaden Lake Improvement Project would continue planning and design to deliver KPI #1. Since as part of ADSRP Ogier Ponds project construction is funded by more sources than the Safe, Clean Water Fund (Fund 26), staff is recommending that the Board modify KPI #2 to partially fund the construction of a creek/lake separation project.

*Proposed modification to the KPI:*

KPI #2: **Partially fund the construction of** Construct one (1) creek/lake separation project in partnership with local agencies.

***Project D6: Restoration of Natural Creek Functions***

This project is to develop, compile and use local hydrologic and geomorphic data to identify, design and construct projects to restore and improve natural functions and stability of stream channels. Geomorphically appropriate channels will be more resilient to damage from more intense rainfall patterns caused by climate change.

The project has three KPIs, requiring Valley Water to construct three geomorphic-designed projects. Valley Water is on track to complete the construction of two projects, Hale Creek Enhancement Pilot Project and Bolsa Road Fish Passage Project, in Fiscal Year 2024. However, Valley Water is yet to identify the third project required under KPI #3.

As result of construction cost escalations, staff is recommending not implementing KPI #3 and reallocating the placeholder project funding to the Program's Operating and Capital (Fund 26 Reserves), thus supporting the fund's financial health.

*Proposed modification (NOT IMPLEMENT KPI - KPI #3):*

**NOT IMPLEMENT KPI #3: Identify, plan, design, and construct a third geomorphic-designed project to restore stability and stream function by preventing incision and promoting sediment balance throughout the watershed.**

***Project E2: Sunnyvale East and Sunnyvale West Channels Flood Protection***

This project is to upgrade approximately 6.4 miles of the existing Sunnyvale East Channel to provide 1% flood protection (100-year event) to 1,618 parcels and approximately three (3) miles of the existing West Channel to provide 1% flood protection for 47 acres of highly valuable industrial lands, including the Onizuka Air Force Base. This project has only one KPI:

1. Provide 1% (100-year) flood protection for 1,618 properties and 47 acres (11 parcels) of industrial land, while improving stream water quality and working with other agencies to incorporate recreational opportunities.

This project is solely locally funded and under the current schedule, construction is planned to begin in FY24 and be completed in FY26.

As result of construction cost escalations, staff is recommending modifying the project funding allocation to construct Sunnyvale West Channel, putting Sunnyvale East Channel construction on hold, and reallocating Sunnyvale East Channel construction-related planned expenditures to the Fund 26 Reserves. This modification will support the fund's financial health. However, it will impact Valley Water's ability to construct the project and deliver the KPI, thus triggering the requirement for a public hearing per the Program's Change Control Process. Should additional funding become available within the Fund 26 Reserves or through partnership and/or grant funding, the Board may reallocate the construction funding to the project through a direction provided during a regular board meeting.

*Proposed modification to project funding:*

Project E2: Sunnyvale East and Sunnyvale West Channels Flood Protection Financial Summary (\$ Thousand)		
15-Year Allocation	Total Budget Expended (FY22)	Modified 15-Year Allocation
\$49,268	\$1,290	\$23,075

***Project E4: Upper Penitencia Creek Flood Protection***

This project continues a partnership with the U.S. Army Corps of Engineers (USACE), to plan, design and construct improvements along 4.2 miles of Upper Penitencia Creek from the confluence with Coyote Creek to Dorel Drive. Part of the project will protect the area around the Bay Area Rapid Transit's (BART) Berryessa station near King Road, which would otherwise be subject to flooding. In addition to providing flood protection, this multi-objective project will provide ecological restoration and recreation benefits while preserving the water supply. The project has two (2) KPIs:

1. Preferred project with federal and local funding: Construct a flood protection project to provide 1% (100-year) flood protection to 8,000 parcels.
2. With local funding only: Construct a 1% (100-year) flood protection project from Coyote Creek confluence to Capital Avenue to provide 1% (100-year) flood protection to 1,250 parcels, including the new Berryessa BART station.

As of FY22, there was no federal funding from USACE for the project and Valley Water focused on the local funding only KPI. Valley Water completed the Planning Study in FY22, and Design is scheduled to begin in FY23.

As result of construction cost escalations, staff is recommending modifying the project funding allocation to reallocate construction-related planned expenditures to the Fund 26 Reserves. This will support the fund's health. However, it will impact Valley Water's ability to construct the project and deliver the KPIs. Should additional funding become

available within the Fund 26 Reserves or through partnership and/or grant funding, the Board may reallocate the construction funding to the project through a direction provided during a regular board meeting.

E4: Upper Penitencia Creek Flood Protection Project Financial Summary (\$ Thousand)		
15-Year Allocation	Total Budget Expended (FY22)	Modified 15-Year Allocation
<del>\$23,592</del>	\$679	<del>\$1,534</del>

**BOARD OF DIRECTORS  
SANTA CLARA VALLEY WATER DISTRICT**

**RESOLUTION NO. 20-64**

**PROVIDING FOR THE CONTINUATION AND LEVY OF A SPECIAL TAX TO PAY  
THE COST OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION  
PROGRAM IN THE COMBINED FLOOD CONTROL ZONE OF THE SANTA CLARA VALLEY  
WATER DISTRICT SUBJECT, NEVERTHELESS, TO SPECIFIED LIMITS AND CONDITIONS**

WHEREAS, the Santa Clara Valley Water District (Valley Water) policy is to ensure current and future water supplies and provide healthy, clean, and reliable water in Santa Clara County; and

WHEREAS, Valley Water policy is to protect Santa Clara County creeks, reservoirs, Monterey Bay, and San Francisco Bay from toxins, pollutants, and contaminants; and

WHEREAS, Valley Water policy is to provide for flood water and storm water flood protection to residents, businesses, visitors, public highways, and the watercourses flowing within the District; and

WHEREAS, Valley Water policy is to protect our water supply, pipelines, and local dams from earthquakes and natural disasters; and

WHEREAS, Valley Water maintains a flood protection system of levees, channels, drains, detention basins, and other improvements upon which the lives and property of Valley Water residents depend, which said improvements must be kept in a safe and effective condition; and

WHEREAS, the Valley Water policy is to protect, enhance, and restore healthy Santa Clara County creeks, watersheds, and bay lands ecosystems; and

WHEREAS, in 2000, voters passed the 15-year Clean, Safe Creeks and Natural Flood Protection Plan; and

WHEREAS, the Valley Water policy is to engage in partnerships with the community to provide open spaces, trails, and parks along Santa Clara County creeks and watersheds; and

WHEREAS, in November 2012, voters passed the Safe, Clean Water and Natural Flood Protection Program which replaced the Clean, Safe Creeks and Natural Flood Protection Plan in its entirety when it became effective on July 1, 2013; and

WHEREAS, the Safe, Clean Water and Natural Flood Protection Program was originally scheduled to sunset on June 30, 2028; and

WHEREAS, in order to protect Santa Clara County water supplies, creeks, watersheds, and bay lands and ensure residents have an ample supply of clean water in the future, Valley Water will need a dedicated source of revenue in the future and beyond 2028 to maintain the programs established in the Safe, Clean Water and Natural Flood Protection Program; and

WHEREAS, the California State Legislature has authorized Valley Water to levy a special tax on each parcel of property within Valley Water or any zone or zones thereof upon approval by a two-thirds vote of the electorate of Valley Water or zones therein; and



Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep said improvements in a safe and effective condition; to enable Valley Water to respond to emergencies; to perform maintenance and repair; to acquire, restore, and preserve habitat; to provide opportunities and access to recreation; to conduct environmental education; to protect and improve water quality; and to construct, operate, and maintain flood protection and storm drainage facilities; to support public health and public safety through efforts authorized by the District Act; and to fund the cost of financing such activities; and

WHEREAS, State California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4), states that government funding mechanisms are not projects subject to the requirements of CEQA.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

FIRST: The Board hereby finds that since (a) the management of creeks, watersheds, and bay lands are necessary to ensure safe, clean water and to protect, enhance and restore healthy ecosystems, (b) the construction and management of flood protection services are made necessary by stormwater runoff, and (c) the lands from which runoff derives are benefitted by provision of means of disposition which alleviates or ends the damage to other lands affected thereby, by direct protection of loss of property, and other indirect means which include improved aesthetics and quality of life, the basis on which to levy the special tax is at fixed and uniform rates per area and county or city designated land use of each parcel, taxed as such parcel is shown on the latest tax rolls.

SECOND: Pursuant to the authority of Section 3 of the District Act, a Combined Zone consisting of the aggregate metes and bounds descriptions of Zones One, Two, Three, Four, and Five is presently existing as generally depicted in Attachment 1.

THIRD: A special Valley Water Election for November 3, 2020 will be called within said District, on the proposition of levy of a special tax.

FOURTH: Subject to approval by two-thirds of the electors of Valley Water voting at such election and pursuant to the authority vested in the Board, there is hereby established a special tax as authorized by this resolution, the proceeds of which shall be used solely for the purpose of supporting the priorities of the Safe, Clean Water and Natural Flood Protection Program. The priorities are summarized in Attachment 2. The Safe, Clean Water and Natural Flood Protection Program Report (hereafter "Report") generally describes the priorities. This tax shall be instituted with the following provisions:

- A. The Chief Executive Officer (CEO) or designee of Valley Water is directed to cause a written Report to be prepared for each fiscal year for which a special tax is to be levied and to file and record the same, all as required by governing law. Said Report shall include the proposed special tax rates for the upcoming fiscal year at any rate up to the maximum rate approved by the voters. Valley Water's Board of Directors shall consider formal acceptance of this Report at a public meeting and shall thereafter make a final determination of special taxes with a confirming resolution. A special fund shall be established into which proceeds from the tax shall be deposited. Proceeds from the tax may be used only for the Safe, Clean Water and Natural Flood Protection Program.

Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

- B. The CEO, or designee of Valley Water may cause the special tax to be corrected in the same manner as assessor's or assessee's errors may be corrected but based only upon any or all of the following:
1. Changes or corrections in ownership of a parcel;
  2. Changes or corrections of address of an owner of a parcel;
  3. Subdivision of an existing parcel;
  4. Changes or corrections in the use of all or part of a parcel;
  5. Changes or corrections in the computation of the area of a parcel;
  6. As to railroad, gas, water, telephone, cable television, electric utility right of way, electric line right of way, or other utility right of way properties.

Changes and corrections are not valid unless and until approved by the Board.

- C. The Clerk of the Board shall immediately file certified copies of the final determination of special taxes and confirming resolution with the Auditor-Controller of the County of Santa Clara and shall immediately record with the County Recorder of said County a certified copy of the resolution confirming the special tax.
- D. The special tax for each parcel set forth in the final determination by the Board shall appear as a separate item on the tax bill and shall be levied and collected at the same time and in the same manner as the general tax levy for county purposes. Upon recording of the resolution confirming the special tax such special tax shall be a lien upon the real property affected thereby.
- E. Failure to meet the time limits set forth in this resolution for whatever reason shall not invalidate any special tax levied hereunder.
- F. No special tax for the Safe, Clean Water and Natural Flood Protection Program shall be imposed upon a federal or state or local governmental agency. Where real property owned by a federal, state, or local agency is leased to a private person or private entity, the private interest so created shall be separately assessed as a possessory interest and the special tax for the Safe, Clean Water and Natural Flood Protection Program shall be levied on all holders of such possessory interests. With said exceptions, a Safe, Clean Water and Natural Flood Protection Program special tax is levied on each parcel of real property in the five Flood Control Zones of Valley Water subject to this resolution for the purposes stated in the Report and in this resolution. Except for the minimum special tax as hereinafter indicated, the special tax for each parcel of real property in each such zone is computed by determining its area (in acres or fractions thereof) and land use category (as hereinafter defined) and then multiplying the area by the special tax rate applicable to land in such land use category. A minimum special tax may be levied on each parcel of real property having a land area up to 0.25 acre for Groups A, B, and C, up to 10 acres for Groups D and E Urban and, for Group E Rural, the minimum special tax shall be that as calculated for the E Urban category.

Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

G. Land use categories for each parcel of land in Valley Water are defined and established as follows:

Group A: Land used for commercial or industrial purposes.

Group B: Land used for institutional purposes such as churches and schools or multiple dwellings in excess of four units, including apartment complexes, mobile home parks, recreational vehicle parks, condominiums, and townhouses.

Group C: (1) Land used for single-family residences and multiple-family units up to four units and (2) the first 0.25 acre of a parcel of land used for single-family residential purposes.

Group D: (1) Disturbed agricultural land, including irrigated land, orchards, dairies, field crops, golf courses, and similar uses and (2) the portion of the land, if any, in excess of 0.25 acre of a parcel used for single-family residential purposes.

Group E: Vacant undisturbed land (1) in urban areas and (2) in rural areas including dry farmed land, grazing and pasture land, forest and brush land, salt ponds, and small parcels used exclusively as well sites for commercial purposes.

Group F: Parcels used exclusively as well sites for residential uses are exempt from the special tax.

H. The special tax amounts applicable to parcels in the various land uses shall be as prescribed by the Board of Directors in each fiscal year (July 1 through June 30) beginning with fiscal year 2021-2022 as set forth in Attachment 3, which is incorporated herein by reference, and as required by law; provided, that the annual basic special tax unit (single-family residential parcel of 1/4 acre or less) shall not exceed a maximum limit of \$67.67 annually (averaging \$0.006 per square foot annually), as adjusted by the compounded percentage increases of the San Francisco-Oakland-San Jose Consumer Price Index (CPI-U) for all Urban Consumers (or an equivalent index published by a government agency) in the year or years after April 30, 2021; provided, however, that appropriate amounts may be increased in any year by up to the percentage increase of the San Francisco-Oakland-San Jose Consumer Price Index for all Urban Consumers in the preceding year or two percent (2%) whichever is greater; provided further, however, that in any period, not exceeding three years, immediately following a year in which the Governor of the State of California or the President of the United States has declared an area of said zones to be a disaster area by reason of flooding or other natural disaster, then to the extent of the cost of repair of Valley Water facilities damaged by such flooding or other natural disaster, the maximum tax rate shall be the percentage increase in CPI-U plus 4.5 percent; and provided, that special taxes for the Safe, Clean Water and Natural Flood Protection Program shall be levied annually until ended by voters.

Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

- I. In the event that the county or city designated land use for a parcel is different than the actual land use, the CEO of Valley Water may, pursuant to written policies and procedures, cause the special tax to be adjusted based upon any or all of the following:
1. The parcel owner shall provide Valley Water a claim letter stating that the present actual land use is different than the county or city designated land use, including an estimate of the portion of the parcel that is different than the designated land use. Such claim is subject to investigation by Valley Water as to the accuracy of the claim. Parcel owner shall furnish information deemed necessary by Valley Water to confirm the actual uses and areas in question which may include, but not be limited to, a survey by a licensed surveyor.
  2. The parcel owner shall request Valley Water to inspect the parcel and reevaluate the parcel tax.
  3. The parcel owner shall notify Valley Water after a substantial change in the actual land use occurs, including a new estimate of the portion of the parcel that is different than the designated land use.
  4. Valley Water may inspect and verify the actual land use for these parcels on a regular basis and will notify the appropriate parcel owners when it is determined that the actual land use has matched a county or city designated land use. Valley Water shall then correct the special tax rates for these parcels accordingly.
- J. Pursuant to state law, Valley Water may provide an exemption from the special tax for low income owner-occupied residential properties for taxpayer-owners who are 65 years of age or older, the following shall apply:
- Residential parcels where the total annual household income does not exceed 75 percent of the latest available figure for state median income at the time the annual tax is set, and such parcel is owned and occupied by at least one person who is aged 65 years or older is qualified to apply for an exemption from the applicable special tax.
- K. The Safe, Clean Water and Natural Flood Protection Program shall follow 15-year financial planning cycles. This will allow Valley Water to align its budget each year with the projects' key performance indicators as well as long-term financial planning efforts, such as the Capital Improvement Program. Prior to the development of each 15-year financial plan, Valley Water will conduct outreach to engage the community and key stakeholders, including the Safe, Clean Water and Natural Flood Protection Program's independent monitoring committee (IMC) and Valley Water advisory committees, to help ensure that the Safe, Clean Water and Natural Flood Protection Program's priorities remain aligned with the priorities of the residents of Santa Clara County.
- L. After a period of no longer than fifteen (15) years, the Board of Directors shall evaluate the need for the Safe, Clean Water and Natural Flood Protection Program, and make an affirmative determination of whether the special tax should be reduced or repealed, or is needed to build additional Projects to achieve related programmatic benefits in accordance with the priorities of the Safe, Clean Water and Natural Flood Protection Program. Should the Board of Directors determine that no additional Projects are needed, the Safe, Clean Water and Natural Flood Protection Program special tax will be

Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

- reduced accordingly, to reflect a transition from funding new Projects to funding operation, maintenance and replacement of Projects that were constructed with Safe, Clean Water and Natural Flood Protection Program funds. This evaluation process shall include the Valley Water advisory committees and the Program's IMC, which will be charged with making recommendations to the Board of Directors on the determination of whether the special tax should be reduced, repealed, or maintained. Following the first fifteen-year determination of continued need for the special tax, the determination shall be made every fifteen (15) years thereafter.
- M. As projects under the Program are completed, the Board of Directors shall identify and prioritize new projects for inclusion in the Program. These new projects may be identified and proposed for Board approval at a public meeting through the Board's review and approval of the Program's five-year implementation plans, the first of which will be produced by the CEO or designee of Valley Water in year one of the Program and every five years thereafter; or, as directed by the Board.
- N. The Board of Directors may direct that proposed projects in the Safe, Clean Water and Natural Flood Protection Program be modified or not implemented depending upon a number of factors, including federal and state funding limitations and the analysis and results of CEQA environmental review and permitting by state and federal regulatory agencies. The Board of Directors must hold a formal, public hearing on the matter, which will be noticed by publication and notification to interested parties, before adoption of any such decision to modify or not implement a project.
- O. The Chief Financial Officer or designee of Valley Water shall file a fiscal year report with the Board of Directors no later than January 1 of each year for the prior fiscal year. The annual report shall contain both of the following: (a) the amount of funds collected and expended; and (b) the status of any project required or authorized to be funded under this resolution.
- P. An external, independent monitoring committee (IMC) shall be appointed by the Valley Water Board of Directors to conduct an annual review of Valley Water's fiscal year report and provide an annual report from the IMC to the Board of Directors regarding implementation of the intended results of the Program. The IMC shall also review each proposed five-year implementation plan prior to its submittal for Board approval. Through review of both the annual reports and five-year implementation plans, the IMC may make recommendations to the Valley Water Board of Directors regarding reasonably necessary measures to meet the priorities of the Safe, Clean Water and Natural Flood Protection Program. Every fifteen years, the IMC will review, and recommend to the Board and general public, whether the special tax should be reduced or repealed, or is needed to build additional Projects to achieve related programmatic benefits in accordance with the priorities of the Safe, Clean Water and Natural Flood Protection Program as described in Paragraph L of this resolution.
- Q. While the Safe, Clean Water and Natural Flood Protection Program is in effect, the Board of Directors shall conduct independent professional audits of the Program to provide for accountability and transparency at least every five years.
- R. Grants and partnerships offered through the Safe, Clean Water and Natural Flood Protection Program, where aligned with the District Act and permitted by law, may

Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

extend to state and local governmental organizations; organized community groups with an established structure; nonprofit organizations as defined by Internal Revenue Code subsections (c) or (d); schools, community colleges, or universities (public or nonprofit; non-profit organizations as defined under Internal Revenue Code section 501(c); religious or apostolic associations as defined under Internal Revenue Code section 501(d); for-profit organizations; and persons.

- S. Pursuant to the State California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4), adoption of this resolution for continuation of the parcel tax and as a government funding mechanism, is not a project subject to the requirements of CEQA. Prior to commencement of any project included in the Safe, Clean Water and Natural Flood Protection Program, any necessary environmental review required by CEQA shall be completed.
- T. Upon entering into effect, the Safe, Clean Water and Natural Flood Protection Program parcel tax authorized by this resolution and placed on the ballot by RESOLUTION NO. 20-63, shall repeal and replace the Safe, Clean Water and Natural Flood Protection Program parcel tax approved by the voters in 2012. On the date that the parcel tax authorized by this resolution and RESOLUTION NO. 20-63 goes into effect, the updated Safe, Clean Water and Natural Flood Protection Program (the priorities of which are summarized in Attachment 2) will replace in its entirety the previously approved Safe, Clean Water and Natural Flood Protection Program. Any tax payments already made by voters and collected for use by Valley Water for the prior Safe, Clean Water and Natural Flood Protection Program will be used to achieve priorities identified in this updated Safe, Clean Water and Natural Flood Protection Program. Funding for capital projects currently identified in the prior Safe, Clean Water and Natural Flood Protection Program, will continue under this updated Safe, Clean Water and Natural Flood Protection Program to meet previous commitments. All other projects and programs identified in the prior Safe, Clean Water and Natural Flood Protection Program will be replaced by comparable projects or programs with similar or expanded obligations under the updated Safe, Clean Water and Natural Flood Protection Program. Commitments for incomplete non-capital projects or programs carried forward from the 2012 Safe, Clean Water and Natural Flood Protection Program, shall continue at no less than the current levels (funding or key performance indicators) as identified in the comparable replacement projects or programs under the updated Safe, Clean Water and Natural Flood Protection Program, until such time as they are completed. Changes to funding levels or key performance indicators may only be made by the Board as set forth under Paragraphs K and L or through Board decisions via a Board-approved Change Control Process.



# Resolution

## APPENDIX D

Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions  
Resolution No. 20-64

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PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on July 21, 2020:

AYES:	Directors	Santos, Estremera, Keegan, Kremen, LeZotte, Varela, Hsueh
NOES:	Directors	None.
ABSENT:	Directors	None.
ABSTAIN:	Directors	None.

SANTA CLARA VALLEY WATER DISTRICT

  
\_\_\_\_\_  
NAI HSUEH  
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

  
\_\_\_\_\_  
Clerk, Board of Directors

Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

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## **ATTACHMENT 1 COVERSHEET**

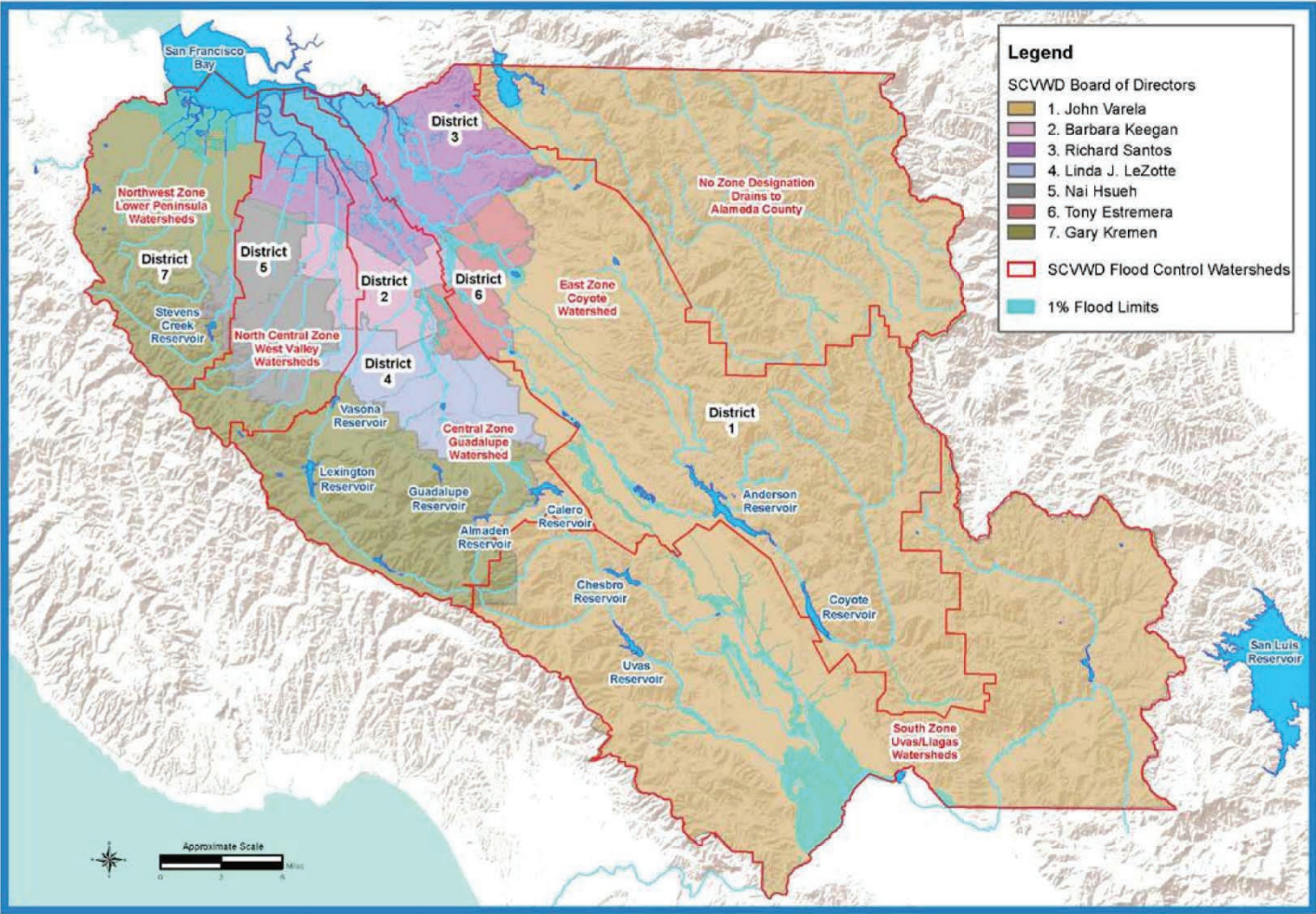
### **SCVWD FLOOD CONTROL ZONES AND BOARD DISTRICTS IN SANTA CLARA COUNTY**

No. of Pages: 1

Additional Items: None.



SCVWD Flood Control Zones and Board Districts in Santa Clara County



GIS themes are for illustration and general analysis purposes only and are not accurate to surveying or engineering standards. Information is not guaranteed to be accurate, current, or complete and use of this information is your responsibility.

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Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

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## **ATTACHMENT 2 COVERSHEET**

### **SUMMARY OF KEY PERFORMANCE INDICATORS FOR THE FIRST 15 YEARS OF PROGRAM**

No. of Pages: 5

Additional Items: None.

## Summary of Key Performance Indicators for the First 15 Years of Program

Project	Key Performance Indicator
<b>Priority A: Ensure a Safe, Reliable Water Supply</b>	
A1 Pacheco Reservoir Expansion	1. Provide a portion of funds, up to \$10 million, to help construct the Pacheco Reservoir Expansion Project.
A2 Water Conservation Rebates and Programs	1. Award up to \$1 million per year toward specified water conservation program activities, including rebates, technical assistance and public education within the first seven (7) years of the Program.
A3 Pipeline Reliability	1. Install four (4) new line valves on treated water distribution pipelines.

Project	Key Performance Indicator
<b>Priority B: Reduce Toxins, Hazards, and Contaminants in Our Waterways</b>	
B1 Impaired Water Bodies Improvement	<ol style="list-style-type: none"> <li>1. Investigate, develop and implement actions to reduce methylmercury in fish and other organisms in the Guadalupe River Watershed.</li> <li>2. Prepare and update a plan for the prioritization of surface water quality improvement activities, such as addressing trash and other pollutants.</li> <li>3. Implement at least two (2) priority surface water quality improvement activities identified in the plan per 5-year implementation period.</li> </ol>
B2 Inter-Agency Urban Runoff Program	<ol style="list-style-type: none"> <li>1. Address trash in creeks by maintaining trash capture devices or other litter control programs.</li> <li>2. Maintain Valley Water's municipal stormwater compliance program and partner with cities to address surface water quality improvements, including participation in at least three (3) countywide, regional or statewide stormwater program committees to help guide regulatory development, compliance, and monitoring.</li> <li>3. Support at least one (1) stormwater quality improvement activity per 5-year implementation period in Santa Clara County, including providing up to \$1.5 million over 15 years to support implementation of green stormwater infrastructure consistent with Santa Clara Basin and South County Stormwater Resource Plans.</li> </ol>
B3 Hazardous Materials Management and Response	<ol style="list-style-type: none"> <li>1. Respond to 100% of hazardous materials reports requiring urgent on-site inspection in two (2) hours or less.</li> </ol>
B4 Support Volunteer Cleanup Efforts	<ol style="list-style-type: none"> <li>1. Fund Valley Water's creek stewardship program to support volunteer cleanup activities such as annual National River Cleanup Day, California Coastal Cleanup Day, the Great American Litter Pick Up; and the Adopt-A-Creek Program.</li> </ol>

Project	Key Performance Indicator
<b>Priority C: Protect Our Water Supply and Dams from Earthquakes and Other Natural Disasters</b>	
C1 Anderson Dam Seismic Retrofit	1. Provide portion of funds, up to \$54.1 million, to help restore full operating reservoir capacity of 90,373 acre-feet.

Project	Key Performance Indicator
<b>Priority D: Restore Wildlife Habitat and Provide Open Space</b>	
D1 Management of Riparian Planting and Invasive Plant Removal	<ol style="list-style-type: none"> <li>1. Maintain a minimum of 300 acres of riparian planting projects annually to meet regulatory requirements and conditions.</li> <li>2. Maintain a minimum of 200 acres of invasive plant management projects annually to meet regulatory requirements and conditions.</li> <li>3. Remove 25 acres of <i>Arundo donax</i> throughout the county over a 15-year period.</li> </ol>
D2 Revitalize Riparian, Upland and Wetland Habitat	<ol style="list-style-type: none"> <li>1. Revitalize at least 21 acres over a 15-year period through native plant revegetation and/or removal of invasive exotic species.</li> <li>2. Develop an Early Detection and Rapid Response Program Manual.</li> <li>3. Identify and treat at least 100 occurrences of emergent invasive species over a 15-year period, as identified through the Early Detection and Rapid Response Program.</li> <li>4. Develop at least eight (8) information sheets for Early Detection of Invasive Plant Species.</li> </ol>
D3 Sediment Reuse to Support Shoreline Restoration	<ol style="list-style-type: none"> <li>1. Maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities.</li> <li>2. Provide up to \$4 million per 15-year period to support activities necessary for sediment reuse.</li> </ol>
D4 Fish Habitat and Passage Improvement	<ol style="list-style-type: none"> <li>1. Complete planning and design for one (1) creek/lake separation.</li> <li>2. Construct one (1) creek/lake separation project in partnership with local agencies.</li> <li>3. Use \$8 million for fish passage improvements by June 30, 2028.</li> <li>4. Update study of all major steelhead streams in the county to identify priority locations for fish migration barrier removal and installation of large woody debris and gravel as appropriate.</li> <li>5. Complete five (5) habitat enhancement projects based on studies that identify high priority locations for large wood, boulders, gravel, and/or other habitat enhancement features.</li> </ol>
D5 Ecological Data Collection and Analysis	<ol style="list-style-type: none"> <li>1. Reassess and track stream ecological conditions and habitats in each of the county's five (5) watersheds every 15 years.</li> <li>2. Provide up to \$500,000 per 15-year period toward the development and updates of five (5) watershed plans that include identifying priority habitat enhancement opportunities in Santa Clara County.</li> </ol>
D6 Restoration of Natural Creek Functions	<ol style="list-style-type: none"> <li>1. Construct the Hale Creek Enhancement Pilot Project, which includes restoration and stabilization of a 650-foot section of concrete-lined channel on Hale Creek, between Marilyn Drive and North Sunshine Drive on the border of Mountain View and Los Altos.</li> <li>2. Construct the Bolsa Road Fish Passage Project along 1,700 linear feet of Uvas-Carnadero Creek in unincorporated Santa Clara County, which includes geomorphic design features that will restore stability and stream function.</li> <li>3. Identify, plan, design, and construct a third geomorphic-designed project to restore stability and stream function by preventing incision and promoting sediment balance throughout the watershed.</li> </ol>

Priority D: Restore Wildlife Habitat and Provide Open Space cont...	
D7 Partnerships for the Conservation of Habitat Lands	1. Provide up to \$8 million per 15-year period for the acquisition or enhancement of property for the conservation of habitat lands.

Project	Key Performance Indicator
Priority E: Provide Flood Protection to Homes, Businesses, Schools, Streets, and Highways	
E1 Coyote Creek Flood Protection, Montague Expressway to Tully Road – San Jose	1. Construct flood protection improvements along Coyote Creek between Montague Expressway and Tully Road to provide protection from floods up to the level that occurred on February 21, 2017, approximately a 5% (20-year) flood event.
E2 Sunnyvale East and Sunnyvale West Channels Flood Protection, San Francisco Bay to Inverness Way and Almanor Avenue – Sunnyvale	1. Provide 1% (100-year) flood protection for 1,618 properties and 47 acres (11 parcels) of industrial land, while improving stream water quality and working with other agencies to incorporate recreational opportunities.
E3 Lower Berryessa Flood Protection, including Tularcitos and Upper Calera Creeks (Phase 3) – Milpitas	1. With local funding only: Complete the design phase of the 1% (100-year) flood protection project to protect an estimated 1,420 parcels.
E4 Upper Penitencia Creek Flood Protection, Coyote Creek to Dorel Drive – San Jose	1. Preferred project with federal and local funding: Construct a flood protection project to provide 1% (100-year) flood protection to 8,000 parcels. 2. With local funding only: Construct a 1% (100-year) flood protection project from Coyote Creek confluence to Capital Avenue to provide 1% (100-year) flood protection to 1,250 parcels, including the new Berryessa BART station.
E5 San Francisquito Creek Flood Protection, San Francisco Bay to Upstream of Highway 101 – Palo Alto	1. Preferred project with federal, state and local funding: Protect more than 3,000 parcels by providing 1% (100-year) flood protection. 2. With state and local funding only: Protect approximately 3,000 parcels by providing 1% (100-year) flood protection downstream of Highway 101, and approximately 1.4% (70-year) protection upstream of Highway 101.



<b>Priority E: Provide Flood Protection to Homes, Businesses, Schools, Streets, and Highways cont...</b>	
E6 Upper Llagas Creek Flood Protection, Buena Vista Avenue to Llagas Road – Morgan Hill, San Martin, Gilroy	<ol style="list-style-type: none"> <li>1. Preferred project with federal and local funding: Plan, design and construct flood protection improvements along 13.9 miles of Upper Llagas Creek from Buena Vista Avenue to Llagas Road to provide flood protection to 1,100 homes, 500 businesses, and 1,300 agricultural acres, while improving stream habitat.</li> <li>2. With local funding only: Construct flood protection improvements along Llagas Creek from Buena Vista Avenue to Highway 101 in San Martin (Reaches 4 and 5 (portion)), Monterey Road to Watsonville Road in Morgan Hill (Reach 7a), approximately W. Dunne Avenue to W. Main Avenue (portion of Reach 8), and onsite compensatory mitigation at Lake Silveira.</li> </ol>
E7 San Francisco Bay Shoreline Protection – Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara, and Sunnyvale	<ol style="list-style-type: none"> <li>1. Provide portion of the local share of funding for planning, design and construction phases for the Santa Clara County shoreline area, EIAs 1-4.</li> <li>2. Provide portion of the local share of funding for planning and design phases for the Santa Clara County shoreline area, EIAs 5-9.</li> </ol>
E8 Upper Guadalupe Flood Protection, Highway 280 to Blossom Hill Road – San Jose	<ol style="list-style-type: none"> <li>1. Preferred project with federal and local funding: Construct a flood protection project to provide 1% (100-year) flood protection to 6,280 homes, 320 businesses and 10 schools and institutions.</li> <li>2. With local funding only: Construct flood protection improvements along 4,100 feet of Guadalupe River between the Southern Pacific Railroad (SPRR) crossing, downstream of Willow Street, to the Union Pacific Railroad (UPRR) crossing, downstream of Padres Drive, and provide gravel augmentation along approximately 800 linear feet of the Upper Guadalupe River in San Jose, from approximately the Union Pacific Railroad Bridge to West Virginia Street Bridge to improve aquatic habitat for migrating steelhead and channel stability.</li> </ol>

<b>Project</b>	<b>Key Performance Indicator</b>
<b>Priority F: Support Public Health and Public Safety for Our Community</b>	
F1 Vegetation Control and Sediment Removal for Capacity	<ol style="list-style-type: none"> <li>1. Maintain completed flood protection projects for flow conveyance.</li> </ol>
F2 Emergency Response Planning and Preparedness	<ol style="list-style-type: none"> <li>1. Coordinate with local municipalities to merge Valley Water-endorsed flood emergency processes with their own emergency response plans and processes.</li> <li>2. Complete five (5) flood management plans/procedures per 5-year period, selected by risk priorities.</li> <li>3. Train Valley Water staff and partner municipalities annually on disaster procedures via drills and exercises before testing the plans and procedures.</li> <li>4. Test flood management plans/procedures annually to ensure effectiveness.</li> </ol>
F3 Flood Risk Assessment Studies	<ol style="list-style-type: none"> <li>1. Complete engineering studies on three (3) creek reaches to address 1% (100-year) flood risk.</li> <li>2. Annually, update floodplain maps on a minimum of three (3) creek reaches in accordance with new FEMA standards.</li> </ol>

Priority F: Support Public Health and Public Safety for Our Community cont...	
F4 Vegetation Management for Access and Fire Safety	<ol style="list-style-type: none"> <li>1. Provide vegetation management for access and fire risk reduction on an average of 495 acres per year, totaling 7,425 acres along levee, property lines and maintenance roads over a 15-year period.</li> </ol>
F5 Good Neighbor Program: Encampment Cleanup	<ol style="list-style-type: none"> <li>1. Perform 300 annual cleanups to reduce the amount of trash and pollutants entering the streams.</li> <li>2. Provide up to \$500,000 per year in cost-share with other agencies for services related to encampment cleanups, including services supporting staff safety, discouraging re-encampments along waterways or addressing the homelessness crisis with the goal of reducing the need for encampment cleanups.</li> </ol>
F6 Good Neighbor Program: Graffiti and Litter Removal and Public Art	<ol style="list-style-type: none"> <li>1. Cleanup identified trash and graffiti hotspots at approximately 80 sites four (4) times per year.</li> <li>2. Respond to requests on litter or graffiti cleanup within five (5) working days.</li> <li>3. Provide up to \$1.5 million over 15 years to implement public art projects on Valley Water property and infrastructure.</li> </ol>
F7 Emergency Response Upgrades	<ol style="list-style-type: none"> <li>1. Maintain existing capabilities for flood forecasting and warning.</li> <li>2. Improve flood forecast accuracy and emergency response time working with the National Weather Service and through research and development.</li> </ol>
F8 Sustainable Creek Infrastructure for Continued Public Safety	<ol style="list-style-type: none"> <li>1. Provide up to \$7.5 million in the first 15-year period to plan, design and construct projects identified through Watersheds asset management plans.</li> </ol>
F9 Grants and Partnerships for Safe, Clean Water, Flood Protection and Environmental Stewardship	<ol style="list-style-type: none"> <li>1. Provide a grant and partnership cycle each year for projects related to safe, clean drinking water, flood protection and environmental stewardship.</li> <li>2. Provide annual funding for bottle filling stations to increase drinking water accessibility, with priority for installations in economically disadvantaged communities and locations that serve school-age children and students.</li> <li>3. Provide annual mini-grant funding opportunity for projects related to safe, clean drinking water, flood protection and environmental stewardship.</li> <li>4. Provide up to \$3 million per 15-year period for partnerships with small municipalities (defined as under 50,000 people in the most recent census available), or special districts with boundaries substantially within the footprint of small cities, for projects aligned with the District Act and related to safe, clean drinking water, flood protection and environmental stewardship.</li> </ol>

Providing for the Continuation and Levy of a Special Tax to Pay the Cost of the Safe, Clean Water and Natural Flood Protection Program in the Combined Flood Control Zone of the Santa Clara Valley Water District Subject, Nevertheless, to Specified Limits and Conditions

Resolution No. 20-64

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### **ATTACHMENT 3 COVERSHEET**

#### **FIGURE 1 ACTUAL FY 2019–20 AND ACTUAL FY 2020–21 SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION SPECIAL TAX RATES**

No. of Pages: 1

Additional Items: None.



**FIGURE 1**  
**Actual FY 2019–20 and Actual FY 2020–21**  
**Safe, Clean Water and Natural Flood Protection Special Tax Rates**

Land Use Categories	Actual FY '19-20	Actual FY '20-21
<b>A - Commercial, Industrial</b>		
Rate (\$/Acre)	\$541.60	\$541.60
Minimum Assessment <sup>(1)</sup>	\$135.39	\$135.39
<b>B - Apartment, Schools, Churches, Condominiums &amp; Townhouse</b>		
Rate (\$/Acre)	\$406.20	\$406.20
Minimum Assessment <sup>(1)</sup>	\$101.55	\$101.55
Condominiums & Townhouses (\$/unit)	\$32.95	\$32.95
<b>C - Single Family Residential, Small Multiples (2-4 units) <sup>(2)</sup></b>		
Minimum Assessment <sup>(1)</sup>	\$67.67 (Averaging \$0.006 per square foot)	\$67.67 (Averaging \$0.006 per square foot)
<b>D - Utilized Agriculture<sup>(2)</sup></b>		
Rate (\$/Acre)	\$3.47	\$3.47
Minimum Assessment <sup>(1)</sup>	\$34.70	\$34.70
<b>E - Urban - Nonutilized Agricultural, Grazing Land, Salt Ponds, Well Site in Urban Areas</b>		
Rate (\$/Acre)	\$1.02	\$1.02
Minimum Assessment <sup>(1)</sup>	\$10.23	\$10.23
<b>E - Rural - Nonutilized Agricultural, Grazing Land, Well Sites in Rural Areas</b>		
Rate (\$/Acre)	\$0.14	\$0.14
Minimum Assessment <sup>(1)</sup>	\$10.23	\$10.23
<sup>(1)</sup> The minimum assessments shown for Categories A, B, and C apply to parcels 1/4 acre or less in size. Category C parcels larger than 1/4 acre pay the minimum assessment for the first 1/4 acre and the remaining acreage is assessed at the Category D rate. For Category D, the minimum assessment applies to parcels less than 10 acres. The minimum assessment for Group E parcels is the amount charged for 10 acres of urban undeveloped land; the minimum assessment is the same for both the Urban Category and the Rural Category parcels, however the Rural Category applies to parcels of 80 acres or less.		
<sup>(2)</sup> Residential land in excess of 1/4 acre is assessed at the "D" rate.		