

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

RESOLUTION NO. 21-

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA CLARA
VALLEY WATER DISTRICT PROCLAIMING A CONTINUED LOCAL EMERGENCY,
ACKNOWLEDGING THE PROCLAMATION OF A STATE OF EMERGENCY BY
GOVERNOR'S ORDER NO. N-23-20 DATED MARCH 4, 2020, AND AUTHORIZING REMOTE
TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE SANTA CLARA
VALLEY WATER DISTRICT FOR 30 DAYS PURSUANT TO BROWN ACT PROVISIONS**

WHEREAS, the Santa Clara Valley Water District (Valley Water) is committed to preserving and nurturing public access and participation in meetings of the Board of Directors and Board Committees; and

WHEREAS, all meetings of Valley Water's legislative bodies are open and public, as required by the Ralph M. Brown Act (Brown Act) (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch Valley Water's legislative bodies conduct their business; and

WHEREAS, under the Brown Act, Government Code section 54953(e) makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within Valley Water's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, qualifying circumstances under Government Code section 54953(e) include situations in which state or local officials have imposed or recommended measures to promote social distancing or the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist within Valley Water's boundaries; specifically, a state of emergency has been proclaimed under Governor Gavin Newsom's Executive Order N-23-20 dated March 4, 2020, related to the COVID-19 pandemic; and

WHEREAS, on August 25, 2020, Valley Water's Board of Directors adopted Resolution 20-20 continuing an existing emergency declaration as a result of the COVID-19 pandemic; and

WHEREAS, the Santa Clara County Public Health Officer issued an order dated August 2, 2021, "made in light of the recent significant increase in COVID-19 cases and hospitalizations in Santa Clara County, due primarily to the Delta variant of SARS-CoV-2, the virus that causes COVID-19" that, among other things, mandates the use of face coverings indoors in public and non-public settings and outdoors in crowded settings, and recommends that businesses and

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governmental entities move operations and activities outdoors where possible “where there is significantly less risk of COVID-19 transmission”; and

WHEREAS, on September 28, 2021 and October 26, 2021, the Valley Water Board of Directors adopted resolutions proclaiming a state of emergency, acknowledging the proclamation of a state of emergency by Governor's Order No. N-23-20 dated March 4, 2020, and authorizing remote teleconference meetings of the legislative bodies of the Santa Clara Valley Water District for 30 days pursuant to Brown Act provisions; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) reports that for the period November 2 – November 8, 2021, Santa Clara County had a “substantial” level of community transmission of COVID-19; and

WHEREAS, the Valley Water Board of Directors does hereby find that the state of emergency related to the COVID-19 pandemic continues to exist, state and local authorities have made recommendations promoting social distancing, and the continued spread of SARS-CoV-2 has caused and will continue to cause, conditions of peril to the safety of persons within the boundaries of Valley Water that are likely to be beyond the control of services, personnel, equipment, and facilities of Valley Water, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency, the Valley Water Board of Directors does hereby find that the legislative bodies of Valley Water may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies must comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, Valley Water has and, as allowed or required by law, will continue to post its legislative bodies' agendas online and use videoconferencing tools that allow the public to observe and participate in its legislative bodies' meetings.

NOW, THEREFORE, the Board of Directors (Board) of the Santa Clara Valley Water District (Valley Water) does hereby resolve as follows:

Section 1. Recitals. The Board finds that the Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Proclamation of Local Emergency. The Board hereby finds and proclaims that a local emergency continues to exist throughout the boundaries of Valley Water, that the County of Santa Clara recommends measures to promote social distancing, and, that given the sustained rate of community transmission and the inability to meaningfully determine whether attendees are fully vaccinated against SARS-CoV-2 or have received a recent negative test for the virus, meeting in person would present imminent risks to the health and safety of attendees.

Section 3. Acknowledgement of and Reliance on Governor's Proclamation of a State of Emergency. The Board hereby acknowledges and expressly relies on the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020, related to the COVID-19 pandemic.

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Section 4. Remote Teleconference Meetings. The staff and legislative bodies of Valley Water (including all standing, advisory, and oversight committees) are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution will take effect at 12:01 a.m. Pacific time on November 30, 2021, and will be effective until the earlier of (i) 12:01 a.m. Pacific time on December 30, 2021, or such time as the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of Santa Clara Valley Water District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

Section 6. Severability. If any finding or operative portion of this Resolution is deemed by a court of competent jurisdiction to be invalid or inoperative for any reason then the remainder of this Resolution will remain in full force and effect.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District, this 23rd day of November 2021, by the following vote:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

TONY ESTREMER
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors