

# Santa Clara Valley Water District CONFORMED COPY

CONTACT THE OFFICE OF THE CLERK OF THE BOARD TO OBTAIN THE DOCUSION SIGNATURE CERTIFICATE OF COMPLETION

File No.: 25-0657 Agenda Date: 9/23/2025

Item No.: \*8.1.

#### **BOARD AGENDA MEMORANDUM**

Government Code § 84308 Applies: Yes □ No ☒ (If "YES" Complete Attachment A - Gov. Code § 84308)

#### SUBJECT:

Adopt a Resolution Providing for a Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee of the Santa Clara Valley Water District - Superseding Resolution No. 21-10 Establishing New Conflict of Interest Disclosure Requirements for Members of the Safe, Clean Water and Natural Flood Protection Program's Independent Monitoring Committee.

### **RECOMMENDATION:**

Adopt the Resolution PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT - SUPERSEDING RESOLUTION NO. 21-10 establishing new conflict of interest disclosure requirements for members of the Safe, Clean Water and Natural Flood Protection Program's Independent Monitoring Committee.

### SUMMARY:

To ensure accountability and transparency, Valley Water is required to conduct third-party audits of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program, or Program) at least once every five years. The most recent closeout audit of the 2012 Program recommended adopting a conflict of interest policy for the Independent Monitoring Committee (IMC), highlighting that both real and perceived conflicts of interest could undermine the Program's credibility.

After reviewing options, Valley Water staff determined the most appropriate solution is to adopt a resolution replacing the IMC's current, governing resolution, Resolution 21-10, that sets forth new conflict of interest disclosure and recusal requirements, rather than requiring IMC members to submit Form 700 filings. This approach balances transparency with practicality, addressing audit findings while respecting the IMC's monitoring role.

#### **Background**

The Safe, Clean Water Program

The original Program was first passed by voters in 2012. In November 2020, voters in Santa Clara

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County overwhelmingly approved Measure S, a renewal of Valley Water's 2012 Safe, Clean Water Program (Renewed Program). The Renewed 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 priority includes operational and/or capital projects with clearly defined key performance indicators (KPIs) to track long-term performance. KPIs help Valley Water monitor progress, identify potential issues, and uphold accountability.

Valley Water publishes annual reports, providing financial information, updates on the progress of each priority area, accomplishments, opportunities, and challenges.

### <u>Independent Monitoring Committee (IMC)</u>

The IMC was established to ensure transparency and accountability to voters. Resolution 21-10 (Attachment 1), approved in 2021, defines the IMC's role in reviewing annual Program reports and 5-year implementation plans. In addition, independent professional audits must be conducted at least every five years, as required by Resolutions 12-62 and 20-64 (Attachments 2 and 3).

In March 2023, following IMC's recommendation, the Board directed staff to conduct two separate independent audits:

- 1. A closeout audit of the 2012 Program (Measure B).
- An audit of the Renewed Program (Measure S).

The 2012 Program audit was completed in 2024; the Renewed Program audit is underway and scheduled for completion in 2025.

### Audit Recommendation - Conflicts of Interest

The 2012 Program closeout audit, conducted by Moss Adams LLP, recommended adopting a conflict of policy for the IMC (Attachment 4). Management agreed and committed to evaluating options by fall 2024. Initially, staff considered updating Valley Water's Conflict of Interest Code under the Political Reform Act, which would require IMC members to file Form 700s. However, staff concluded that requiring Form 700 filings was unnecessary and instead is recommending that the Board adopt the attached Resolution, which will supersede Resolution 21-10 and will require IMC members to disclose potential conflicts of interest and recuse themselves from voting on matters in which they

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have a potential conflict.

\* Following questions and further analysis after the posting of the initial agenda item, staff has refined the proposed conflict of interest language to more clearly limit the IMC's disclosure requirements to conflicts arising from projects or matters directly before the Committee.

For ease of reference, the new proposed conflict of interest language is set forth below:

"[revised section I.E.] .... Independent of section 1.D. above, all Committee members shall have an obligation to promptly disclose to the Committee Chair, other Committee members, and Valley Water staff supporting the Committee, a potential financial conflict of interest involving a matter that is before the Committee, namely:

any real property interest worth \$2,000 or more of the Committee member or their spouse/domestic partner within 1,000 feet of an area affected by a flood mitigation/protection project, or proposed flood mitigation/protection project, being reviewed by the Committee;

- a. any source of income to the Committee member or their spouse/domestic partner of \$500 or more from an entity doing work on a Valley Water matter before the Committee and/or concerning an entity which receives grant funding from Valley Water on a matter before the Committee;
- b. any ownership or investment interest of the Committee member or their spouse/domestic partner worth \$2,000 or more in a contractor, subcontractor, or consultant that does business with Valley Water or is proposing to do business with Valley Water on a matter being considered by the Committee;
- c. any financial interest worth \$500 or more of the Committee member or their spouse/domestic partner relating to any existing or proposed litigation against Valley Water; or
- d. a membership, employment, management, or governance position in any entity that is receiving or seeking grant funding from Valley Water or the Safe Clean Water Program involving a matter before the Committee, whether held by the Committee member or her/his spouse/domestic partner.

If a Committee Member has a potential financial conflict of interest with respect to any matter before the Committee, the member must publicly disclose this conflict of interest at a public meeting discussing the matter, including a brief description of the nature of the conflict, but may participate in discussion or debate concerning the matter. The Committee Member must, however, recuse themselves from any Committee vote on the matter. Failure to do so may be grounds for removal from the Committee by the Board of Directors."

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In addition to updating the conflict of interest requirements, the new resolution also contains minor, non-substantive revisions to Section II (Section Title correction to align with Resolution 21-10) and Section V of Resolution 21-10.

The proposed changes to Resolution 21-10 are shown in redline in Supplemental Attachment 1, and the proposed Resolution is Supplemental Attachment 2.

In compliance with Section 5 of Resolution 21-10, all IMC members received 72-hour written notice regarding these proposed changes.

### **ENVIRONMENTAL JUSTICE IMPACT:**

There are no environmental justice impacts associated with this item. This action is unlikely to or will not result in disproportionate impacts on any specific communities relative to the general population from the implementation of this project/program.

#### FINANCIAL IMPACT:

There is no financial impact associated with this item.

#### CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

#### ATTACHMENTS:

Attachment 1: SCVWD Resolution 21-10 Attachment 2: SCVWD Resolution 12-62 Attachment 3: SCVWD Resolution 20-64

Attachment 4: 2012 Program Closeout Performance Audit & Management Response

Attachment 5: Redlined Resolution 21-10, Proposed Revisions

Attachment 6: Resolution

\*Supplemental Board Agenda Memo

\*Supplemental Attachment 1: Redlined Resolution 21-10, Proposed Revisions

\*Supplemental Attachment 2: Resolution

\*Handout 8.1-A: Director Ballard

#### **UNCLASSIFIED MANAGER:**

Luz Penilla, 408-630-2228

### BOARD OF DIRECTORS SANTA CLARA VALLEY WATER DISTRICT

#### **RESOLUTION NO. 21-10**

# PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT

RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

#### I. GENERAL

A. Resolution 20-64, approved by the voters of Santa Clara County by the passage of the November 3, 2020, Safe, Clean Water and Natural Flood

Protection Program (Program) (ballot Measure S), requires that the Santa Clara Valley Water District (Valley Water) Board of Directors (Board) appoint an external Independent Monitoring Committee (Committee) to: (1) conduct an annual review of Valley Water's fiscal year report on the Program; (2) provide an annual report from the Committee to the Board regarding implementation of the intended results of the Program; (3) review each five-year implementation plan for the Program prior to its submittal to the Board for approval; and (4) review and recommend to the Board and Public every fifteen years 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 Program. The Committee also may, through its review of the annual reports and five-year implementation plans, make recommendations to the Board regarding reasonably necessary measures to meet the priorities of the Program.

- B. The Committee shall be comprised of 14 members who reside within Santa Clara County: two members to be nominated by each member of the Board. In nominating Committee members, Board members shall strive to ensure fair treatment and meaningful involvement of all peoples regardless of race, color, gender identity, disability status, national origin, tribe, culture, income, immigration status, English language proficiency, or religion.
- C. In order to provide continuity, each Board member shall nominate one Committee member to serve a three-year term, and one Committee member to serve a two-year term. The terms of office of Committee members shall begin on July 1 of a given year and are subject to reappointment by the full Board.
- D. Committee members shall be subject to Valley Water's Conflict of Interest Code (Code), including its filing requirements for statements of economic interest, if the Code is subsequently amended to specifically include them.
- E. Independent of Valley Water's Conflict of Interest Code, Committee members shall have an obligation to promptly disclose to Valley Water and the Committee Chair any existing membership, employment, management, or governance relationship with any entity actively seeking or receiving monetary grants from the Program.

F. Meetings of the Committee shall be governed by the Ralph M. Brown Act, Government Code Sections 54950-54961.

#### II. **PURPOSE**

- The Committee will provide for a regular meeting to be held not less than once Α. per year.
- B. Between December and February every year beginning in December 2022, the Committee shall conduct an annual review of the Program's prior fiscal year annual report and prepare and submit a summary of its findings to the Board, which shall be made available to Santa Clara County residents, regarding the Committee's review of the implementation of the intended results of the Program.
- C. The Committee shall review each five-year implementation plan for the Program prior to its submittal to the Board for approval. In this review, the Committee will reasonably inform itself to the extent necessary to determine the degree to which Valley Water's five-year implementation plans for the Program are being accomplished.
- D. Through its review of the annual reports and five-year implementation plans, the Committee may make recommendations to the Board regarding reasonably necessary measures to meet the priorities of the Program.
- E. Every fifteen years, starting in 2035, the Committee shall review and recommend to the Board and 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 Program.
- F. Valley Water shall fund clerical support.

#### III. **CONDUCT OF MEETINGS**

- Α. A majority of the Committee will be determined based upon the simple majority of the number of Committee members holding office.
- B. The Chairperson or a majority of the Committee membership may call for a special meeting of the Committee from time to time in accordance with Section 54956 of the Government Code. Such meetings shall be held at the Valley Water Headquarters or such other place and time as the Chairperson may designate. Valley Water may request the Chairperson or Committee to convene a special meeting.
- C. Notices of each Committee meeting, together with an agenda thereof and the draft minutes of the preceding meeting, shall be electronically mailed or sent by first class mail, postage prepaid, to each Committee member, and made available to the public in accordance with the Ralph M. Brown Act.
- D. The Committee may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time.

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- E. The powers of the Committee shall be vested in the members thereof in office from time to time. A majority of the full membership of the Committee shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. With the exception above specified, actions of the Committee may be taken upon the affirmative vote of not less than a majority of a quorum present and voting.
- F. The voting on all matters shall be by voice vote unless a roll call vote is called for by any member of the Committee.
- G. Discussion on any particular matter by either Committee members or by any member of the general public may be limited, in the discretion of the Chairperson, to such length of time as the Chairperson may deem reasonable under the circumstances.
- H. Whenever the Committee authorizes and instructs the Chairperson to appoint a subcommittee of the Committee or a committee composed of persons who are not members of the Committee, the members of such subcommittee or committee shall serve at the pleasure of the Chairperson. The Chairperson of such subcommittees and committees shall be appointed by the Chairperson of the Committee. All subcommittee meetings shalt be conducted in accordance with the Ralph M. Brown Act.
- I. All meetings of the Committee shall be open and public.
- J. The Committee may be adjourned sine die by the Chairperson at the close of consideration of the business before it and may thereafter be returned to a course of regular meetings upon the call of the Chairperson or of a majority of the Committee membership in the manner prescribed for a call a special meeting.

#### IV. OFFICERS

- A. The officers of the Committee shall be a Chairperson and Vice Chairperson, both of whom shall be members of the Committee. The Committee shall elect its officers at the first meeting of the Committee's annual review cycle. The Chairperson and Vice Chairperson shall serve a term of one year. All officers shall hold over in their respective offices after their term of office has expired until their successors have been elected and have assumed office.
- B. The Chairperson shall preside at all meetings of the Committee. The Chairperson shall sign all resolutions and all other instruments made or promulgated by the Committee and he or she shall perform such other duties as the Committee may prescribe consistent with the purpose of the Committee.
- C. The Vice Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson; and in case of the resignation of or death of the Chairperson, the Vice Chairperson shall perform such duties as are imposed upon the Chairperson until such time as a new Chairperson is elected by the Committee.

- D. Should the office of Chairperson or Vice Chairperson become vacant during the term of such office, the Committee shall elect a successor from its membership at the earliest meeting at which such election would be practicable, and such election shall be for the unexpired term of such office.
- E. In the event the Chairperson and Vice Chairperson are both absent from a meeting, the Committee may elect a Chairperson Pro-tempore to preside over the meeting during the absence of the Chairperson and Vice Chairperson.
- F. Additional bylaws may be adopted for the purpose of conducting the business of the Committee.

#### ٧. **AMENDMENT**

A. Amendment of this resolution consistent with or necessary to carry out or support the purpose of the Committee may be proposed by vote of the Committee or by Valley Water's Board of Directors. The Board will consider and act upon the proposed amendment without delay but following not less than three calendar days (72 hours) written notice to each Committee member of the time and place when and where the proposed amendment is to be acted upon.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on February 23, 2021:

AYES:

Directors Hsueh, Santos, Keegan, Kremen, LeZotte, Varela, Estremera

NOES:

Directors None

ABSENT:

None Directors

ABSTAIN: Directors

None

SANTA CLARA VALLEY WATER DISTRICT

Chair. Board of Directors

ATTEST: MICHELE L. KING, CMC

### **Appendix E**

### **Election resolution and documents**\*

**RESOLUTION NO. 12-62** 

PROVIDING FOR THE CONTINUATION AND LEVY OF A SPECIAL TAX TO PAY THE COST OF A 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, Santa Clara Valley Water District (District) policy is to ensure current and future water supplies and provide healthy, clean and reliable water in Santa Clara County; and

WHEREAS, District policy is to ensure reliable, clean water supplies for Santa Clara County and to protect Santa Clara County creeks, reservoirs, Monterey Bay, and San Francisco Bay from contaminants; and

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

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

WHEREAS, the District policy is to protect, enhance and restore healthy Santa Clara County creeks, watersheds and baylands ecosystems; and

WHEREAS, the need for protection of Santa Clara County water supplies, creeks, watersheds and baylands has increased since the voters passed the Clean, Safe Creeks and Natural Flood Protection Plan in 2000; and

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

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 the District to respond to emergencies; to perform maintenance and repair; to acquire, restore and preserve habitat; to provide recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection and storm drainage facilities; including in each case the cost of financing such activities; and

<sup>\*</sup> The election resolution and associated documents are included as a reproduction of the actual election documents and are not an exact copy.

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 Santa Clara Valley Water District as follows:

FIRST: The Board hereby finds that since (a) the management of creeks, watersheds and baylands to ensure safe, clean water and to protect, enhance and restore healthy ecosystems; and the construction and management of flood protection services, are made necessary by stormwater runoff, and (b) 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.

THIRD: A special District Election 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 the District 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 Table 1. 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:

- The Chief Executive Officer (CEO) or designee of the District 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. A special fund shall be established into which proceeds from the tax shall be deposited. Proceeds from the tax may used only for the Safe, Clean Water and Natural Flood Protection Program.
- В. The CEO, or designee of the District 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. With said exception, 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 the District 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.
- G. Land use categories for each parcel of land in the District 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. (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. (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.
- Η. 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 2013-2014 all as stated above, in the Report and as required by law; provided, that the annual basic special tax unit (single family residential parcel) shall not exceed a maximum limit of \$56, 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 since April 30, 2013; provided, however that appropriate amounts may be increased in any year by up to the larger of the percentage increase of the San Francisco-Oakland-San Jose Consumer Price Index for all Urban Consumers in the preceding year or three percent (3%); and 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 District 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 for a total of 15 years and, therefore, shall not be levied beyond June 30, 2028.
- I. 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.
- J. 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. 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.

- K. In the event that the county or city designated land use for a parcel is different than the actual land use, the CEO of the District 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 the District 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 the District as to the accuracy of the claim. Parcel owner shall furnish information deemed necessary by the District 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 the District to inspect the parcel and reevaluate the parcel tax.
  - 3. The parcel owner shall notify the District 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. The District 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. The District shall then correct the special tax rates for these parcels accordingly.
- L. Pursuant to state law, the District 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.
- M. An external, independent monitoring committee shall be appointed by the District Board of Directors to conduct an annual audit and provide an annual Report to the Board of Directors regarding implementation of the intended results of the Safe, Clean Water and Natural Flood Protection Program; at the fifth and tenth anniversaries of the Safe, Clean Water and Natural Flood Protection Program, the committee will identify to the District Board of Directors such modifications as may be reasonably necessary to meet the priorities of the Safe, Clean Water and Natural Flood Protection Program.
- N. During the Safe, Clean Water and Natural Flood Protection Program period, the Board of Directors shall conduct at least two professional audits of the Program to provide for accountability and transparency.

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. 12-63 will repeal and replace the Clean, Safe Creeks and Natural Flood Protection Plan parcel tax approved by the voters in 2000. On the date that the parcel tax authorized by this resolution and RESOLUTION NO. 12-63 goes into effect, the Safe, Clean Water and Natural Flood Protection Program will replace in its entirety the Clean, Safe Creeks and Natural Flood Protection Plan; any tax payments already made by voters and collected for use by the Water District for the Clean, Safe Creeks and Natural Flood Protection Plan will be used to achieve priorities identified in the Safe, Clean Water and Natural Flood Protection Program. Funding for capital projects currently identified in the Clean, Safe Creeks and Natural Flood Protection Plan, will continue under the Safe, Clean Water and Natural Flood Protection Program to meet previous commitments. All other projects and programs identified in the Clean, Safe Creeks and Natural Flood Protection Plan will be replaced by comparable projects or programs with similar or expanded obligations under the Safe, Clean Water and Natural Flood Protection Program.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on July 24, 2012:

AYES: Directors T. Estremera, P. Kwok, D. Gage, J. Judge,

R. Santos, B. Schmidt, L. LeZotte

NOES: **Directors None** 

ABSENT: Directors None

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

LINDA J. LEZOTTE

Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

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#### TABLE - 1 RESOLUTION NO. 2012 - 62

Providing for the continuation and levy of a special tax to pay the cost of a 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

# Summary of Key Performance Indicators for the 15-Year Program

Project	Key Performance Indicator
Priority A: Ensure a Safe,	Reliable Water Supply
A1 Main and Madrone Avenue Pipelines Restoration	Restore transmission pipelines to full operating capacity of 37 cubic feet per second from Anderson Reservoir.     Restore ability to deliver 20 cubic feet per second to Madrone Channel.
A2 Safe, Reliable Water Grants and Partnerships	1. Award up to \$1 million to test new conservation activities. 2. Increase number of schools in Santa Clara County in compliance with SB 1413 and the Healthy Hunger-Free Kids Act, regarding access to drinking water by awarding 100% of eligible grant requests for the installation of hydration stations; a maximum of 250 grants up to \$254k. 3. Reduce number of private well water users exposed to nitrate above drinking water standards by awarding 100% of eligible rebate requests for the installation of nitrate removal systems; a maximum of 1000 rebates up to \$702k.
A3 Pipeline Reliability Project	Install 4 new line valves on treated water distribution pipelines.

Project	Key Performance Indicator
	, Hazards, and Contaminants in our Waterways
B1 Impaired Water Bodies Improvement	1. Operate and maintain existing treatment systems in 4 reservoirs to remediate regulated contaminants, including mercury.  2. Prepare plan for the prioritization of pollution prevention and reduction activities.  3. Implement priority pollution prevention and reduction activities identified in the plan in 10 creeks.
B2 Inter-Agency Urban Runoff Program (includes Santa Clara Valley Urban Runoff Pollution Prevention and South County programs)	Install at least 2 and operate 4 trash capture devices at stormwater outfalls in Santa Clara County.     Maintain partnerships with cities and County to address surface water quality improvements.     Support 5 pollution prevention activities to improve surface water quality in Santa Clara County either independently or collaboratively with south county organizations.
B3 Pollution Prevention Partnerships and Grants	Provide 7 grant cycles and 5 partnerships that follow pre-established competitive criteria related to preventing or removing pollution.
B4 Good Neighbor Program: Illegal Encampment Cleanup	Perform 52 annual clean-ups for the duration of the Safe, Clean Water program to reduce the amount of trash and pollutants entering the streams.
B5 Hazardous Materials Management and Response	Respond to 100% of hazardous materials reports requiring urgent on-site inspection in two hours or less.
B6 Good Neighbor Program: Remove graffiti and litter	Conduct 60 clean-up events (4 per year).     Respond to requests on litter or graffiti cleanup within 5 working days.
B7 Support Volunteer Cleanup Efforts and Education	Provide 7 grant cycles and 3 partnerships that follow pre-established competitive criteria related to cleanups, education and outreach, and stewardship activities.     Fund District support of annual National River Clean Up day, California Coastal Clean Up Day, the Great American Pick Up, and fund the Adopt-A-Creek Program.

Project	Key Performance Indicator
Priority C: Protect Our W	ater Supply and Dams From Earthquakes and Other Natural Disasters
C1 Anderson Dam Seismic Retrofit	1. Provide portion of funds, up to \$45 million, to help restore full operating reservoir capacity of 90, 373 acre-feet.
C2 Emergency Response Upgrades	Map, install, and maintain gauging stations and computer software on seven flood-prone reaches to generate and disseminate flood warnings.

Project	Key Performance Indicator
Priority D: Restore Wildlin	fe Habitat and Provide Open Space Access
D1 Management of Revegetation Projects	Maintain a minimum of 300 acres of revegetation projects annually to meet regulatory requirements and conditions.
D2 Revitalize Riparian, Upland and Wetland Habitat	Revitalize at least 21 acres, guided by the 5 Stream Corridor Priority Plans, through native plant revegetation and removal of invasive exotic species.     Provide funding for revitalization of at least 7 of 21 acres through community partnerships.     Develop at least 2 plant palettes for use on revegetation projects to support birds and other wildlife.
D3 Partnerships and Grants to Restore Wildlife Habitat and Provide Access to Trails	Develop 5 Stream Corridor Priority Plans to prioritize stream restoration activities.     Provide 7 grant cycles and additional partnerships for \$21 million that follow preestablished criteria related to the creation or restoration of wetlands, riparian habitat and favorable stream conditions for fisheries and wildlife, and providing new public access to trails.
D4 Fish Habitat and Passage Improvements	1. Complete planning and design for two creek/lake separations. 2. Construct one creek/lake separation project in partnership with local agencies. 3. Use \$6 million for fish passage improvements. 4. Conduct study of all major steelhead streams in the County to identify priority locations for installation of large woody debris and gravel as appropriate. 5. Install large woody debris and/or gravel at a minimum of 5 sites (1 per each of 5 major watersheds).
D5 Ecological Data Collection and Analysis	Establish new or track existing ecological levels of service for streams in 5 watersheds.     Re-assess streams in 5 watersheds to determine if ecological levels of service are maintained or improved.
D6 Creek Restoration and Stabilization	Construct 3 geomorphic designed projects to restore stability and stream function by preventing incision and promoting sediment balance throughout the watershed.
D7 Partnerships for the Conservation of Habitat Lands	Provide up to \$8 million for the acquisition of property for the conservation of habitat lands.
D8 South Bay Salt Ponds Restoration Partnership	Establish agreement with the US Fish and Wildlife Service to reuse sediment at locations to improve the success of Salt Pond restoration activities.     Construct site improvements up to \$4 million to allow for transportation and placement of future sediment.

Project	Key Performance Indicator
Priority E: Provide Flood	Protection to Homes, Businesses, Schools, Streets and Highways
E1.1 Vegetation Control for Capacity	
E1.2 Sediment Removal for Capacity	1. Maintain 90% of improved channels at design capacity.
E1.3 Maintenance of Newly Improved Creeks	
E1.4 Vegetation Management for Access	Provide vegetation management for 6,120 acres along levee & maintenance roads.
E2.1 Coordination with Local Municipalities on Flood Communication	Coordinate with agencies to incorporate District-endorsed flood emergency procedures into their Emergency Operations Center plans.
E2.2 Flood-Fighting Action Plans	Complete 5 flood-fighting action plans (one per major watershed).
E3 Flood Risk Reduction Studies	Complete engineering studies on 7 creek reaches to address 1% flood risk.     Update floodplain maps on a minimum of 2 creek reaches in accordance with new FEMA standards.
E4 Upper Penitencia Creek	With federal and local funding, construct a flood protection project to provide 1 percent flood protection to 5,000 homes, businesses and public buildings.     With local funding only, acquire all necessary right-of-ways and construct a 1 percent flood protection project from Coyote Creek confluence to King Road.
E5 San Francisquito Creek	With federal and local funding, protect more than 3,000 parcels by providing 1 percent flood protection.     With local funding only, protect approximately 3,000 parcels from flooding (100-year protection downstream of HWY 101, 50-year protection upstream of HWY 101).
E6 Upper Llagas Creek	With federal and local funding, provide flood protection to 1,100 homes, 500 businesses, and 1,300 agricultural acres, while improving stream habitat.     With local funding only, provide 100-year flood protection for Reach 7 only (up to W. Dunne Avenue in Morgan Hill). A limited number of homes and businesses will be protected.
E7 San Francisco Bay Shoreline Study	Provide portion of the local share of funding for planning and design phases for the former salt production ponds and Santa Clara County shoreline area.     Provide portion of the local share of funding toward estimated cost of initial project phase (Economic Impact Area 11).
E8 Upper Guadalupe River	1. With federal and local funding, construct a flood protection project to provide 1 percent flood protection to 6,280 homes, 320 businesses and 10 schools and institutions.  2. With local funding only, construct flood protection improvements along 4,100 feet of Guadalupe River between SPRR crossing, downstream of Willow Street, to UPRR crossing, downstream of Padres Drive. Flood damage will be reduced; however, protection from the 1-percent flood is not provided until completion of the entire Upper Guadalupe River Project.



### CALLING A SPECIAL ELECTION TO BE HELD IN THE

SANTA CLARA VALLEY WATER DISTRICT ON NOVEMBER 6, 2012
REQUESTING SERVICES OF REGISTRAR OF VOTERS,
REQUESTING CONSOLIDATION OF ELECTIONS, AND SPECIFYING
CERTAIN PROCEDURES FOR THE CONSOLIDATION ELECTION

WHEREAS, Santa Clara Valley Water District (District) RESOLVED, by the Board of Directors of Santa Clara Valley Water District (District), as follows:

FIRST: A special election is hereby called within said District, which election is to be consolidated with the general election to be held on November 6, 2012, to submit to the qualified electors of the District the following question:

Safe, Clean Water Program

#### To:

- Ensure safe, reliable water supply;
- Reduce toxins, hazards and contaminants in waterways;
- Protect water supply and dams from earthquakes and natural disasters;
- Restore wildlife habitat and provide open space;
- Provide flood protection to homes, schools and businesses;
- Provide safe, clean water in creeks and bays,

Shall Santa Clara Valley Water District renew an existing, expiring parcel tax without increasing rates, and issue bonds, described in Resolution 12-62, with independent citizen oversight and annual audits?

SECOND: The Registrar of Voters is requested to give notice of said election in accordance with law and to perform all other acts which are required for the holding and conducting of said election.

THIRD: The Board of Supervisors of the County of Santa Clara is hereby requested to order the consolidation of the special District election with the other elections to be held on November 6, 2012, and to provide the election precincts, polling places, and voting booths which shall in every case be the same, and that there shall be only one set of election officers in each of said precincts; and to further provide that the question set forth above shall be set forth in each form of ballot to be used at said election. Said Board of Supervisors is further requested to order the Registrar of Voters (a) to set forth on all sample ballots relating to said consolidation elections, to be mailed to the qualified electors of the District, the question set forth above and (b) to provide absentee voter ballots for said consolidation election for use by qualified electors of said District who are entitled thereto, in the manner provided by law.

FOURTH: The Registrar of Voters is hereby authorized and requested to canvass, or cause to be canvassed, as provided by law, the returns of said special district election with respect to the total votes cast for and against said question and to certify such canvass of the votes cast to the Board of Directors of Santa Clara Valley Water District.

FIFTH: The Clerk of this Board is hereby authorized and directed to certify to the due adoption of this resolution and to transmit a copy hereof so certified with the Registrar of Voters of the County.

SIXTH: Resolution No. 12-62 and attached Table 1 will comprise the full text of this ballot measure.

SEVENTH: The District recognizes that the County will incur additional costs because of the consolidation of the election on this measure with the November 6, 2012 election and agrees to reimburse the County for those relevant, additional costs. The Chief Executive Officer is hereby authorized and directed to expend the necessary funds to pay for the District's cost of placing the measure on the election ballot.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on August 8, 2012:

AYES:

Directors T. Estremera, P. Kwok, D. Gage, J. Judge,

R. Santos, B. Schmidt, L. LeZotte

NOES:

**Directors None** 

ABSENT: Directors None

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

LINDA J. LEZOTTE

Chair/Board of Directors

Muchel J. Kmi

ATTEST: MICHELE L. KING, CMC

### APPENDIX D

### 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

### 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

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.

### 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

- 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;
  - Changes or corrections of address of an owner of a parcel; 2.
  - 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;
  - As to railroad, gas, water, telephone, cable television, electric utility right of way, 6. 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.

### APPENDIX D

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- 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.
- Н. 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.

### 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

- 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

### APPENDIX D

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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

### 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

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.

### 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

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.

None.

ABSTAIN: Directors

tors

SANTA CLARA VALLEY WATER DISTRICT

NAI HSUEH

Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

### 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

# ATTACHMENT 1 COVERSHEET

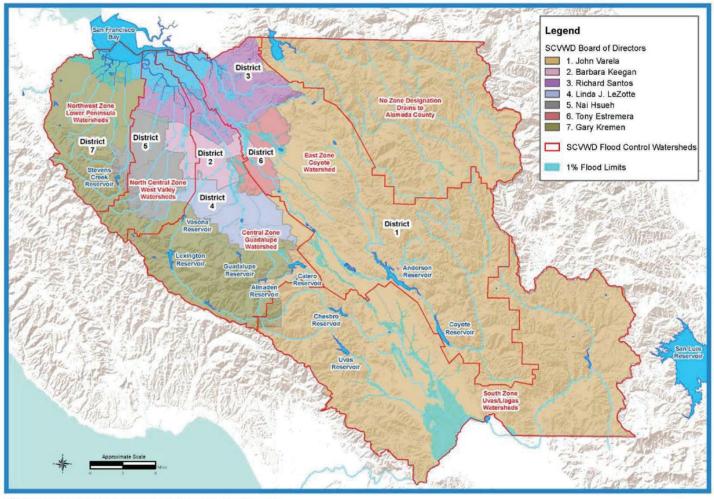
# SCVWD FLOOD CONTROL ZONES AND BOARD DISTRICTS IN SANTA CLARA COUNTY

No. of Pages: 1

Additional Items: None.

### **APPENDIX D**

### SCVWD Flood Control Zones and Board Districts in Santa Clara County



1-1

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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### 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

### ATTACHMENT 2 COVERSHEET

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

No. of Pages: 5

Additional Items: None.

# **APPENDIX D**

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

Project	Key Performance Indicator	
Priority A: Ensure a Saf	Priority A: Ensure a Safe, Reliable Water Supply	
A1 Pacheco Reservoir Expansion	Provide a portion of funds, up to \$10 million, to help construct the Pacheco Reservoir Expansion Project.	
A2 Water Conservation Rebates and Programs	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	Install four (4) new line valves on treated water distribution pipelines.	

Project	Key Performance Indicator
Priority B: Reduce Toxi	ns, Hazards, and Contaminants in Our Waterways
B1 Impaired Water Bodies Improvement	<ol> <li>Investigate, develop and implement actions to reduce methylmercury in fish and other organisms in the Guadalupe River Watershed.</li> <li>Prepare and update a plan for the prioritization of surface water quality improvement activities, such as addressing trash and other pollutants.</li> <li>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> <li>Address trash in creeks by maintaining trash capture devices or other litter control programs.</li> <li>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>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	Respond to 100% of hazardous materials reports requiring urgent on-site inspection in two (2) hours or less.
B4 Support Volunteer Cleanup Efforts	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.

# **APPENDIX D**

Project	Key Performance Indicator
Priority C: Protect Our Water Supply and Dams from Earthquakes and Other Natural Disasters	
C1 Anderson Dam Seismic Retrofit	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
Priority D: Restore Wild	llife Habitat and Provide Open Space
D1 Management of Riparian Planting and Invasive Plant Removal	<ol> <li>Maintain a minimum of 300 acres of riparian planting projects annually to meet regulatory requirements and conditions.</li> <li>Maintain a minimum of 200 acres of invasive plant management projects annually to meet regulatory requirements and conditions.</li> <li>Remove 25 acres of Arundo donax throughout the county over a 15-year period.</li> </ol>
D2 Revitalize Riparian, Upland and Wetland Habitat	<ol> <li>Revitalize at least 21 acres over a 15-year period through native plant revegetation and/or removal of invasive exotic species.</li> <li>Develop an Early Detection and Rapid Response Program Manual.</li> <li>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>Develop at least eight (8) information sheets for Early Detection of Invasive Plant Species.</li> </ol>
D3 Sediment Reuse to Support Shoreline Restoration	<ol> <li>Maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities.</li> <li>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> <li>Complete planning and design for one (1) creek/lake separation.</li> <li>Construct one (1) creek/lake separation project in partnership with local agencies.</li> <li>Use \$8 million for fish passage improvements by June 30, 2028.</li> <li>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>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> <li>Reassess and track stream ecological conditions and habitats in each of the county's five (5) watersheds every 15 years.</li> <li>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> <li>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>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>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>

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# **APPENDIX D**

Priority D: Restore Wildlife Habitat and Provide Open Space cont	
D7 Partnerships for the Conservation of Habitat Lands	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 Floo	d Protection to Homes, Businesses, Schools, Streets, and Highways
E1 Coyote Creek Flood Protection, Montague Expressway to Tully Road – San Jose	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	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	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	<ol> <li>Preferred project with federal and local funding: Construct a flood protection project to provide 1% (100-year) flood protection to 8,000 parcels.</li> <li>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.</li> </ol>
E5 San Francisquito Creek Flood Protection, San Francisco Bay to Upstream of Highway 101 – Palo Alto	<ol> <li>Preferred project with federal, state and local funding: Protect more than 3,000 parcels by providing 1% (100-year) flood protection.</li> <li>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.</li> </ol>

# **APPENDIX D**

Priority E: Provide Flood Protection to Homes, Businesses, Schools, Streets, and Highways cont	
E6 Upper Llagas Creek Flood Protection, Buena Vista Avenue to Llagas Road – Morgan Hill, San Martin, Gilroy	<ol> <li>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>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> <li>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>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> <li>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>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>

Project	Key Performance Indicator	
Priority F: Support Public Health and Public Safety for Our Community		
F1 Vegetation Control and Sediment Removal for Capacity	Maintain completed flood protection projects for flow conveyance.	
F2 Emergency Response Planning and Preparedness	<ol> <li>Coordinate with local municipalities to merge Valley Water-endorsed flood emergency processes with their own emergency response plans and processes.</li> <li>Complete five (5) flood management plans/procedures per 5-year period, selected by risk priorities.</li> <li>Train Valley Water staff and partner municipalities annually on disaster procedures via drills and exercises before testing the plans and procedures.</li> <li>Test flood management plans/procedures annually to ensure effectiveness.</li> </ol>	
F3 Flood Risk Assessment Studies	<ol> <li>Complete engineering studies on three (3) creek reaches to address 1% (100-year) flood risk.</li> <li>Annually, update floodplain maps on a minimum of three (3) creek reaches in accordance with new FEMA standards.</li> </ol>	

# **APPENDIX D**

Priority F: Support Public Health and Public Safety for Our Community cont		
F4 Vegetation Management for Access and Fire Safety	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.	
F5 Good Neighbor Program: Encampment Cleanup	<ol> <li>Perform 300 annual cleanups to reduce the amount of trash and pollutants entering the streams.</li> <li>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> <li>Cleanup identified trash and graffiti hotspots at approximately 80 sites four (4) times per year.</li> <li>Respond to requests on litter or graffiti cleanup within five (5) working days.</li> <li>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	Maintain existing capabilities for flood forecasting and warning.     Improve flood forecast accuracy and emergency response time working with the National Weather Service and through research and development.	
F8 Sustainable Creek Infrastructure for Continued Public Safety	Provide up to \$7.5 million in the first 15-year period to plan, design and construct projects identified through Watersheds asset management plans.	
F9 Grants and Partnerships for Safe, Clean Water, Flood Protection and Environmental Stewardship	<ol> <li>Provide a grant and partnership cycle each year for projects related to safe, clean drinking water, flood protection and environmental stewardship.</li> <li>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>Provide annual mini-grant funding opportunity for projects related to safe, clean drinking water, flood protection and environmental stewardship.</li> <li>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>	

## 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

# 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.

# Resolution

## **APPENDIX D**

# 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
A - Commercial, Industrial		
Rate (\$/Acre)	\$541.60	\$541.60
Minimum Assessment (1)	\$135.39	\$135.39
B - Apartment, Schools, Churches, Condominiums & Townhouse		
Rate (\$/Acre)	\$406.20	\$406.20
Minimum Assessment (1)	\$101.55	\$101.55
Condominiums & Townhouses (\$/unit)	\$32.95	\$32.95
C - Single Family Residential, Small Multiples (2-4 units) (2)		
Minimum Assessment (1)	\$67.67 (Averaging \$0.006 per square foot)	\$67.67 (Averaging \$0.006 per square foot)
D - Utilized Agriculture <sup>(2)</sup>		
Rate (\$/Acre)	\$3.47	\$3.47
Minimum Assessment (1)	\$34.70	\$34.70
E - Urban - Nonutilized Agricultural, Grazing Land, Salt Ponds, Well Site in Urban Areas		
Rate (\$/Acre)	\$1.02	\$1.02
Minimum Assessment (1)	\$10.23	\$10.23
E - Rural - Nonutilized Agricultural, Grazing Land, Well Sites in Rural Areas		
Rate (\$/Acre)	\$0.14	\$0.14
Minimum Assessment (1)	\$10.23	\$10.23

<sup>&</sup>lt;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.

#### FINAL REPORT

### **Santa Clara Valley Water District**

2012 SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM

**CLOSEOUT PERFORMANCE AUDIT** 

March 25, 2024

Moss Adams LLP 999 Third Avenue, Suite 2800 Seattle, WA 98104 (206) 302-6500

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#### I. EXECUTIVE SUMMARY

#### A. BACKGROUND, SCOPE, AND METHODOLOGY

The Santa Clara Valley Water District (Valley Water) engaged Moss Adams LLP (Moss Adams) to conduct a closeout performance audit of its 2012 Safe, Clean Water and Natural Flood Protection Program (the Program), established by the passage of Measure B in 2012. The purpose of this performance audit was to validate compliance in the collection and expenditure of Measure B funds, verify compliance with Measure B tax provisions, evaluate Valley Water's progress toward meeting the Program's priorities and stated key performance indicators (KPIs), and identify and document opportunities for operational efficiency for future iterations of the Program. We conducted this performance audit between May 2023 and October 2023 using a four-phased approach consisting of project initiation and management, fact-finding, data analysis, and reporting.

#### **B. SUMMARY OF FINDINGS AND RECOMMENDATIONS**

Findings and recommendations are grouped into two themes: compliance and performance. They are summarized in the following table and are presented in greater detail in Section V of this report.

Since this audit was focused on the last five years of the Program, which has since been replaced, the recommendations can be applied to the revised 2020 Program or future iterations of the Program. Additionally, some recommendations apply more broadly to Valley Water overall.

	FINDINGS AND RECOMMENDATIONS			
1.	Finding	Valley Water does not have a conflict-of-interest policy that applies to the Independent Monitoring Committee (IMC) members. Conflicts of interest, whether real or perceived, can harm the Program's reputation and integrity.		
	Recommendation	Develop a conflict-of-interest policy that applies to IMC members and incorporate education on conflicts of interest into IMC orientation and training procedures.		
Finding 2.		According to a 2021 performance audit, grant management and administration during the 2012 Program experienced challenges with processes, timeliness, and reporting.		
	Recommendation	Continue implementation of the remaining recommendations made in the 2021 grants management and administration performance audit.		

FINDINGS AND RECOMMENDATIONS			
	Finding	Some Program KPIs relied on external organizations for completion, which made them more difficult to achieve on schedule. Additionally, some KPIs were based on outputs instead of outcomes, which created limitations in the measurement of the Program's impact on the community.	
3.	Recommendation	Examine KPIs in future iterations of the Program and make revisions as needed to better reflect KPIs that are within Valley Water's control and focus on outcome-based KPIs. Where KPIs are not able to be fully within Valley Water's control, consider defining Valley Water's level of responsibility (e.g., primary or contributing responsibility) and develop strategies for addressing external factors that limit the ability of the KPIs to be achieved.	
	Finding	While Valley Water's practices related to external coordination are large aligned with best practice, a high degree of interjurisdictional complexit resulted in some capital projects being delayed.	
4.	Recommendation	In future iterations of the Program, implement strategies to improve project continuity for projects heavily reliant on external agency cooperation, including strategies to prioritize knowledge transfer, project documentation, and relationship building at multiple levels.	
5.	Finding	The effectiveness of contract development and management processes was limited by a lack of standardization, employee training, and lengthy reviews.	
	Recommendation	Conduct robust training and establish annual refresher training for staff involved in contracting processes.	

#### II. INTRODUCTION

#### A. PROJECT OVERVIEW

#### **Background**

The Santa Clara Valley Water District (Valley Water) manages an integrated water resources system that includes the provision of clean, safe water; flood protection; and stewardship of streams on behalf of Santa Clara County's nearly two million residents and businesses. Valley Water maintains 10 dams and surface water reservoirs, three water treatment plants, nearly 400 acres of groundwater recharge ponds, and more than 275 miles of streams.

On November 6, 2012, Santa Clara County voters passed Measure B, the Safe, Clean Water and Natural Flood Protection Program (the 2012 Program) as a countywide special parcel tax (Measure B). The tax went into effect on July 1, 2014, and its purpose was to support local projects that delivered safe, clean water, natural flood protection, and environmental stewardship to all communities served in Santa Clara County. The Program was first passed in 2000 as the Clean, Safe Creeks and Natural Flood Protection Plan before being approved again in 2012, and on November 3, 2020, voters in Santa Clara County approved Measure S, a revised renewal of the 2012 Program. This performance audit is focused on the 2012 Program only, as described in the Scope and Objectives section below.

Through a comprehensive community engagement process, Valley Water identified five priorities for the 2012 Program. These five priorities, listed below, comprised multiple projects with unique operations and capital needs. Each project had its own KPIs and estimated schedules and received an allocated portion of funding.

- Priority A: Ensure a safe, reliable water supply
- Priority B: Reduce toxins, hazards, and contaminants in waterways
- Priority C: Protect water supply and dams from earthquakes and natural disasters
- Priority D: Restore wildlife habitat and provide open space
- Priority E: Provide flood protection to homes, businesses, schools, and highways

#### **Scope and Objectives**

Valley Water engaged Moss Adams to conduct a closeout performance audit of the last five years of the 2012 Program, which were fiscal years (FY) 2017 through 2021. Moss Adams previously audited the first three years of the 2012 Program in a separate audit. This performance audit of the 2012 Program addressed the following objectives:

- 1. Assess and determine whether Measure B funds were collected and expended by Valley Water in accordance with the tax measure
- 2. Verify compliance with all applicable provisions of the Measure B tax, including stated provisions A through O
- 3. Assess and determine whether Valley Water made reasonable progress toward meeting the Program's priorities and KPIs by year eight of the 15-year Program

- 4. Assess and determine whether Valley Water properly implemented and complied with the approved change control processes to make necessary Program adjustments and modifications
- 5. Assess and document lessons learned that could be considered in the future

Since this closeout audit was focused on the last five years of the 2012 Program that has since been replaced, the recommendations can be applied to the revised 2020 Program or future iterations of the Program. Additionally, some recommendations apply more broadly to Valley Water overall.

#### **Methodology**

The project consisted of four phases. Our analysis was informed by employee interviews, document review, testing, and research into best practices.

	Phase	Description
1	Project Initiation and Management	This phase concentrated on comprehensive planning and project management, including identifying employees to interview, identifying documents to review, communicating results, and establishing processes to review project status on a regular basis.
2	Fact-Finding	<ul> <li>Interviews: We conducted interviews and focus groups with leadership and staff to gain insights into the current operational environment, strengths, and opportunities for improvement related to the 2012 Program.</li> <li>Document Review: We reviewed a variety of documents and information provided by staff, including organizational charts, policies and procedures, performance reports, and the Measure B resolution.</li> <li>Testing: We conducted tests of detail to verify Program operational integrity, adherence to Program change control protocols, and compliance with Measure provisions.</li> </ul>
3	Analysis	Based on the information gained during our fact-finding phase, we performed a gap analysis of current conditions and identified opportunities for improvement. Leveraging best practice information, and our own experience from working with similar entities, we developed practical recommendations.
4	Reporting	We communicated the results of our analysis with findings and recommendations presented first in a draft report that was reviewed with management to confirm the practicality and relevance of recommendations before finalizing the report.

#### **B. STATEMENT OF COMPLIANCE WITH GAGAS**

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

#### III. COMMENDATIONS

Based on insights gathered throughout our assessment, we noted the following areas of strength:

- Transparency to Stakeholders: Valley Water had many processes in place to support
  transparency to its stakeholders. Annual Program reports detailing progress toward achieving
  KPIs were developed timely and contained detailed information for members of the public to
  understand project status, challenges, and any modifications. Furthermore, changes to project
  descriptions, KPIs, and schedules were made largely in accordance with Valley Water's change
  control process.
- **Program Expenditures:** Based on testing a sample of 30 expenditures occurring between FY 2017 and FY 2021, Measure B funds were used appropriately for the Program.
- California Environmental Quality Act (CEQA) Reviews: Based on testing a sample of three
  projects, the Program administration properly executed required CEQA reviews for SCW Program
  projects in compliance with Program requirements.
- **Low-Income Senior Property Tax Exemption**: Based on testing a sample of 10 low-income senior property tax exemptions, the requests were properly completed, and the requestors were eligible for the tax exemption according to Program requirements.
- **Special Tax Summary Reports**: For each fiscal year in the audit period, the Special Tax Summary Reports were completed, approved, and filed according to Program requirements.
- Adaptive and Flexible Budgeting: Despite challenges with overspending and underspending
  largely due to unexpected project needs and inflation, the 2012 Program had many effective
  practices in place managing project budgets. The Program conducted comprehensive project
  planning, regularly monitored project spending, and had a robust change control process in place
  to help identify and address necessary budget changes.
- Independent Monitoring Committee (IMC) Onboarding: In 2018, Valley Water developed formal onboarding and training materials for members of the committee that outlined IMC roles and responsibilities. This is aligned with best practice for effective governance.
- **Operational Flexibility:** Program staff were able to work around obstacles, such as those posed by the COVID-19 pandemic, to meet the needs of Valley Water and the 2012 Program.
- Mission-Driven Employees: Program staff were aware of and driven by the importance of the
  work they do to provide safe, clean water and natural flood protection to Santa Clara County and
  the communities they serve.

We would like to thank Valley Water staff for their willingness to assist us in this audit process. These commendations, coupled with our findings and recommendations, provide an overview of areas of strengths and opportunities for improvement that can help enhance operations and reduce risk within the renewed Safe, Clean Water and Natural Flood Protection Program and other future iterations of the initiative.

#### IV. PROGRESS TOWARD PRIORITIES AND KPIS

The following tables include an evaluation of the progress Valley Water made toward achieving the five priorities and associated KPIs of the 2012 Program FY 2021. Overall, Valley Water was on track to meet the majority of the KPIs had the Program continued. Only one project was not on target, as indicated below. We determined project status based on a review of KPIs for each project and relevant Program reports.

PRIORITY A: ENSURE A SAFE, RELIABLE WATER SUPPLY				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status	
A1: Main Avenue and Madrone Pipelines Restoration	<ul> <li>Restore transmission pipeline to full operating capacity of 37 cfs from Anderson Reservoir.</li> <li>Restore ability to deliver 20 cfs to Madrone Channel.</li> </ul>	Completed	Completed	
A2: Safe, Clean Water Partnerships and Grants	<ul> <li>Award up to \$1 million to test new conservation activities.</li> <li>Increase number of schools in Santa Clara County in compliance with SB 1413 and the Healthy Hunger-Free Kids Act, regarding access to drinking water by awarding 100% of eligible grant requests for the installation of hydration stations; a maximum of 250 grants up to \$254,000.</li> <li>Reduce number of private well water users exposed to nitrate above drinking water standards by awarding 100% of eligible rebate requests for the installation of nitrate removal systems—up to \$30,000 for all rebates.</li> </ul>	On target	On target	
A3: Pipeline Reliability Project	Install four new line valves on treated water distribution pipelines.	Adjusted	Adjusted in FY 2021	

PRIORITY B: REDUCE TOXINS, HAZARDS, AND CONTAMINANTS IN OUR WATERWAYS					
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status		
B1: Impaired water bodies improvement	<ul> <li>Operate and maintain existing treatment systems in four reservoirs to remediate regulated contaminants, including mercury.</li> <li>Prepare a plan for the prioritization of pollution prevention and reduction activities.</li> </ul>	On target	On target		

PRIORITY B: REDUCE TOXINS, HAZARDS, AND CONTAMINANTS IN OUR WATERWAYS				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status	
	<ul> <li>Implement priority pollution prevention and reduction activities identified in the plan in 10 creeks.</li> </ul>			
B2: Interagency urban runoff program	<ul> <li>Install at least two and operate four trash capture devices at storm water outfalls in Santa Clara County.</li> <li>Maintain partnerships with cities and County to address surface water quality improvements.</li> <li>Support five pollution prevention activities to improve surface water quality in Santa Clara County, either independently or collaboratively with south county organizations.</li> </ul>	On target	On target	
B3: Pollution prevention partnerships and grants	Provide seven grant cycles and five partnerships that follow pre-established competitive criteria related to preventing or removing pollution.	On target	On target	
B4: Good neighbor program: Illegal Encampment Cleanup	Perform 52 annual cleanups for the duration of the Safe, Clean Water Program to reduce the amount of trash and pollutants entering the streams.	Not on target	Not on target in FY 2021. <sup>1</sup>	
B5: Hazardous materials management and response	Respond to 100% of hazardous materials reports requiring urgent on-site inspection in two hours or less.	On target	On target	
B6: Good neighborhood program: Remove Graffiti and Litter	<ul> <li>Conduct 60 clean-up events (four per year).</li> <li>Respond to requests on litter or graffiti cleanup within five working days.</li> </ul>	On target	On target	

<sup>&</sup>lt;sup>1</sup> Cleanups were curtailed due to COVID-19 related restrictions concerning unhoused encampments.

PRIORITY B: REDUCE TOXINS, HAZARDS, AND CONTAMINANTS IN OUR WATERWAYS				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status	
B7: Support volunteer cleanup efforts and education	<ul> <li>Provide seven grant cycles and three partnerships that follow pre-established competitive criteria related to cleanups, education and outreach, and stewardship activities.</li> <li>Fund District support of annual National River Cleanup Day, California Coastal Cleanup Day, the Great American Litter Pick Up, and the Adopt-A-Creek Program.</li> </ul>	On target	On target	

PRIORITY C: PROTECT OUR WATER SUPPLY AND DAMS FROM EARTHQUAKES AND NATURAL DISASTERS				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status	
C1: Anderson Dam Seismic Retrofit	Turn a portion of funds, up to \$45 million, to help restore full operating reservoir capacity of 90,373 acre-feet.	On target	On target	
C2: Emergency response upgrades	Map, install, and maintain gauging stations and computer software on seven flood-prone reaches to generate and disseminate flood warnings.	On target	On target	

PRIORITY D: RESTORE WILDLIFE HABITAT AND PROVIDE OPEN SPACE					
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status		
D1: Management of revegetation projects	Maintain a minimum of 300 acres of revegetation projects annually to meet regulatory requirements and conditions.	On target	On target		
D2: Revitalize stream, upland, and wetland habitat	<ul> <li>Revitalize at least 21 acres, guided by the five Stream Corridor Priority Plans, through native plan revegetation and removal of invasive exotic species.</li> <li>Provide funding for revitalization of at least seven of 21 acres through community partnerships.</li> <li>Develop at least two plant palettes for use on revegetation projects to support birds and other wildlife.</li> </ul>	Completed	Completed		

PRIORITY D: RESTORE	PRIORITY D: RESTORE WILDLIFE HABITAT AND PROVIDE OPEN SPACE				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status		
D3: Grants and partnerships to restore wildlife habitat and provide access to trails	<ul> <li>Develop five Stream Corridor Priority Plans to prioritize stream restoration activities.</li> <li>Provide seven grant cycles and additional partnerships for \$21 million that follow pre-established criteria related to the creation or restoration of wetlands, riparian habitat, and favorable stream conditions for fisheries and wildlife, and providing new public access to trails.</li> </ul>	On target	On target		
D4: Fish habitat and passage improvement	<ul> <li>Complete planning and design for two creek/lake separations.</li> <li>Construct one creek/lake separation project in partnership with local agencies.</li> <li>Use \$6 million for fish passage improvements.</li> <li>Conduct study of all major steelhead streams in the County to identify priority locations for installation of large woody debris and gravel, as appropriate.</li> <li>Install large woody debris and/or gravel at a minimum of five sites (one per each of five major watersheds).</li> </ul>	Adjusted	Adjusted in FY 2021		
D5: Ecological data collection and analysis	<ul> <li>Establish new or track existing ecological levels of service for streams in five watersheds.</li> <li>Reassess streams in five watersheds to determine if ecological levels of service are maintained or improved.</li> </ul>	On target	On target		
D6: Creek restoration and stabilization	<ul> <li>Construct three geomorphic designed projects to restore stability and stream function by preventing incision and promoting sediment balance throughout the watershed.</li> </ul>	Adjusted	Adjusted in FY 2021		
D7: Partnerships for the conservation of habitat lands	<ul> <li>Provide up to \$8 million for the acquisition of property for the conservation of habitat lands.</li> </ul>	Completed	Completed		
D8: South Bay Salt Ponds restoration partnership	<ul> <li>Establish agreement with U.S. Fish and Wildlife Service to reuse sediment at locations to improve the success of Salt Pond restoration activities.</li> <li>Construct site improvements up to \$4 million to allow for transportation and placement of future sediment.</li> </ul>	On target	On target		

PRIORITY E: PROVIDE FLOOD PROTECTION TO HOMES, BUSINESSES, SCHOOLS, AND HIGHWAYS				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status	
E1: Vegetation control and sediment removal for flood protection	<ul> <li>Maintain 90% of improved channels at design capacity.</li> <li>Provide vegetation management for 6,120 acres along levee and maintenance roads.</li> </ul>	On target	On target	
E2: Emergency response planning	<ul> <li>Coordinate with agencies to incorporate District-endorsed flood emergency procedures into their Emergency Operations Center plans.</li> <li>Complete five flood-fighting action plans (one per major watershed).</li> </ul>	On target	On target	
E3: Flood risk reduction studies	<ul> <li>Complete engineering studies on seven creek reaches to address 1% flood risk.</li> <li>Update floodplain maps on a minimum of 2 creek reaches in accordance with new FEMA standards.</li> </ul>	On target	On target	
E4: Upper Penitencia Creek flood protection Coyote Creek to Dorel Drive—San Jose	<ul> <li>Preferred project with federal and local funding: Construct a flood protection project to provide 1% flood protection to 5,000 homes, businesses, and public buildings.</li> <li>With local funding only: Acquire all necessary rights-of-way and construct a 1% flood protection project from Coyote Creek confluence to King Road.</li> </ul>	On target	On target	
E5: San Francisquito Creek flood protection, San Francisco Bay to Middlefield Road— Palo Alto	<ul> <li>Preferred project with federal, state, and local funding: Protect more than 3,000 parcels by providing 1% flood protection.</li> <li>With state and local funding only: Protect approximately 3,000 parcels from flooding (100-year protection downstream of Highway 101, and approximately 30-year protection upstream of Highway 101).</li> </ul>	On target	On target	
E6: Upper Llagas Creek flood protection project Buena Vista Avenue to Wright Avenue—Morgan Hill, San Martin, Gilroy	<ul> <li>Preferred project with federal and local funding: Provide flood protection to 1,100 homes, 500 businesses, and 1,300 agricultural acres, while improving stream habitat.</li> <li>With local funding only: Provide 100-year flood protection for Reach 7 only (up to W. Dunne Avenue in Morgan Hill). A limited number of homes and businesses will be protected.</li> </ul>	On target	On target	
E7: San Francisco Bay shoreline study	<ul> <li>Provide a portion of the local share of funding for planning and design phases for the former salt production ponds and Santa Clara County shoreline area.</li> <li>Provide a portion of the local share of funding toward the estimated cost of the initial project phase (Economic Impact Area 11).</li> </ul>	On target	On target	

PRIORITY E: PROVIDE FLOOD PROTECTION TO HOMES, BUSINESSES, SCHOOLS, AND HIGHWAYS				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status	
E8: Upper Guadalupe River flood protection	<ul> <li>Preferred project with federal and local funding: Construct a flood protection project to provide 1% flood protection to 6,280 homes, 320 businesses, and 10 schools and institutions.</li> </ul>	Adjusted	Adjusted in FY 2021	
	<ul> <li>With local funding only: Construct flood protection improvements along 4,100 feet of Guadalupe River between the Southern Pacific Railroad crossing downstream of Willow Street to the Union Pacific Railroad crossing downstream of Padres Drive. Flood damage will be reduced; however, protection from the 1% flood is not provided until completion of the entire Upper Guadalupe River project.</li> </ul>			

OTHER FLOOD PROTECTION PROJECTS AND CLEAN, SAFE CREEKS GRANTS PROJECTS				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status	
Permanente Creek Flood Protection	Provide flood protection to 1,664 parcels downstream of El Camino Real, including Middlefield Road and Central Expressway	Completed	Completed	
Sunnyvale East and Sunnyvale West Channels Flood Protection	<ul> <li>Provide riverine flood protection for 1,618 properties and 47 acres (11 parcels) of industrial land, while improving stream water quality and providing for recreational opportunities.</li> </ul>	Adjusted	Adjusted in FY 2021	
Berryessa Creek Flood Protection	<ul> <li>Local and federal funding flood damage reduction for 1,662 parcels, including 1,420 homes, 170 businesses, and 5 schools/institutions.</li> <li>Using local funds only, a reduced project would extend from the confluence with Lower Penitencia upstream to Montague Expressway, modifying 2 miles of channel and protecting approximately 100 parcels.</li> </ul>	Completed	Completed	
Coyote Creek Flood Protection	<ul> <li>Preferred project with federal, state, and local funding: Secure alternative funding sources to construct a flood protection project that provides flood risk reduction from floods up to the level of flooding that occurred on February 21, 2017, approximately a 20 to 25 year flood event, between Montague Expressway and Tully Road.</li> </ul>	On target	On target	

OTHER FLOOD PROTEC	OTHER FLOOD PROTECTION PROJECTS AND CLEAN, SAFE CREEKS GRANTS PROJECTS				
Project	15-Year KPIs	Project Status as of FY 2021 Report	Moss Adams Determined Status		
	With local funding only: (a) Identify short-term flood relief solutions and begin implementation prior to the 2017-2018 winter season; (b) Complete the planning and design phases of the preferred project; and (c) With any remaining funds, identify and construct prioritized elements of the preferred project.				
Calabazas Creek Flood Protection	Flood damage reduction for 2,483 parcels that include: 2,270 homes, 90 businesses, and 7 schools/institutions.	Completed	Completed		
Clean Safe Creeks Grants Projects	<ul> <li>CSC 2.1: Reduce urban runoff pollutants in south county cities.</li> <li>CSC 3.2: Creation of additional wetlands, riparian habitat and favorable stream conditions for fisheries and wildlife. (Equivalent of 100 acres of tidal or riparian habitat created or restored).</li> <li>CSC 4.1: Community partnership to identify and provide public access to 70 miles of open space or trails along creeks.</li> </ul>	Completed	Completed		

#### V. FINDINGS AND RECOMMENDATIONS

Our aim with these findings and recommendations was to provide Program and Valley Water leadership with actionable information on opportunities for improvement, with recommendations intended to provide positive impacts on operational effectiveness and efficiency for future iterations of the Program.

#### A. COMPLIANCE

There were no compliance findings and recommendations. Based on our testing, Valley Water complied with Measure requirements.

#### **B. PERFORMANCE**

#### **Ethics**

1.	Finding	g	Valley Water does not have a conflict-of-interest policy that applies to the Independent Monitoring Committee (IMC) members. Conflicts of interest, whether real or perceived, can harm the Program's reputation and integrity.
	Recom	ımendation	Develop a conflict-of-interest policy that applies to IMC members and incorporate education on conflicts of interest into IMC orientation and training procedures.

To ensure accountability to voters, Measure B also created an Independent Monitoring Committee (IMC), appointed by the Valley Water Board of Directors. According to the IMC Handbook, the IMC annually reviews the implementation of the intended results of the Program and reports its findings to Board, which makes the committee report available to the residents and voters of Santa Clara County. During the 2012 Program, concerns were raised about potential conflicts of interest among IMC members that could have influenced their recommendations and actions in their oversight role. Valley Water did not have a conflict-of-interest policy in place that applied to IMC members, and Valley Water's General Counsel considered these potential conflicts legally allowable since the IMC serves in an advisory role that does not have decision-making authority. However, it can be helpful for advisory committees to have conflict-of-interest policies since their recommendations are often accepted by other decision-making bodies.

Conflicts of interest, whether real or perceived, can present many challenges, including erosion of public trust and potential risk of compromised integrity of the IMC and the Program overall. Impaired public perception may also jeopardize future funding for the Program. The Program should develop a conflict-of-interest policy that applies to IMC members and incorporate education on conflicts of interest into IMC orientation and training procedures. Valley Water may leverage its existing conflict-of-interest policies and Board Code of Conduct when developing a conflict-of-interest policy for IMC members, as is common in other similar governmental organizations. Valley Water should consider what specific conflict-of-interest standards are needed for its advisory committees, but at a minimum the conflict-of-interest policy should require those with a conflict or potential conflict to disclose the conflict and prohibit IMC members from participating in discussions on topics where there is a real or perceived conflict. Generally, conflict-of-interest policies include the following:

- Definition of what constitutes a conflict of interest, such as situations where a committee member has a personal or financial interest in matters being discussed
- Requirements for disclosing potential conflicts of interest in a timely and transparent manner
- Processes for evaluating potential conflicts of interest
- Requirements for recusal when a conflict of interest is determined to exist
- Documentation requirements to ensure records are maintained about conflicts of interest and how they were resolved
- Consequences for violating the policy, such as potential removal from the committee
- Required training related to conflicts of interest

Developing conflict-of-interest policies, frameworks, and training will help preserve the integrity of the Program and promote ongoing public trust.

#### **Grants Management**

2.	Finding	According to a 2021 performance audit, grant management and administration during the 2012 Program experienced challenges with processes, timeliness, and reporting.
	Recommendation	Continue implementation of the remaining recommendations made in the 2021 grants management and administration performance audit.

A performance audit of grants management and administration in the 2012 Program reviewed FY 2018 through FY 2020 and was completed in January 2021. This audit found Valley Water needed to scale grant application and reporting requirements to be more proportional to the size and scope of each individual grant, require orientation for new grantees, establish timeliness metrics, and implement other process, timeliness, and reporting improvements. In interviews, staff expressed significant challenges with the Program's grant management and administration during the duration of the 2012 Program.

While beyond the scope of this audit, staff reported seven of the 11 recommendations have been implemented since the audit was completed in 2021. The remaining recommendations are still in progress. To support continued improvement of grants management and administration, Program leadership should continue to implement the remaining recommendations. Implementing these recommendations is important to the success and sustainability of future iterations of the Program. A summary of recommendation status as reported by staff as of a May 2023 progress report is included below.

Recommendation	Staff Reported Status	
Valley Water should consider developing clear guidelines for "right-sized" application and reporting processes, meaning that application and reporting requirements should be scaled to fit the size, risk, and complexity of each individual grant:	In Progress	
• Valley Water should develop a formal due diligence policy and perform a due diligence review for high risk grant projects. A due diligence review of applicants determines the reasonableness of the grant and grantee's ability to perform and assess the extent of the grantee's reliance on grant funds. This would include analysis of managerial and fiscal capacity and past performance. For example, verify grantees have the requisite financial management systems that will produce invoice detail required by the grant agreement, or, gain an understanding of the type of system capabilities the non-profit has to assess whether they can comply with financial reporting required by the grant agreement.		
For high-risk grants where financial statements are required, analyze fiscal health indicators of the entity and formalize the analysis within the grant file. For areas where Valley Water already implements a number of best practices such as checking GuideStar to verify the non-profits current status and to view the grantee's IRS Form 990, staff should also memorialize its analysis in the grant file.		
<ul> <li>For smaller non-profits or community groups, based on risk, Valley Water should consider simplifying reporting requirements or developing alternative requirements for projects under a dollar threshold, like \$25,000, or establish a tiered structure and treat smaller projects similar to mini-grants.</li> </ul>		
As new grants are awarded, an orientation for new grantees should be mandatory, and Civic Engagement should provide an electronically accessible grantee guide, outlining all requirements for programmatic and financial reporting compliance. This can be as simple as compiling existing documents, developing reporting templates and developing a process map and including instructions on who to call based on the nature of the question.	Implemented – November 2022	
Best practices suggest utilizing a grant management information system to run regular reports to track timeliness and to conduct other monitoring activities. While many monitoring functionalities for FLUXX remain in progress, we recommend, at a minimum, adding another column to the Grant Tracker spreadsheet to track the 45-calendar day payment window once initial contact has been made with the grantee. These payment cycle time metrics should be tracked and reported internally monthly, and to the Board Audit Committee quarterly.		
Monitoring should be conducted, either manually or through automated reminder emails in FLUXX, to ensure that a progress report, or another form of communication from a grantee, is submitted quarterly ensure that Valley Water is kept apprised of project status and to ensure that work is aligned with the grant agreement.		
In addition to right sizing invoicing requirements based on the grant's risk level, Valley Water should right-size the level of progress reporting detail required for smaller dollar value standard grants, for example, under \$25,000.	In Progress	

Recommendation	Staff Reported Status	
Valley Water should explore where, within existing policies, it can augment grant requirements for grant agreements and invoicing for certain grantees based on risk: partnerships, repeat grantees, establish grant value thresholds, and determine whether the number of approvals and signatures for payments are appropriate. At a minimum, for smaller, lower risk grants, Valley Water should re-assess its reporting and invoicing requirements based on risk, dollar value, and project complexity.	In Progress	
<ul> <li>For example, Valley Water could treat grant agreements up to \$25,000 like mini-grants and expedite payment for low-risk grants and low dollar amount invoices from trusted long-term grantees. Valley Water could consider paying unquestioned amounts earlier, and focus more scrutiny on riskier, larger dollar amount invoices from new grantees.</li> </ul>		
<ul> <li>Valley Water could also consider reimbursing expenses when invoiced and then using the closeout process to reconcile remaining amounts below a reasonable threshold. For example, if a grantee bills \$10,000 for its performance, and Valley Water questions \$500 of that amount, it could consider paying the unquestioned amount first, then resolve the questioned amount by project.</li> </ul>		
<ul> <li>Staff should focus their review on whether grantee costs are reasonable, allocable and allowable in accordance with the project budget and grant agreement guidelines. Spot checks would be performed to ensure calculations are correct and that receipts match the totals. The level of scrutiny applied and depth of review would be based on the grant and grantee risk factors, as determined by management.</li> </ul>		
Should Valley Water decide to continue to require the same information for progress and invoice submission, they should:	In Progress	
<ul> <li>Confirm the integrity of grantee financial management system data used for review before award.</li> </ul>		
<ul> <li>Include language in the grant agreement such as, "Failure to submit an accurate financial invoice in a timely manner may result in payments being withheld, delayed, or denied, and will result in payment delays".</li> </ul>		
Valley Water should solicit grantee and partnership feedback regularly, conducted by an independent third party, as best practices suggest. In addition to assessing satisfaction with the program, inquiries should be made to determine the extent to which partial funding has impacted the grantee and the project.	Implemented – September 2021	
Valley Water should determine a reasonable goal and timeline for final closeout and final payment, including the release of retention. The established dates and timelines should be monitored in the Grant Tracker and when possible, included in any automated flags and alerts that FLUXX can provide.		
Valley Water should prioritize developing a grants management operations manual containing all relevant policies and procedures.  Implementation November		

R	Recommendation				
pr er	o ensure that staff understand and carry out their internal control responsibilities, and to comote accountability, Valley Water should consider reconfiguring job assignments to chance the grants management function once the backlog has been addressed and policies and procedures are developed:	Implemented – September 2021			
•	Option 1: Assign Staff by Priority Area and Specific Grants. This would allow staff to become familiar with the priority area, programs and grantees, as well as create a balanced number of programs a grant manager is expected to manage. This would benefit the grantee with the assignment of a single point of contact for questions at any phase of the project. This would allow for important information concerning a grantee, and project details learned in the application stage to transfer to active project management and throughout the life of the project. The downside to this option is that grant managers would still be required to perform duties that they might not have the technical capacity, knowledge or authorization to properly perform, such as a subject expert having responsibility for invoice processing, or a finance and accounting expert having responsibility for program oversight.				
•	Option 2: Split Application and Active Grant Management Duties. Civic Engagement may consider dividing the work performed during the application cycle and work performed during the active project management cycle into two separate positions or teams. From an efficiency perspective, this delineation could improve overall workflow by decreasing bottlenecks that occur during certain times of the year (e.g., the allocation/application cycle) and ensure that a sufficient number of staff remains focused on active grant management, such as invoice review processing and monitoring. Additionally, with such a delineation of duties, one individual could be assigned to or specialize in contracts and billings for all grants.				
•	Once job assignments are determined, the Supervising Program Administrator and Unit Manager should develop a training manual and schedule that clearly identifies the type of training needed to effectively perform specified job duties to address any gaps in staff knowledge, skills and abilities.				

#### **Key Performance Indicators**

	Finding	Some Program KPIs relied on external organizations for completion, which made them more difficult to achieve on schedule. Additionally, some KPIs were based on outputs instead of outcomes, which created limitations in the measurement of the Program's impact on the community.
3.	Recommendation	Examine KPIs in future iterations of the Program and make revisions as needed to better reflect KPIs that are within Valley Water's control and focus on outcome-based KPIs. Where KPIs are not able to be fully within Valley Water's control, consider defining Valley Water's level of responsibility (e.g., primary or contributing responsibility) and develop strategies for addressing external factors that limit the ability of the KPIs to be achieved.

• As the Safe, Clean Water grants program grows, and the grants management function within Civic Engagement expands, develop grants management position descriptions.

While Valley Water commendably had defined KPIs for each project within the Program, there were limitations to the effectiveness of some KPIs, especially KPIs that relied on external organizations for completion. Staff reported these KPIs were difficult to achieve as they were fully or partially outside of Valley Water's control. Additionally, as noted in the prior audit conducted by Moss Adams in 2017,

some project KPIs for the Program were based on outputs rather than outcomes, which limited their ability to portray the impact Valley Water and the Program had on the community. Outputs can also limit flexibility in approach when conditions change or unexpected events occur because they are more narrowly focused on completion of specific tasks.

#### KPI Responsibility

Generally, it is best practice to develop KPIs that are within an organization's influence and control to avoid setting unrealistic expectations and creating confusion about responsibility for achieving KPIs. To improve the usefulness of KPIs, Valley Water should examine KPIs in future iterations of the Program to identify whether the indicators are within Valley Water's control. KPIs that are not within Valley Water's control should ideally be revised to better reflect Valley Water's activities and abilities. When KPIs cannot be revised, Valley Water should develop strategies for communicating this with stakeholders. This could include defining Valley Water's level of responsibility for each KPI, such as whether Valley Water is the primary responsible party or a contributing responsible party. For example, the City of Salem defines its role in its strategic plan as a doer, convener, or partner to provide clarity on the City's role in achieving each of its activities and objectives. Valley Water should also develop strategies for addressing external factors that may limit the ability of the KPI to be achieved. This may involve myriad strategies depending on the project, such as increasing collaboration with external partners and stakeholders, seeking additional resources or support, or developing new approaches to achieve the KPI. Valley Water has already implemented many of these best practices, as noted in Finding 4. As a best practice, Valley Water should also ensure KPIs and related responsibilities are clearly defined in agreements with external partners where relevant.

#### **Outcomes**

While outputs are helpful to track progress and ensure work is done according to plan, outputs do not portray whether Valley Water is having its intended impact on the community. For example, the KPI for project A2 was to award up to \$1 million to test new conservation activities. This KPI does not address whether outcomes from the use of the funds have been realized, such as reduced water demand. When reviewing KPIs in future iterations of the Program, Valley Water should also consider adopting more outcome-based KPIs where possible, especially for KPIs that are within Valley Water's control. This will enable Valley Water to communicate the impact of its investment more effectively in priorities, rather than simply stating the volume of work that was accomplished.

#### **External Coordination**

	Finding	While Valley Water's practices related to external coordination are largely aligned with best practice, a high degree of interjurisdictional complexity resulted in some capital projects being delayed.
4.	Recommendation	In future iterations of the Program, implement strategies to improve project continuity for projects heavily reliant on external agency cooperation, including strategies to prioritize knowledge transfer, project documentation, and relationship building at multiple levels.

Many capital projects and associated KPIs in the Program required extensive coordination with other government agencies, including larger projects that needed additional funding or resources and projects that required easements, permissions, or coordination from other jurisdictions to achieve

KPIs. This reliance on other governmental agencies is common for agencies like Valley Water, yet it created challenges and project delays given the need to navigate different laws, regulations, partnership agreements, policies, and procedures. Some staff reported difficulty balancing their project goals with the goals and interests of other agencies.

In alignment with best practice, Valley Water staff proactively engaged in productive conversations and regular meetings with partner organizations and established formal partnership agreements. These are practices that should be continued and strengthened. Additionally, longstanding relationships between personnel at both agencies contributed to many successful partnerships. However, as external parties and project teams experienced turnover, relationships were sometimes impacted. Strategies to prioritize effective knowledge transfer, project documentation, and relationship building should be implemented to improve project continuity. Valley Water should ensure roles and responsibilities are clearly defined for projects and that all project-related information such as meeting minutes and communications are well-organized and maintained. Additionally, for projects that require a high degree of coordination with external agencies, Valley Water should ensure clear succession plans are in place to facilitate continued relationships should key staff move onto other roles within or outside of the organization. This could include ensuring multiple staff have strong relationships with key external organizations and clearly maintaining documentation.

Valley Water should also continue to build upon its existing practices to support successful collaboration, including continuing to:

- Support collaborative structures and regular communication with external organizations
- Clearly define the roles, responsibilities, and expectations of each agency involved in each project
- Provide sufficient resources at the appropriate authority level within Valley Water to support interjurisdictional project needs
- Emphasize common outcomes and goals while allowing flexible approaches to project implementation

#### **Contract Development and Management**

<b>E</b>	Finding	The effectiveness of contract development and management processes was limited by a lack of standardization, employee training, and lengthy reviews.
5.	Recommendation	Conduct robust training and establish annual refresher training for staff involved in contracting processes.

An audit of Valley Water's post-award contract process was completed in 2015 that resulted in several findings and recommendations, including findings related to needing formal policies and procedures and improved training. Management reported all the recommendations in that audit were implemented as of early 2023. However, staff reported some issues related to contract development and management processes still existed at the end of the 2012 program:

Contract development and management were the responsibility of project managers, but several
reported they did not feel adequately trained for these tasks. While there were formalized policies
and processes in place to guide staff to effectively develop and manage contracts, staff reported
limited awareness of these guidance documents. It is important for policies and procedures to be

effectively communicated to staff to avoid gaps in knowledge. Without effective training and communication to support staff in contract development and management, these processes are likely to be inefficient and take longer than needed. Additionally, contracts may be developed or managed poorly, which can increase risks that contracts are out of compliance with laws and regulations or do not achieve their intended outcomes.

- Staff reported concerns with the use of poor performing contractors. The use of poor performing
  contractors can result in inefficiencies, unnecessary costs, and increased reputational risks if
  contractor performance is visible to the public. While Valley Water established processes to
  communicate and track poor performing contractors, staff reported limited awareness of these
  processes. As noted above, it is important to promote staff awareness of processes through
  regular communication and training.
- Contract development processes reportedly took a long time, largely due to lengthy legal and risk
  management reviews and the process of getting on a Board agenda. Lengthy contracting
  processes can result in project delays and increased costs.

These issues reportedly contributed to delays in some projects and limited effective contract management overall. Given the level of contracting for services and construction at Valley Water, these issues present an ongoing risk for future iterations of the Program. To support more effective practices, Valley Water should conduct robust training and establish annual refresher training for staff involved in contracting processes to support improved efficiency and effectiveness as it relates to contract development and management. At a minimum, this should include training related to:

- Reviewing and approving contracts, monitoring contracts, renewing contracts, and terminating contracts
- Contract development and management, including best practices for drafting contract language, monitoring contract performance, and ensuring compliance with laws and regulations
- Awareness building of available templates, such as RFP templates or contract templates for common contract or agreement types
- Training on other tips and tools, such as checklists for reviewing or managing contracts or assessing risks related to contracts

Such training will promote consistency in contracting practices and better support project managers who do not have contracting experience.

# APPENDIX A – PROCESS IMPROVEMENT OPPORTUNITIES

Moss Adams identified opportunities for process improvements as a result of the audit testing. The table below summarizes these opportunities.

	CATEGORY	PROCESS IMPROVEMENT OPPORTUNITIES
1	Change Control Processes	Valley Water implemented a change control process in 2016 that detailed how adjustments and modifications could be made to project and KPI text, schedules, and funding. Based on testing a sample of 10 changes between FY 2017 and FY 2021 (three text adjustments, four schedule adjustments, and three modifications), changes were largely processed in accordance with change control processes with one minor exception.
		We were unable to verify that an email notice was sent to the Blue Ribbon Committee (BRC) for the three modifications tested, as required by the process. The change control process required Valley Water to notify all stakeholders of proposed changes and lists the BRC as a constituent. Program staff reported the BRC's main purpose was to help develop the 2012 Program and that it was disbanded once the Program was developed and implemented. The change control process should be updated to remove the email notice requirement for the BRC to represent the current operating environment and practices more accurately. Valley Water staff reported they will be bringing a change forward to the Board in Fall 2023 to remove this requirement from the change control process
2	Low Income Senior Property Tax Exemption Forms	During our testing to determine whether requestors for the low-income senior property tax exemption were eligible according to the Program, we noted that the Low-Income Senior Property Tax Exemption Form used to document the application and approval could be improved. Valley Water should consider updating the Low-Income Senior Property Tax Exemption Form to include a section specific for Valley Water notations and approvals. This section should be identified as "For Valley Water Use Only" and might include lines for account number, driver's license verification, initials of approver, and date approved.

CATEGORY		PROCESS IMPROVEMENT OPPORTUNITIES		
3	Special Tax Bill Calculations	To test that property owners were billed the appropriate special tax amount according to Program requirements, we obtained the annual tax bills for five different property owners for each fiscal year in the audit period. During our testing we found:		
		<ul> <li>One annual tax bill for a property owner was overbilled by \$1.63 based on the designated tax assessment for that land use type for that fiscal year. The property owner was billed \$32.36, but the set assessment for the land use B category was \$30.73 for the 2017–2018 tax year.</li> </ul>		
		<ul> <li>Two annual tax bills for the same property owner in land use category E were overbilled by \$2.21 and \$3.38 for the 2016–2017 and 2017–2018 tax years, respectively. This recalculation was based on acres of property owned, and we obtained the property acreage from the Santa Clara Assessor's website.</li> </ul>		
		<ul> <li>One annual tax bill for a property owner increased from the prior tax bill by more than the allowed percentage change based on the Consumer Price Index (CPI) change. The CPI change for tax year 2017–2018 was 3.44%, but this property owner's special tax assessment increased 3.50% from the prior tax year. The effect of the overbilling rounds to \$0.02.</li> </ul>		
		Although these amounts are relatively immaterial, we recommend that Program administration reviews special tax calculations for future programs at least every two years. This review might include performing spot checks on a sample of property owners across different land use categories to ensure that the proper special tax has been assessed.		
4	Document Retention	In three instances across our different testing procedures, Valley Water was unable to provide supporting documentation for our testing requests. Two of these instances pertained to a special tax correction, and the other instance pertained to the Special Tax Board Resolution being confirmed with the County Controller-Treasury Department. However, in all instances, the Valley Water Board had approved the items at the time, and Valley Water provided evidence of this Board approval. We recommend that Valley Water enact and follow document retention policies and procedures until the respective program has been fully closed and audited (if required).		

### **APPENDIX B - MANAGEMENT RESPONSE**

#### **PERFORMANCE AUDIT FINDINGS**

	RECOMMENDATION	RESPONSIBLE PARTY	MANAGEMENT'S RESPONSE / IMPLEMENTATION PLAN	
1	Finding: Valley Water does not have a conflict-of-interest policy that applies to the Independent Monitoring Committee (IMC) members. Conflicts of interest, whether real or perceived, can harm the Program's reputation and integrity.	Chief of Staff/ District Counsel	<ul><li>☑ Agree</li><li>☐ Disagree</li></ul>	
	Recommendation: Develop a conflict- of-interest policy that applies to IMC members and incorporate education on conflicts of interest into IMC orientation and training procedures.		Management agrees with the recommendation. Staff will evaluate the processes and committees to which the conflict-of-interest policy would be applicable. A plan and policy are expected to be in place by October 2024.  Implementation Date: Estimated to be fully implemented by October 2024	
2	Finding: According to a 2021 performance audit, grant management and administration during the 2012 Program experienced challenges with processes, timeliness, and reporting.  Office of Community Engagement		<ul><li>☑ Agree</li><li>☐ Disagree</li></ul>	
	Recommendation: Continue implementation of the remaining recommendations made in the 2021 grants management and administration performance audit.		Management agrees with this recommendation to continue implementing the recommendations made in the 2021 grants management and administration performance audit. Of the 11 audit recommendations, seven have been implemented and four remain in progress and on target to be implemented with the completion of the grants redesign. Staff will continue to provide bi-annual updates to the Board Audit Committee until all recommendations are achieved.	
			Implementation Date: Estimated to be fully implemented by Q2, FY25.	

	RECOMMENDATION	RESPONSIBLE PARTY	MANAGEMENT'S RESPONSE / IMPLEMENTATION PLAN
3	Finding: Some Program KPIs relied on external organizations for completion, which made them more difficult to achieve on schedule. Additionally, some KPIs were based on outputs instead of outcomes, which created limitations in the measurement of the Program's impact on the community.	Business Planning and Analysis Unit	<ul><li>☑ Agree</li><li>☐ Disagree</li></ul>
	Recommendation: Examine KPIs in future iterations of the Program and make revisions as needed to better reflect KPIs that are within Valley Water's control and focus on outcome-based KPIs. Where KPIs are not able to be fully within Valley Water's control, consider defining Valley Water's level of responsibility (e.g., primary or contributing responsibility) and develop strategies for addressing external factors		Staff acknowledges the recommendation and sees the upcoming independent audit of the renewed Safe, Clean Water and Natural Flood Protection Program (Renewed Program Audit) as the appropriate opportunity to review the KPIs. The renewed Program replaced the 2012 Program in its entirety and includes a new priority, new projects, and KPIs. The renewed Program replaced the 2012 Program in its entirety and includes a new priority, new projects, and KPIs. The renewed Program has three categories of KPIs, namely Performance-based, requiring completion of a specific activity; Fiscal-based, requiring full allocation to be expended to accomplish desired outcomes; and Schedule-based, requiring project completion according to a timeline, and these will be reviewed as part of the Renewed Program Audit.
	that limit the ability of the KPIs to be achieved.		Background: The Safe, Clean Water Program Resolution No. 20-64, Section Q states "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." Following a recommendation from the Independent Monitoring Committee in February 2023, the Board approved two separate audits: a closeout audit for the 2012 Program (the current audit) and a distinct audit for the renewed Safe, Clean Water Program. The renewed Program, which voters approved in 2020 and became effective on July 1, 2021, is now in its third year of implementation. Staff expects to engage an auditor for the renewed Program by July 2024 and will share the 2012 Program closeout audit recommendations with the new auditor.  Implementation Date: Estimated to be fully implemented by Q4, FY2025.

	RECOMMENDATION	RESPONSIBLE PARTY	MANAGEMENT'S RESPONSE / IMPLEMENTATION PLAN	
4	Finding: While Valley Water's practices related to external coordination are largely aligned with best practice, a high degree of interjurisdictional complexity resulted in some capital projects being delayed.	Business Planning and Analysis Unit	<ul><li>☑ Agree</li><li>☐ Disagree</li></ul>	
	Recommendation: In future iterations of the Program, implement strategies to improve project continuity for projects heavily reliant on external agency cooperation, including strategies to prioritize knowledge transfer, project documentation, and relationship building	Business Planning and Analysis Unit	The renewed Safe, Clean Water Program's annual report thoroughly outlines the jurisdictional complexities of Safe, Clean Water capital projects on a project-specific level. It specifies the involved jurisdictions, such as funding agencies, regulatory permitting bodies, cities, counties, and other agencies, rating their confidence levels using a five-point scale ranging from Very High to Low. The annual report includes detailed information within individual project updates, and Appendix C consolidates the confidence levels for all capital projects.	
	at multiple levels.		The implementation of the recommendation has been completed through the implementation of the following program, processes, and project-level improvements. However, we are committed to ongoing refinement of our process and continue to look for opportunities to improve.	
			Program Level: In response to the 2019 Construction Contract Change Order Management and Administration audit, which focused on change order management and administrative activities for large capital construction projects, staff has developed the Capital Project Management and Project Controls (CPMPC) Program under the Business Planning and Analysis Unit, which is responsible for the development and implementation of Projectmates, Valley Water's new capital Project Management Information System (PMIS).	
			Projectmates promotes cross-functional collaboration and knowledge transfer by acting as a system for document management across all phases of capital projects; providing contracts management and project budget tools, including invoicing, pay application processing, change orders; and supporting workflows during construction. The system engages both internal and external project staff in the areas of task management, scheduling, milestones, action lists, punch lists, and meeting minutes. Additionally, maintaining the documents in Projectmates allows for a seamless knowledge transfer between project phases or during staff transition.	

RECOMMENDATION	RESPONSIBLE PARTY	MANAGEMENT'S RESPONSE / IMPLEMENTATION PLAN
		<b>Process Level:</b> Furthermore, VW addresses outreach and engagement, including external agency coordination and engagement through the CIP, Capital QEMS processes and capital project delivery level as follows.
		<ul> <li>At the Program level engagement - As part of the annual Capital Improvement Program Five-Year Plan approval process the Draft plan is released for a 60- day public review period. This outreach is to all land use agencies having land use authority within Valley Water boundaries to ensure alignment with their General Plans. Additionally, VW staff is in the process of creating an over- arching CIP Development Manual to serve as an umbrella policy for capital QEMS procedures to document all existing CIP procedures and practices, which already include outreach and engagement requirements for VW's Capital Improvement Program.</li> </ul>
		<ul> <li>CPMPC takes the lead in coordinating with capital project teams to keep Valley Water's Capital quality management (QEMS) documents up to date and to facilitate mandatory biennial capital staff training. Each training session focuses on varying quality management aspects, highlighting updates, industry standards and best practices. CPMPC also coordinates the Technical Review Committee's annual lessons learned training as well as the Capital Improvement Program's annual CIP training.</li> </ul>
		<ul> <li>Outreach and engagement steps are referenced in VW's Capital Project Delivery Process (QEMS Form F-751-093). At several project milestones and phase transitions Capital Projects require Board engagement and action, where the public is informed and encouraged to recommend and engage in the Capital Project Delivery Process.</li> </ul>
		<b>Project Level:</b> Additionally, relationship building for projects with high jurisdictional complexities is proactively managed by the respective capital deputies and unit managers.
		Depending on the complexity and urgency of the project, Valley Water has regular meetings at multiple levels with different agencies, jurisdictions, and partners to build relationships and establish continuity. These meetings could be held at project managers, deputies, ACEO, and the CEO levels. Additionally, Valley Water may establish project task forces or fund positions at regulatory agencies to facilitate the progress of Valley Water projects
		Implementation Date: Completed Q3, FY 2023.

RECOMMENDATION		RESPONSIBLE PARTY	MANAGEMENT'S RESPONSE / IMPLEMENTATION PLAN	
deve prod stan	ding: The effectiveness of contract velopment and management cesses was limited by a lack of indardization, employee training, and gthy reviews.	Purchasing and Consultant Contracts Services Unit	☑ Agree □ Disagree	
trair trair	commendation: Conduct robust ning and establish annual refresher ning for staff involved in contracting cesses.		Valley Water began using ISO/QEMS in the early 2000s to standardize and document processes across the agency. While we may have faced challenges in the past, Valley Water did have standardized processes in place since 2010 for contract development and management processes.	
			Staff have made strides in addressing these process and training concerns through the creation of documented processes, development of manuals, and training programs that have been implemented to enhance employees' understanding of standardized procedures, ensuring that staff are well-equipped to navigate contract development and management efficiently. Moreover, streamlined review processes and the establishment of standardized protocols have contributed to a more effective and expedited workflow. The ongoing commitment to training and process optimization reflects staff's proactive approach to overcoming previous limitations, ultimately improving the overall effectiveness of contract development and management.	
			Implementation Date: Completed by Q4, FY 2010.	

#### PROCESS IMPROVEMENT OPPORTUNITIES

	CATEGORY PROCESS IMPROVEMENT OPPORTUNITIES		MANAGEMENT RESPONSE
1	Change Control Processes	Valley Water implemented a change control process in 2016 that detailed how adjustments and modifications could be made to project and KPI text, schedules, and funding. Based on testing a sample of 10 changes between FY 2017 and FY 2021 (three text adjustments, four schedule adjustments, and three modifications), changes were largely processed in accordance with change control processes with one minor exception.  We were unable to verify that an email notice was sent to the Blue Ribbon Committee (BRC) for the three modifications tested, as required by the process. The change control process required Valley Water to notify all stakeholders of proposed changes and lists the BRC as a constituent. Program staff reported the BRC's main purpose was to help develop the 2012 Program and that it was disbanded once the Program was developed and implemented. The change control process should be updated to remove the email notice requirement for the BRC to represent the current operating environment and practices more accurately. Valley Water staff reported they will be bringing a change forward to the Board in Fall 2023 to remove this requirement from the change control process	On November 14, 2023, the Board approved the updated Change Control Process for the renewed Safe, Clean Water Program. The 2016 Change Control Process was updated to align it with the renewed Safe, Clean Water Program that voters approved in November 2020 and came into effect in FY22. The updates included removing the requirement to email public hearing notices to the BRC.  Similar to the 2012 Program, during the development of the renewed Program, Valley Water hosted a Blue-Ribbon Forum solely to receive feedback while developing the renewed Program. It was part of the comprehensive and extensive public outreach effort to engage residents, community members, and stakeholders to develop the Program. The forum was discontinued once the Program was developed and put on the ballot.
2	Low Income Senior Property Tax Exemption Forms	During our testing to determine whether requestors for the low-income senior property tax exemption were eligible according to the Program, we noted that the Low-Income Senior Property Tax Exemption Form used to document the application and approval could be improved. Valley Water should consider updating the Low-Income Senior Property Tax Exemption Form to include a section specific for Valley Water notations and approvals. This section should be identified as "For Valley Water Use Only" and might include lines for account number, driver's license verification, initials of approver, and date approved.	Staff appreciates this recommendation; it will be implemented for the upcoming 2024 tax year application.

	CATEGORY	PROCESS IMPROVEMENT OPPORTUNITIES	MANAGEMENT RESPONSE
3	Special Tax Bill Calculations	To test that property owners were billed the appropriate special tax amount according to Program requirements, we obtained the annual tax bills for five different property owners for each fiscal year in the audit period. During our testing we found:  One annual tax bill for a property owner was overbilled by \$1.63 based on the designated tax assessment for that land use type for that fiscal year. The property owner was billed \$32.36, but the set assessment for the land use B category was \$30.73 for the 2017–2018 tax year.  Two annual tax bills for the same property owner in land use category E were overbilled by \$2.21 and \$3.38 for the 2016–2017 and 2017–2018 tax years, respectively. This recalculation was based on acres of property owned, and we obtained the property acreage from the Santa Clara Assessor's website.  One annual tax bill for a property owner increased from the prior tax bill by more than the allowed percentage change based on the Consumer Price Index (CPI) change. The CPI change for tax year 2017–2018 was 3.44%, but this property owner's special tax assessment increased 3.50% from the prior tax year. The effect of the overbilling rounds to \$0.02.  Although these amounts are relatively immaterial, we recommend that Program administration reviews special tax calculations for future programs at least every two years. This review might include performing spot checks on a sample of property owners across different land use categories to ensure that the proper special tax has been assessed.	Recommendation is noted and appreciated.  In response to the first bullet point, and after additional research, this property had a land use category change as provided in data from the County in 2017. Previously the parcel was open land around 4.5 acres. It was then split into nearly 60 parcels as Condo/Townhouses.
4	Document Retention	In three instances across our different testing procedures, Valley Water was unable to provide supporting documentation for our testing requests. Two of these instances pertained to a special tax correction, and the other instance pertained to the Special Tax Board Resolution being confirmed with the County Controller-Treasury Department. However, in all instances, the Valley Water Board had approved the items at the time, and Valley Water provided evidence of this Board approval. We recommend that Valley Water enact and follow document retention policies and procedures until the respective program has been fully closed and audited (if required).	Following the audit, staff was able to provide documentation for the two tax corrections. Valley Water staff continues to follow established document retention policies and procedures, as reflected in the "Santa Clara Valley Water District Records Retention Schedules" adopted by Board of Directors on 8/22/2023.

## BOARD OF DIRECTORS SANTA CLARA VALLEY WATER DISTRICT

#### **RESOLUTION NO. 2025-**

# PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT – SUPERSEDING RESOLUTION NO. 21-10

RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

#### I. GENERAL

A. Resolution 20-64, approved by the voters of Santa Clara County by the passage of the November 3, 2020, Safe, Clean Water and Natural Flood

Protection Program (Program) (ballot Measure S), requires that the Santa Clara Valley Water District (Valley Water) Board of Directors (Board) appoint an external Independent Monitoring Committee (Committee) to: (1) conduct an annual review of Valley Water's fiscal year report on the Program; (2) provide an annual report from the Committee to the Board regarding implementation of the intended results of the Program; (3) review each five-year implementation plan for the Program prior to its submittal to the Board for approval; and (4) review and recommend to the Board and Public every fifteen years 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 Program. The Committee also may, through its review of the annual reports and five-year implementation plans, make recommendations to the Board regarding reasonably necessary measures to meet the priorities of the Program.

- B. The Committee shall be comprised of 14 members who reside within Santa Clara County: two members to be nominated by each member of the Board. In nominating Committee members, Board members shall strive to ensure fair treatment and meaningful involvement of all peoples regardless of race, color, gender identity, disability status, national origin, tribe, culture, income, immigration status, English language proficiency, or religion.
- C. In order to provide continuity, each Board member shall nominate one Committee member to serve a three-year term, and one Committee member to serve a two-year term. The terms of office of Committee members shall begin on July 1 of a given year and are subject to reappointment by the full Board.
- D. Committee members shall be subject to Valley Water's Conflict of Interest Code (Code), including its filing requirements for statements of economic interest, if the Code is subsequently amended to specifically include them.

- E. Independent of section 1.D. above, all Committee members shall have an obligation to promptly disclose to the Committee Chair, the other Committee members, and Valley Water staff supporting the Committee, either in writing at any time or verbally during an open session meeting of the Committee, any actual or potential financial conflict of interest that may exist with respect to any matter involving Valley Water generally or any matter before the Committee, including:
  - a any real property interest worth \$2,000 or more of the

    Committee member or their spouse/domestic partner within

    1,000 feet of an area affected by a flood mitigation/control

    project, or proposed flood mitigation/control project, being
    reviewed by the Committee;
  - b any source of income to the Committee member or their spouse/domestic partner of \$500 or more from an entity that does business with Valley Water and/or receives funding from Valley Water;
  - c any ownership or investment interest of the Committee
    member or their spouse/domestic partner worth \$2,000 or more
    in a contractor, subcontractor, or consultant that does business
    with Valley Water or is proposing to do business with Valley
    Water;
  - any financial interest worth \$500 or more of the Committee
     member or their spouse/domestic partner relating to any
     existing or proposed litigation against Valley Water; or
  - e a membership, employment, management, or governance relationship or interest with any entity that is receiving or seeking grant funding from Valley Water or the Safe Clean Water Program, whether by the Committee member or her/his spouse/domestic partner.

If a Committee Member has a financial conflict of interest with respect to any matter being reviewed by the Committee, the member must publicly disclose this conflict of interest, including a brief description of the nature of the conflict, and recuse themselves from any vote on the matter. Failure to do so is grounds for removal from the Committee by the Board of Directors.

- E. Independent of Valley Water's Conflict of Interest Code, Committee members shall have an obligation to promptly disclose to Valley Water and the Committee Chair any existing membership, employment, management, or governance relationship with any entity actively seeking or receiving monetary grants from the Program.
- F. Meetings of the Committee shall be governed by the Ralph M. Brown Act, Government Code Sections 54950-54961.

### II. GENERAL

- A. The Committee will provide for a regular meeting to be held not less than once per year.
- B. Between December and February every year beginning in December 2022, the Committee shall conduct an annual review of the Program's prior fiscal year annual report and prepare and submit a summary of its findings to the Board, which shall be made available to Santa Clara County residents, regarding the Committee's review of the implementation of the intended results of the Program.
- C. The Committee shall review each five-year implementation plan for the Program prior to its submittal to the Board for approval. In this review, the Committee will reasonably inform itself to the extent necessary to determine the degree to which Valley Water's five-year implementation plans for the Program are being accomplished.
- D. Through its review of the annual reports and five-year implementation plans, the Committee may make recommendations to the Board regarding reasonably necessary measures to meet the priorities of the Program.
- E. Every fifteen years, starting in 2035, the Committee shall review and recommend to the Board and 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 Program.
- F. Valley Water shall fund clerical support.

### III. CONDUCT OF MEETINGS

- A. A majority of the Committee will be determined based upon the simple majority of the number of Committee members holding office.
- B. The Chairperson or a majority of the Committee membership may call for a special meeting of the Committee from time to time in accordance with Section 54956 of the Government Code. Such meetings shall be held at the Valley Water Headquarters or such other place and time as the Chairperson may designate. Valley Water may request the Chairperson or Committee to convene a special meeting.
- C. Notices of each Committee meeting, together with an agenda thereof and the draft minutes of the preceding meeting, shall be electronically

- mailed or sent by first class mail, postage prepaid, to each Committee member, and made available to the public in accordance with the Ralph M. Brown Act.
- D. The Committee may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time.
- E. The powers of the Committee shall be vested in the members thereof in office from time to time. A majority of the full membership of the Committee shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. With the exception above specified, actions of the Committee may be taken upon the affirmative vote of not less than a majority of a quorum present and voting.
- F. The voting on all matters shall be by voice vote unless a roll call vote is called for by any member of the Committee.
- G. Discussion on any particular matter by either Committee members or by any member of the general public may be limited, in the discretion of the Chairperson, to such length of time as the Chairperson may deem reasonable under the circumstances.
- H. Whenever the Committee authorizes and instructs the Chairperson to appoint a subcommittee of the Committee or a committee composed of persons who are not members of the Committee, the members of such subcommittee or committee shall serve at the pleasure of the Chairperson. The Chairperson of such subcommittees and committees shall be appointed by the Chairperson of the Committee. All subcommittee meetings shalt be conducted in accordance with the Ralph M. Brown Act.
- I. All meetings of the Committee shall be open and public.
- J. The Committee may be adjourned sine die by the Chairperson at the close of consideration of the business before it and may thereafter be returned to a course of regular meetings upon the call of the Chairperson or of a majority of the Committee membership in the manner prescribed for a call a special meeting.

### IV. OFFICERS

A. The officers of the Committee shall be a Chairperson and Vice Chairperson, both of whom shall be members of the Committee. The Committee shall elect its officers at the first meeting of the Committee's annual review cycle. The Chairperson and Vice Chairperson shall serve a term of one year. All officers shall hold over in their respective offices

- after their term of office has expired until their successors have been elected and have assumed office.
- B. The Chairperson shall preside at all meetings of the Committee. The Chairperson shall sign all resolutions and all other instruments made or promulgated by the Committee and he or she shall perform such other duties as the Committee may prescribe consistent with the purpose of the Committee.
- C. The Vice Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson; and in case of the resignation of or death of the Chairperson, the Vice Chairperson shall perform such duties as are imposed upon the Chairperson until such time as a new Chairperson is elected by the Committee.
- D. Should the office of Chairperson or Vice Chairperson become vacant during the term of such office, the Committee shall elect a successor from its membership at the earliest meeting at which such election would be practicable, and such election shall be for the unexpired term of such office.
- E. In the event the Chairperson and Vice Chairperson are both absent from a meeting, the Committee may elect a Chairperson Pro-tempore to preside over the meeting during the absence of the Chairperson and Vice Chairperson.
- F. Additional bylaws may be adopted for the purpose of conducting the business of the Committee.

#### V. **FUTURE REVISIONSAMENDMENT**

Amendment of Revisions to this resolution consistent with or necessary Α. to carry out or support the purpose of the Committee may be proposed by vote of the Committee or by Valley Water's Board of Directors. The Board will consider and act upon the proposed revisionsamendment without delay but following not less than three calendar days (72 hours) written notice to each Committee member of the time and place when and where the proposed revisionsamendment areis to be acted upon.

PASSED AND ADOPTED by the Santa Clara Valley Water District Board of Directors by the following vote on September 23, 2025:

AYES: Directors

NOES: **Directors** 

Resolution No. 25-

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

TONY ESTREMERA
Chair, Board of Directors

Clerk, Board of Directors

### BOARD OF DIRECTORS SANTA CLARA VALLEY WATER DISTRICT

### **RESOLUTION NO. 2025-**

## PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT – SUPERSEDING RESOLUTION NO. 21-10

RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

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- E. Independent of section 1.D. above, all Committee members shall have an obligation to promptly disclose to the Committee Chair, the other Committee members, and Valley Water staff supporting the Committee, either in writing at any time or verbally during an open session meeting of the Committee, any actual or potential financial conflict of interest that may exist with respect to any matter

involving Valley Water generally or any matter before the Committee, including:

- a any real property interest worth \$2,000 or more of the Committee member or their spouse/domestic partner within 1,000 feet of an area affected by a flood mitigation/control project, or proposed flood mitigation/control project, being reviewed by the Committee;
- b any source of income to the Committee member or their spouse/domestic partner of \$500 or more from an entity that does business with Valley Water and/or receives funding from Valley Water;
- c any ownership or investment interest of the Committee member or their spouse/domestic partner worth \$2,000 or more in a contractor, subcontractor, or consultant that does business with Valley Water or is proposing to do business with Valley Water;
- d any financial interest worth \$500 or more of the Committee member or their spouse/domestic partner relating to any existing or proposed litigation against Valley Water; or
- e a membership, employment, management, or governance relationship or interest with any entity that is receiving or seeking grant funding from Valley Water or the Safe Clean Water Program, whether by the Committee member or her/his spouse/domestic partner.

If a Committee Member has a financial conflict of interest with respect to any matter being reviewed by the Committee, the member must publicly disclose this conflict of interest, including a brief description of the nature of the conflict, and recuse themselves from any vote on the matter. Failure to do so is grounds for removal from the Committee by the Board of Directors.

F. Meetings of the Committee shall be governed by the Ralph M. Brown Act, Government Code Sections 54950-54961.

### II. GENERAL

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### IV. OFFICERS

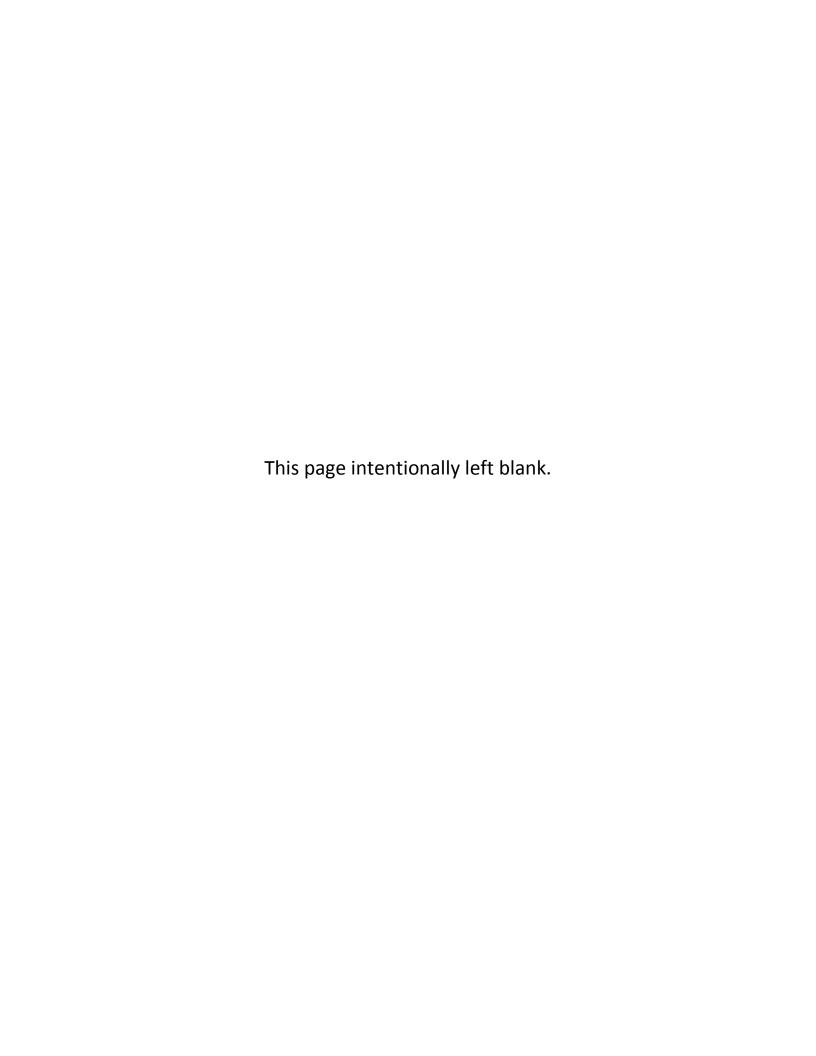
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### V. **FUTURE REVISIONS**

A. Revisions to this resolution consistent with or necessary to carry out or support the purpose of the Committee may be proposed by vote of the Committee or by Valley Water's Board of Directors. The Board will consider and act upon the proposed revisions without delay but following not less than three calendar days (72 hours) written notice to each Committee member of the time and place when and where the proposed revisions are to be acted upon.

PASSED AND ADOPTED by the Santa Clara Valley Water District Board of Directors by the following vote on September 23, 2025:

AYES:	Directors	
NOES:	Directors	
ABSENT:	Directors	
ABSTAIN:	Directors	
		SANTA CLARA VALLEY WATER DISTRICT
		TONY ESTREMERA
		Chair, Board of Directors
ATTEST: CANDICE KWOK-SMITH		
		<u></u>
Clerk, Board of Directors		



### Santa Clara Valley Water District



File No.: 25-0829 Agenda Date: 9/23/2025

Item No.: 8.1.

### SUPPLEMENTAL BOARD AGENDA MEMORANDUM

Government Code § 84308 Applies: Yes  $\square$  No  $\square$  (If "YES" Complete Attachment A - Gov. Code § 84308)

### SUBJECT:

Adopt a Resolution Providing for a Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee of the Santa Clara Valley Water District - Superseding Resolution No. 21-10 Establishing New Conflict of Interest Disclosure Requirements for Members of the Safe, Clean Water and Natural Flood Protection Program's Independent Monitoring Committee.

### REASON FOR SUPPLEMENTAL MEMORANDUM:

This report conveys additional information received after the initial report was released, consistent with Executive Limitations Policy EL-7-10-5.

### RECOMMENDATION:

Adopt the Resolution PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT - SUPERSEDING RESOLUTION NO. 21-10 Establishing New Conflict of Interest Disclosure Requirements for Members of the Safe, Clean Water and Natural Flood Protection Program's Independent Monitoring Committee.

### SUMMARY:

\* Following questions and further analysis after the posting of the initial agenda item, staff has refined the proposed conflict of interest language to more clearly limit the IMC's disclosure requirements to conflicts arising from projects or matters directly before the Committee.

For ease of reference, the new proposed conflict of interest language is set forth below:

"[revised section I.E.] .... Independent of section 1.D. above, all Committee members shall have an obligation to promptly disclose to the Committee Chair, other Committee members, and Santa Clara Valley Water District (Valley Water) staff supporting the Committee, a potential financial conflict of interest involving a matter that is before the Committee, namely:

File No.: 25-0829 **Agenda Date:** 9/23/2025

Item No.: 8.1.

any real property interest worth \$2,000 or more of the Committee member or their spouse/domestic partner within 1,000 feet of an area affected by a flood mitigation/protection project, or proposed flood mitigation/protection project, being reviewed by the Committee;

- any source of income to the Committee member or their spouse/domestic partner of \$500 or more from an entity doing work on a Valley Water matter before the Committee and/or concerning an entity which receives grant funding from Valley Water on a matter before the Committee:
- any ownership or investment interest of the Committee member or their spouse/domestic partner worth \$2,000 or more in a contractor, subcontractor, or consultant that does business with Valley Water or is proposing to do business with Valley Water on a matter being considered by the Committee:
- any financial interest worth \$500 or more of the Committee member or their spouse/domestic partner relating to any existing or proposed litigation against Valley Water; or
- a membership, employment, management, or governance position in any entity that is receiving or seeking grant funding from Valley Water or the Safe Clean Water Program involving a matter before the Committee, whether held by the Committee member or her/his spouse/domestic partner.

If a Committee Member has a potential financial conflict of interest with respect to any matter before the Committee, the member must publicly disclose this conflict of interest at a public meeting discussing the matter, including a brief description of the nature of the conflict, but may participate in discussion or debate concerning the matter. The Committee Member must, however, recuse themselves from any Committee vote on the matter. Failure to do so may be grounds for removal from the Committee by the Board of Directors."

In addition to updating the conflict of interest requirements, the new resolution also contains minor, non-substantive revisions to Section II (Section Title correction to align with Resolution 21-10) and Section V of Resolution 21-10.

The proposed changes to Resolution 21-10 are shown in redline in Supplemental Attachment 1, and proposed Resolution 25-XX is Supplemental Attachment 2.

In compliance with Section 5 of Resolution 21-10, all IMC members received 72-hour written notice regarding these proposed changes.

### **ENVIRONMENTAL JUSTICE IMPACT:**

No Change from original memo.

### FINANCIAL IMPACT:

File No.: 25-0829 **Agenda Date: 9/23/2025** 

Item No.: 8.1.

No Change from original memo.

### CEQA:

No Change from original memo.

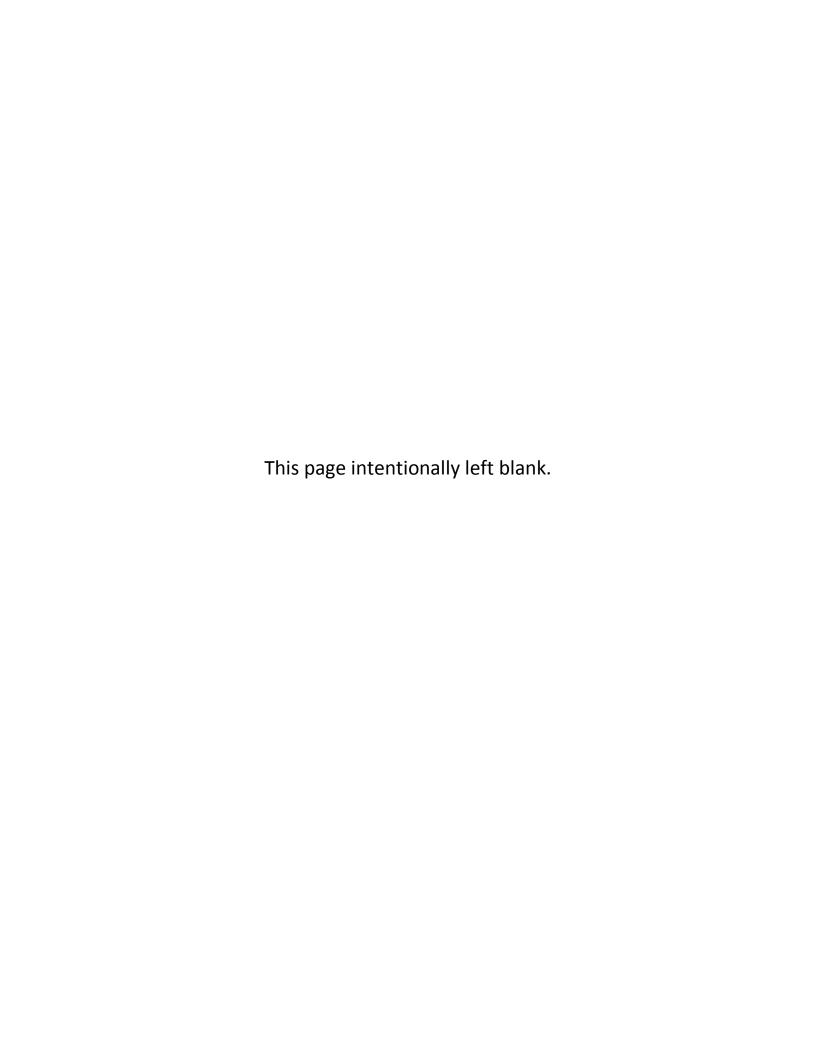
### **ATTACHMENTS**:

Supplemental Attachment 1: Redlined Resolution 21-10, Proposed Revisions

Supplemental Attachment 2: Resolution 25-XX

### **UNCLASSIFIED MANAGER:**

Luz Penilla, 408-630-2228



## BOARD OF DIRECTORS SANTA CLARA VALLEY WATER DISTRICT

### **RESOLUTION NO. 2025-**

# PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT – SUPERSEDING RESOLUTION NO. 21-10

RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

### I. GENERAL

A. Resolution 20-64, approved by the voters of Santa Clara County by the passage of the November 3, 2020, Safe, Clean Water and Natural Flood

Protection Program (Program) (ballot Measure S), requires that the Santa Clara Valley Water District (Valley Water) Board of Directors (Board) appoint an external Independent Monitoring Committee (Committee) to: (1) conduct an annual review of Valley Water's fiscal year report on the Program; (2) provide an annual report from the Committee to the Board regarding implementation of the intended results of the Program; (3) review each five-year implementation plan for the Program prior to its submittal to the Board for approval; and (4) review and recommend to the Board and Public every fifteen years 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 Program. The Committee also may, through its review of the annual reports and five-year implementation plans, make recommendations to the Board regarding reasonably necessary measures to meet the priorities of the Program.

- B. The Committee shall be comprised of 14 members who reside within Santa Clara County: two members to be nominated by each member of the Board. In nominating Committee members, Board members shall strive to ensure fair treatment and meaningful involvement of all peoples regardless of race, color, gender identity, disability status, national origin, tribe, culture, income, immigration status, English language proficiency, or religion.
- C. In order to provide continuity, each Board member shall nominate one Committee member to serve a three-year term, and one Committee member to serve a two-year term. The terms of office of Committee members shall begin on July 1 of a given year and are subject to reappointment by the full Board.
- D. Committee members shall be subject to Valley Water's Conflict of Interest Code (Code), including its filing requirements for statements of economic interest, if the Code is subsequently amended to specifically include them.

- E. Independent of section 1.D. above, all Committee members shall have an obligation to promptly disclose to the Committee Chair, other

  Committee members, and Valley Water staff supporting the Committee, a potential financial conflict of interest involving a matter that is before the Committee, namely:
  - a any real property interest worth \$2,000 or more of the

    Committee member or their spouse/domestic partner within

    1,000 feet of an area affected by a flood mitigation/protection

    project, or proposed flood mitigation/protection project, being reviewed by the Committee;
  - b any source of income to the Committee member or their spouse/domestic partner of \$500 or more from an entity doing work on a Valley Water matter before the Committee and/or concerning an entity which receives grant funding from Valley Water on a matter before the Committee;
  - c any ownership or investment interest of the Committee
    member or their spouse/domestic partner worth \$2,000 or more
    in a contractor, subcontractor, or consultant that does business
    with Valley Water or is proposing to do business with Valley
    Water on a matter being considered by the Committee;
  - any financial interest worth \$500 or more of the Committee
     member or their spouse/domestic partner relating to any
     existing or proposed litigation against Valley Water; or
  - e a membership, employment, management, or governance position in any entity that is receiving or seeking grant funding from Valley Water or the Safe Clean Water Program involving a matter before the Committee, whether held by the Committee member or her/his spouse/domestic partner.

If a Committee Member has a potential financial conflict of interest with respect to any matter before the Committee, the member must publicly disclose this conflict of interest at a public meeting discussing the matter, including a brief description of the nature of the conflict, but may participate in discussion or debate concerning the matter. The Committee Member must, however, recuse themselves from any Committee vote on the matter. Failure to do so may be grounds for removal from the Committee by the Board of Directors.

- E. Independent of Valley Water's Conflict of Interest Code, Committee members shall have an obligation to promptly disclose to Valley Water and the Committee Chair any existing membership, employment, management, or governance relationship with any entity actively seeking or receiving monetary grants from the Program.
- F. Meetings of the Committee shall be governed by the Ralph M. Brown Act, Government Code Sections 54950-54961.

### II. PURPOSE

- A. The Committee will provide for a regular meeting to be held not less than once per year.
- B. Between December and February every year beginning in December 2022, the Committee shall conduct an annual review of the Program's prior fiscal year annual report and prepare and submit a summary of its findings to the Board, which shall be made available to Santa Clara County residents, regarding the Committee's review of the implementation of the intended results of the Program.
- C. The Committee shall review each five-year implementation plan for the Program prior to its submittal to the Board for approval. In this review, the Committee will reasonably inform itself to the extent necessary to determine the degree to which Valley Water's five-year implementation plans for the Program are being accomplished.
- D. Through its review of the annual reports and five-year implementation plans, the Committee may make recommendations to the Board regarding reasonably necessary measures to meet the priorities of the Program.
- E. Every fifteen years, starting in 2035, the Committee shall review and recommend to the Board and 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 Program.
- F. Valley Water shall fund clerical support.

### III. CONDUCT OF MEETINGS

- A. A majority of the Committee will be determined based upon the simple majority of the number of Committee members holding office.
- B. The Chairperson or a majority of the Committee membership may call for a special meeting of the Committee from time to time in accordance with Section 54956 of the Government Code. Such meetings shall be held at the Valley Water Headquarters or such other place and time as the Chairperson may designate. Valley Water may request the Chairperson or Committee to convene a special meeting.
- C. Notices of each Committee meeting, together with an agenda thereof and the draft minutes of the preceding meeting, shall be electronically

- mailed or sent by first class mail, postage prepaid, to each Committee member, and made available to the public in accordance with the Ralph M. Brown Act.
- D. The Committee may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time.
- E. The powers of the Committee shall be vested in the members thereof in office from time to time. A majority of the full membership of the Committee shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. With the exception above specified, actions of the Committee may be taken upon the affirmative vote of not less than a majority of a quorum present and voting.
- F. The voting on all matters shall be by voice vote unless a roll call vote is called for by any member of the Committee.
- G. Discussion on any particular matter by either Committee members or by any member of the general public may be limited, in the discretion of the Chairperson, to such length of time as the Chairperson may deem reasonable under the circumstances.
- H. Whenever the Committee authorizes and instructs the Chairperson to appoint a subcommittee of the Committee or a committee composed of persons who are not members of the Committee, the members of such subcommittee or committee shall serve at the pleasure of the Chairperson. The Chairperson of such subcommittees and committees shall be appointed by the Chairperson of the Committee. All subcommittee meetings shalt be conducted in accordance with the Ralph M. Brown Act.
- I. All meetings of the Committee shall be open and public.
- J. The Committee may be adjourned sine die by the Chairperson at the close of consideration of the business before it and may thereafter be returned to a course of regular meetings upon the call of the Chairperson or of a majority of the Committee membership in the manner prescribed for a call a special meeting.

### IV. OFFICERS

A. The officers of the Committee shall be a Chairperson and Vice Chairperson, both of whom shall be members of the Committee. The Committee shall elect its officers at the first meeting of the Committee's annual review cycle. The Chairperson and Vice Chairperson shall serve a term of one year. All officers shall hold over in their respective offices

- after their term of office has expired until their successors have been elected and have assumed office.
- B. The Chairperson shall preside at all meetings of the Committee. The Chairperson shall sign all resolutions and all other instruments made or promulgated by the Committee and he or she shall perform such other duties as the Committee may prescribe consistent with the purpose of the Committee.
- C. The Vice Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson; and in case of the resignation of or death of the Chairperson, the Vice Chairperson shall perform such duties as are imposed upon the Chairperson until such time as a new Chairperson is elected by the Committee.
- D. Should the office of Chairperson or Vice Chairperson become vacant during the term of such office, the Committee shall elect a successor from its membership at the earliest meeting at which such election would be practicable, and such election shall be for the unexpired term of such office.
- E. In the event the Chairperson and Vice Chairperson are both absent from a meeting, the Committee may elect a Chairperson Pro-tempore to preside over the meeting during the absence of the Chairperson and Vice Chairperson.
- F. Additional bylaws may be adopted for the purpose of conducting the business of the Committee.

### V. FUTURE REVISIONSAMENDMENT

A. Amendment of Revisions to this resolution consistent with or necessary to carry out or support the purpose of the Committee may be proposed by vote of the Committee or by Valley Water's Board of Directors. The Board will consider and act upon the proposed revisions amendment without delay but following not less than three calendar days (72 hours) written notice to each Committee member of the time and place when and where the proposed revisions amendment are is to be acted upon.

PASSED AND ADOPTED by the Santa Clara Valley Water District Board of Directors by the following vote on September 23, 2025:

AYES: Directors

NOES: Directors

Resolution No. 25-

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

TONY ESTREMERA Chair, Board of Directors

ATTEST: CANDICE KWOK-SMITH

Clerk, Board of Directors

### BOARD OF DIRECTORS SANTA CLARA VALLEY WATER DISTRICT

#### **RESOLUTION NO. 2025-59**

## PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT – SUPERSEDING RESOLUTION NO. 21-10

RESOLVED by the Board of Directors of the Santa Clara Valley Water District as follows:

### I. GENERAL

- Α. Resolution 20-64, approved by the voters of Santa Clara County by the passage of the November 3, 2020, Safe, Clean Water and Natural Flood Protection Program (Program) (ballot Measure S), requires that the Santa Clara Valley Water District (Valley Water) Board of Directors (Board) appoint an external Independent Monitoring Committee (Committee) to: (1) conduct an annual review of Valley Water's fiscal year report on the Program; (2) provide an annual report from the Committee to the Board regarding implementation of the intended results of the Program; (3) review each five-year implementation plan for the Program prior to its submittal to the Board for approval; and (4) review and recommend to the Board and Public every fifteen years 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 Program. The Committee also may, through its review of the annual reports and five-year implementation plans, make recommendations to the Board regarding reasonably necessary measures to meet the priorities of the Program.
- B. The Committee shall be comprised of 14 members who reside within Santa Clara County: two members to be nominated by each member of the Board. In nominating Committee members, Board members shall strive to ensure fair treatment and meaningful involvement of all peoples regardless of race, color, gender identity, disability status, national origin, tribe, culture, income, immigration status, English language proficiency, or religion.
- C. In order to provide continuity, each Board member shall nominate one Committee member to serve a three-year term, and one Committee member to serve a two-year term. The terms of office of Committee members shall begin on July 1 of a given year and are subject to reappointment by the full Board.
- D. Committee members shall be subject to Valley Water's Conflict of Interest Code (Code), including its filing requirements for statements of economic interest, if the Code is subsequently amended to specifically include them.
- E. Independent of section 1.D. above, all Committee members shall have an obligation to promptly disclose to the Committee Chair, other Committee members, and Valley Water staff supporting the Committee, a potential financial conflict of interest involving a matter that is before the Committee, namely:

- a any real property interest worth \$2,000 or more of the Committee member or their spouse/domestic partner within 1,000 feet of an area affected by a flood mitigation/protection project, or proposed flood mitigation/protection project, being reviewed by the Committee;
- b any source of income to the Committee member or their spouse/domestic partner of \$500 or more from an entity doing work on a Valley Water matter before the Committee and/or concerning an entity which receives grant funding from Valley Water on a matter before the Committee;
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- d any financial interest worth \$500 or more of the Committee member or their spouse/domestic partner relating to any existing or proposed litigation against Valley Water; or
- e a membership, employment, management, or governance position in any entity that is receiving or seeking grant funding from Valley Water or the Safe Clean Water Program involving a matter before the Committee, whether held by the Committee member or her/his spouse/domestic partner.

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F. Meetings of the Committee shall be governed by the Ralph M. Brown Act, Government Code Sections 54950-54961.

### II. PURPOSE

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- D. The Committee may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time.
- E. The powers of the Committee shall be vested in the members thereof in office from time to time. A majority of the full membership of the Committee shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. With the exception above specified, actions of the Committee may be taken upon the affirmative vote of not less than a majority of a quorum present and voting.
- F. The voting on all matters shall be by voice vote unless a roll call vote is called for by any member of the Committee.
- G. Discussion on any particular matter by either Committee members or by any member of the general public may be limited, in the discretion of the Chairperson, to such length of time as the Chairperson may deem reasonable under the circumstances.

- H. Whenever the Committee authorizes and instructs the Chairperson to appoint a subcommittee of the Committee or a committee composed of persons who are not members of the Committee, the members of such subcommittee or committee shall serve at the pleasure of the Chairperson. The Chairperson of such subcommittees and committees shall be appointed by the Chairperson of the Committee. All subcommittee meetings shalt be conducted in accordance with the Ralph M. Brown Act.
- I. All meetings of the Committee shall be open and public.
- J. The Committee may be adjourned sine die by the Chairperson at the close of consideration of the business before it and may thereafter be returned to a course of regular meetings upon the call of the Chairperson or of a majority of the Committee membership in the manner prescribed for a call a special meeting.

### IV. OFFICERS

- A. The officers of the Committee shall be a Chairperson and Vice Chairperson, both of whom shall be members of the Committee. The Committee shall elect its officers at the first meeting of the Committee's annual review cycle. The Chairperson and Vice Chairperson shall serve a term of one year. All officers shall hold over in their respective offices after their term of office has expired until their successors have been elected and have assumed office.
- B. The Chairperson shall preside at all meetings of the Committee. The Chairperson shall sign all resolutions and all other instruments made or promulgated by the Committee and he or she shall perform such other duties as the Committee may prescribe consistent with the purpose of the Committee.
- C. The Vice Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson; and in case of the resignation of or death of the Chairperson, the Vice Chairperson shall perform such duties as are imposed upon the Chairperson until such time as a new Chairperson is elected by the Committee.
- D. Should the office of Chairperson or Vice Chairperson become vacant during the term of such office, the Committee shall elect a successor from its membership at the earliest meeting at which such election would be practicable, and such election shall be for the unexpired term of such office.
- E. In the event the Chairperson and Vice Chairperson are both absent from a meeting, the Committee may elect a Chairperson Pro-tempore to preside over the meeting during the absence of the Chairperson and Vice Chairperson.
- F. Additional bylaws may be adopted for the purpose of conducting the business of the Committee.

### **∨. FUTURE REVISIONS**

A. Revisions to this resolution consistent with or necessary to carry out or support the purpose of the Committee may be proposed by vote of the Committee or by Valley Water's Board of Directors. The Board will consider and act upon the proposed revisions without delay but following not less than three calendar days (72 hours) written notice to each Committee member of the time and place when and where the proposed revisions are to be acted upon.

PASSED AND ADOPTED by the Santa Clara Valley Water District Board of Directors by the following vote on September 23, 2025:

AYES: Directors Santos, Varela, Beall, Eisenberg, Estremera

NOES: None

ABSENT: Directors Ballard, Hsueh

ABSTAIN: None

SANTA CLARA VALLEY WATER DISTRICT

Estremera

DocuSigned by:

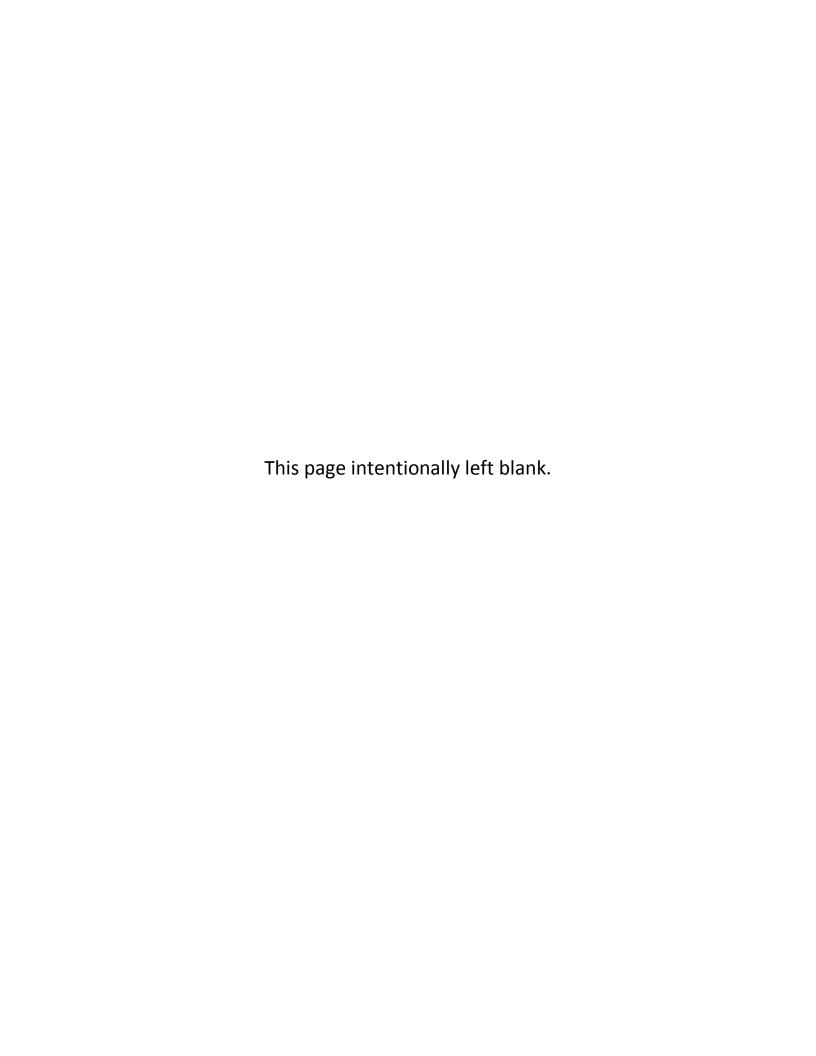
TONY ESTREMERA Chair, Board of Directors

ATTEST:

-Docusigned by: Candiu kwok-Smith

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CANDICE KWOK-SMITH Clerk, Board of Directors



Starting this Saturday, I'll be traveling as a part of a delegation sponsored by the Community Foundation to take part in the Global Policy Leadership Academy's (GPLA) Social Housing Field Study program. The time in-country is paid for by the Silicon Valley Community Foundation and I am paying my own airfare. The study trip is part of a desire by the Community Foundation and GPLA to bring leaders together across jurisdictions, industries, and agencies to coordinate on housing challenges, Valley Water's slice being encampments in waterways. I look forward to sharing what I learn when I return.

In the meantime and since I'm missing the Board meeting next week, I wanted to convey some of thoughts on a few of the agenda items.

### Agenda Item 3.4

**Measure A:** I'm glad to see this on the agenda as the County's ability to continue to operate as they have in the past will be significantly impaired by cuts at the federal level. This impacts our work in areas of overlap including the Parks Dept as well as services for those who live outside, and homelessness prevention programs. I strongly support Measure A and believe it is important for Valley Water as an Agency to do the same.

### Agenda Item 8.1

**Conflict of Interest:** Thank you to staff for incorporating feedback regarding the onerousness of reporting requirements for average citizens who serve on our committees. I agree with the revised process and have two thoughts on the proposal:

- 1. Let's revisit this new policy in a year to see how it is working out.
- 2. I would recommend softening the language from "is grounds for removal" to "could be grounds for removal."

I agree with the notion that transparency and disclosure are important. I also am sensitive to community members who might not always be on top of all the rules and requirements. I advocate leniency and a compassionate approach if/when mistakes are made.

### Agenda Item 5.2

**Audit Committee Recommendation on JPAs:** On Committee reports, I wanted to highlight a good conversation we had at the Audit Committee last month around the need for additional guidance to those of us who represent the Agency on JPAs regarding the ability to assess JPA health through a desired set of adopted policies.

Handout 3.4-A Handout 5.2-A.1 Handout 8.1-A 09/23/2025

For me, I am interested in a template of policies and practices that JPA representatives can use to guide our representation on JPAs in order to make sure they are structurally sound, have good financial practices, and we can trust that our money is being spent well. For example, does a JPA have a sound practice/policy in place for evaluating the CEO? What other policies, outside of a standard financial audit, do we want to make sure JPAs have in place?

It is my understanding that the BPMC will address this topic as a part of their workplan. I look forward to a future recommendation to the Board.

Shiloh