



Santa Clara Valley Water District

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

File No.: 23-0128

Agenda Date: 1/24/2023

Item No.: *2.8.

BOARD AGENDA MEMORANDUM

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

SUBJECT:

Conduct a Public Hearing on Proposed Modifications to Projects under Priorities D and E of the Renewed Safe, Clean Water and Natural Flood Protection Program.

RECOMMENDATION:

- A. Open and conduct the public hearing to receive comments on the renewed Safe, Clean Water and Natural Flood Protection Program's following projects:
 - i. D3: Sediment Reuse to Support Shoreline Restoration;
 - ii. D4: Fish Habitat and Passage Improvement;
 - iii. D6: Restoration of Natural Creek Functions;
 - iv. E2: Sunnyvale East and Sunnyvale West Channels Flood Protection; and
 - v. E4: Upper Penitencia Creek Flood Protection Project;
- B. Close the public hearing;
- C. Review and Approve the Proposed Text Adjustments to D3: Sediment Reuse to Support Shoreline Restoration;
- D. Adopt the resolution APPROVING THE MODIFICATION TO D3: SEDIMENT REUSE TO SUPPORT SHORELINE RESTORATION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
- E. Adopt the resolution APPROVING THE MODIFICATION TO PROJECT D4: FISH HABITAT AND PASSAGE IMPROVEMENT PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
- F. Adopt the resolution APPROVING THE MODIFICATION TO D6: RESTORATION OF NATURAL CREEK FUNCTIONS PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
- G. Adopt the resolution APPROVING THE MODIFICATION TO E2: SUNNYVALE EAST AND SUNNYVALE WEST CHANNELS FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM; and
- H. Adopt the resolution APPROVING THE MODIFICATION TO E4: UPPER PENITENCIA CREEK FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM.

SUMMARY:

Background

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

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

Priority A: Ensure a Safe, Reliable Water Supply

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

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

Priority D: Restore Wildlife Habitat and Provide Open Space

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

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

Each of these priorities has specific operational and capital projects, with key performance indicators (KPIs) to keep them on track in meeting the overall Safe, Clean Water Program priorities. KPIs are considered the measurement for the delivery of each project and represent Valley Water's commitment to the voters.

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

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

Infrastructure Project Cost Escalations Impact the Financial Health of Safe, Clean Water Fund (Fund 26)

Infrastructure construction projects in the Safe, Clean Water Program are experiencing significant cost increases. Among the projects with a major cost escalation is Project E1: Coyote Creek Flood Protection (Coyote Creek Project), with an approximately \$162 million increase.

The Coyote Creek Project, extending from Montague Expressway and Tully Road, is designed to provide protection from floods up to the level that occurred on February 21, 2017. Upstream of the

Coyote Creek Project, Valley Water is implementing another major project, the Anderson Dam Seismic Retrofit Project (ADSRP). To minimize risk to the communities along Coyote Creek, Valley Water must move forward with the planned construction schedule for the Coyote Creek Project to align with the completion of the high-level outlet for the Anderson Dam Seismic Retrofit Project.

These increased costs are impacting the Safe, Clean Water fund's financial health, resulting in staff's recommendation that the Valley Water Board of Directors provides direction on balancing the overall fund and delivering the voter-approved Safe, Clean Water Program.

Furthermore, Valley Water staff has identified the need to modify Project D3: Sediment Reuse to Support Shoreline Restoration due to changed circumstances.

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

Proposed Adjustments and Modifications

Project D3: Sediment Reuse to Support Shoreline Restoration (Project D3)

This project is countywide and provides for the reuse of local sediment for environmental enhancement and restoration projects. Project D3 has the following two KPIs, including KPI #1 "Maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities."

Staff recommends (Recommendation C.) approval of text adjustments to Project D3 to align with the proposed KPI modifications. Text adjustments are subject to Board approval, but without requiring a public hearing and adoption of a resolution.

Project D3 has continued from the 2012 Safe, Clean Water and Natural Program (2012 Program) but with an expanded scope.

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

Under the renewed Safe, Clean Water Program that voters approved in 2020, the project's purpose and scope are expanded in terms of sediment source and its use. Regarding the sediment source, the current Project D3 description states, "reuse local sediment through Valley Water's Stream Maintenance Program, capital projects and other local sources to create and restore tidal marsh habitat." Regarding usage, the project description states that "Sediment may be reused to support

the South Bay Salt Pond Restoration project or other environmental enhancement and restoration projects."

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

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

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

Therefore, to better align the renewed Safe, Clean Water Program with these changing conditions, staff is recommending a modification to KPI #1.

Staff is also recommending text adjustments to the project name and benefits to accurately capture the current project purpose of supporting restoration projects beyond Shoreline Restoration efforts.

Attachment 1 shows the proposed adjustments to Project D3's name, description and benefits and the proposed modification to KPI #1, with all proposed changes shown with strike-through for removed text and red font for new text. The attachment also shows a clean copy of the project name, descriptions, benefits and KPI #1 with the proposed changes incorporated.

Project D4: Fish Habitat and Passage Improvement (Project D4)

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

Project D4 has five (KPIs) including KPI #1 to "Complete planning and design for one (1) creek/lake separation" and KPI #2 to "Construct one (1) creek/lake separation project in partnership with local agencies."

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

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

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

Attachment 2 shows Project D4 with the proposed modification to KPI #2, with all proposed changes shown with strike-through for removed text and red font for new text. The attachment also contains a clean copy showing the proposed KPI #2 changes incorporated.

Project D6: Restoration of Natural Creek Functions (Project D6)

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

Project D6 has three KPIs, requiring Valley Water to construct three geomorphic-designed projects. Valley Water is on track to complete the construction of two projects, the Hale Creek Enhancement Pilot Project (KPI #1) and the Bolsa Road Fish Passage Project (KPI #2), in Fiscal Year 2024. However, Valley Water is yet to identify the third project required under KPI #3.

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

Attachment 3 shows Project D6 proposed modification to Not Implement KPI #3, with the proposed change shown with a strike-through for removed text. The attachment also contains a clean copy with the proposed change incorporated.

Project E2: Sunnyvale East and Sunnyvale West Channels Flood Protection (E2)

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

1. Provide 1% (100-year) flood protection for 1,618 properties and 47 acres (11 parcels) of

industrial land, while improving stream water quality and working with other agencies to incorporate recreational opportunities.

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

As a result of construction cost escalations, staff is recommending modifying Project E2 funding allocation to construct Sunnyvale West Channel, putting Sunnyvale East Channel construction on hold, and reallocating Sunnyvale East Channel construction-related planned expenditures to the Fund 26 Reserves. This modification will support the fund's financial health. However, it will impact Valley Water's ability to construct the project and deliver the KPI, thus triggering the requirement for a public hearing per the Program's Change Control Process.

Should additional funding become available within the Fund 26 Reserves or through partnership and/or grant funding, the Board may reallocate the construction funding to the project through a direction provided during a regular board meeting. Staff will reassess the availability of funding on an annual basis as part of the Capital Improvement Program's financial planning process.

Attachment 4 shows the proposed modification to Project E2's 15-year (FY2022-2036) funding allocation, with the table providing the current and the final modified 15-proposed funding allocation.

Project E4: Upper Penitencia Creek Flood Protection (Project E4)

This project continues a partnership with the U.S. Army Corps of Engineers (USACE) to plan, design and construct improvements along 4.2 miles of Upper Penitencia Creek from the confluence with Coyote Creek to Dorel Drive. Part of the project will protect the area around the Bay Area Rapid Transit's (BART) Berryessa station near King Road, which would otherwise be subject to flooding. In addition to providing flood protection, this multi-objective project will provide ecological restoration and recreation benefits while preserving the water supply. Project E4 has two (2) KPIs:

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

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

As a result of construction cost escalations, staff is recommending modifying Project E4 funding allocation to reallocate construction-related planned expenditures to the Fund 26 Reserves. This will support the fund's financial health. However, it will impact Valley Water's ability to construct the project and deliver the KPIs.

Should additional funding become available within the Fund 26 Reserves or through partnership and/or grant funding, the Board may reallocate the construction funding to the project through a direction provided during a regular board meeting. Staff will reassess the availability of funding on an

annual basis as part of the Capital Improvement Program's financial planning process.

Attachment 5 shows the proposed modification to Project E4 15-year (FY2022-2036) funding allocation, with the table providing the current and the final modified 15-proposed funding allocation.

Next Steps

After opening and closing the public hearing, staff is recommending that the Board first review and approve the proposed text adjustments to D3: Sediment Reuse to Support Shoreline Restoration and then consider adoption of the resolutions as follows:

1. Adopt the resolution APPROVING THE MODIFICATION TO D3: SEDIMENT REUSE TO SUPPORT SHORELINE RESTORATION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM (Attachment 6);
2. Adopt the resolution APPROVING THE MODIFICATION TO PROJECT D4: FISH HABITAT AND PASSAGE IMPROVEMENT PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
3. Adopt the resolution APPROVING THE MODIFICATION TO D6: RESTORATION OF NATURAL CREEK FUNCTIONS PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
4. Adopt the resolution APPROVING THE MODIFICATION TO E2: SUNNYVALE EAST AND SUNNYVALE WEST CHANNELS FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM; and
5. Adopt the resolution APPROVING THE MODIFICATION TO E4: UPPER PENITENCIA CREEK FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM.

Resolutions approving the modification to projects D3: Sediment Reuse to Support Shoreline Restoration Project, D4: Fish Habitat and Passage Improvement, Project D6: Restoration of Natural Creek Functions, E2: Sunnyvale East and Sunnyvale West Channels Flood Protection, and E4: Upper Penitencia Creek Flood Protection and the Notice of Public Hearing and Ad Placement Schedule will be provided in a Supplemental Board Agenda Memorandum that will be available on January 20, 2023.

ENVIRONMENTAL JUSTICE IMPACT:

Individual capital projects may have environmental justice impacts and will conduct outreach and engagement to impacted communities, which will be reported to the Board accordingly.

FINANCIAL IMPACT:

Upon adoption of the resolutions, the 15-Year funding allocation for Project E2: Sunnyvale East and West Channels Protection will be reduced from \$49 million to approximately \$23 million and for E4: Upper Penitencia Creek Flood Protection, it will be reduced from \$23.6 million to approximately \$1.5 million. Furthermore, approximately \$50 million will be transferred to Fund 26 Operating and Capital Reserves from Project D4: Fish Habitat and Passage Improvement's Almaden Lake Improvement

Project.

The modified funding allocations are approximated at this time and will be finalized through the development and Board approval of the Capital Improvement Program's FY 2024-28 Five-Year Plan.

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: D3 Proposed Modifications
- Attachment 2: D4 Proposed Modifications
- Attachment 3: D6 Proposed Modifications
- Attachment 4: E2 Proposed Modifications
- Attachment 5: E4 Proposed Modifications
- *Supplemental Agenda Memo
- *Supplemental Attachment 1: Project D3 Resolution
- *Supplemental Attachment 2: Project D4 Resolution
- *Supplemental Attachment 3: Project D6 Resolution
- *Supplemental Attachment 4: Project E2 Resolution
- *Supplemental Attachment 5: Project E4 Resolution
- *Supplemental Attachment 6: Public Notice Ad

UNCLASSIFIED MANAGER:

Melanie Richardson, 408-630-2035

PROJECT D3

SEDIMENT REUSE TO SUPPORT ~~SHORELINE~~ RESTORATION PROJECTS

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

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

Benefits

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

Key Performance Indicators (FY22–36)

1. ~~Maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities.~~ **Reuse sediment meeting applicable screening criteria at available Valley Water or partnership project sites to support restoration.**
2. Provide up to \$4 million per 15-year period to support activities necessary for sediment reuse.

Geographic Area of Benefit: Countywide

PROJECT D3

SEDIMENT REUSE TO SUPPORT RESTORATION PROJECTS

This project reuses local sediment removed through Valley Water’s Stream Maintenance Program, capital projects and other local sources to create and restore tidal marsh, riparian or wetland habitats. Sediment may be reused to support the South Bay Salt Pond Restoration project or other environmental enhancement and restoration projects. Valley Water removes sediment from streams to maintain their capacity to carry floodwaters. To secure environmentally appropriate reuse sites, partnership agreements may be required. This project also funds site improvements necessary to facilitate sediment delivery to the reuse sites.

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

Benefits

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

Key Performance Indicators (FY22–36)

1. Reuse sediment meeting applicable screening criteria at available Valley Water or partnership project sites to support restoration.
2. Provide up to \$4 million per 15-year period to support activities necessary for sediment reuse.

Geographic Area of Benefit: Countywide

PROJECT D4

FISH HABITAT AND PASSAGE IMPROVEMENT

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

The project also continues funding to place instream gravel, boulders, large wood, or other features to enhance fish habitat at appropriate locations. By adding natural stream features such as large wood, we can create habitat to provide refuge during fish migration, prolonged drought, or extreme rainfall events. Additionally, habitat restoration can improve ecosystem function and increase resiliency to climate change. By restoring natural functions, issues such as water quality may be less exacerbated and native species can continue to flourish and adapt.

Benefits

- Improves habitat and passage for steelhead and other native fish within Santa Clara County watersheds
- Contributes to required mitigation for environmental impacts of reservoir and recharge operations and countywide Stream Maintenance Program
- Maintains investment in earlier habitat improvements
- Addresses climate change

Key Performance Indicators (FY22–36)

1. Complete planning and design for one (1) creek/lake separation.
2. ~~Partially fund the construction of~~ Construct one (1) creek/lake separation project in partnership with local agencies.
3. Use \$8 million for fish passage improvements by June 30, 2028.
4. Update study of all major steelhead streams in the county to identify priority locations for fish migration barrier removal and installation of large woody debris and gravel as appropriate.
5. Complete five (5) habitat enhancement projects based on studies that identify high priority locations for large wood, boulders, gravel, and/or other habitat enhancement features.

Geographic Area of Benefit: Countywide

PROJECT D4

FISH HABITAT AND PASSAGE IMPROVEMENT

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

The project also continues funding to place instream gravel, boulders, large wood, or other features to enhance fish habitat at appropriate locations. By adding natural stream features such as large wood, we can create habitat to provide refuge during fish migration, prolonged drought, or extreme rainfall events. Additionally, habitat restoration can improve ecosystem function and increase resiliency to climate change. By restoring natural functions, issues such as water quality may be less exacerbated and native species can continue to flourish and adapt.

Benefits

- Improves habitat and passage for steelhead and other native fish within Santa Clara County watersheds
- Contributes to required mitigation for environmental impacts of reservoir and recharge operations and countywide Stream Maintenance Program
- Maintains investment in earlier habitat improvements
- Addresses climate change

Key Performance Indicators (FY22–36)

1. Complete planning and design for one (1) creek/lake separation.
2. Partially fund the construction of one (1) creek/lake separation project in partnership with local agencies.
3. Use \$8 million for fish passage improvements by June 30, 2028.
4. Update study of all major steelhead streams in the county to identify priority locations for fish migration barrier removal and installation of large woody debris and gravel as appropriate.
5. Complete five (5) habitat enhancement projects based on studies that identify high priority locations for large wood, boulders, gravel, and/or other habitat enhancement features.

Geographic Area of Benefit: Countywide

PROJECT D6

RESTORATION OF NATURAL CREEK FUNCTIONS

This project will develop, compile and use local hydrologic and geomorphic data to identify, design and construct projects to restore and improve natural functions and stability of stream channels.

Geomorphically appropriate channels will be more resilient to damage from more intense rainfall patterns caused by climate change.

Benefits

- Uses scientific principles to improve sediment balance and reduce erosion, enhance percolation and reduce instability and sedimentation in creeks
- Can help reduce annual maintenance cost for sediment removal where erosion and incision problems can be addressed
- Improves native aquatic habitat
- Improves the aesthetic value of a stream
- Addresses climate change

Key Performance Indicators (FY22–36)

1. Construct the Hale Creek Enhancement Pilot Project, which includes restoration and stabilization of a 650-foot section of concrete-lined channel on Hale Creek, between Marilyn Drive and North Sunshine Drive on the border of Mountain View and Los Altos.
2. Construct the Bolsa Road Fish Passage Project along 1,700 linear feet of Uvas-Carnadero Creek in unincorporated Santa Clara County, which includes geomorphic design features that will restore stability and stream function.
3. ~~Identify, plan, design, and construct a third geomorphic designed project to restore stability and stream function by preventing incision and promoting sediment balance throughout the watershed.~~

Geographic Area of Benefit: Countywide

PROJECT D6

RESTORATION OF NATURAL CREEK FUNCTIONS

This project will develop, compile and use local hydrologic and geomorphic data to identify, design and construct projects to restore and improve natural functions and stability of stream channels.

Geomorphically appropriate channels will be more resilient to damage from more intense rainfall patterns caused by climate change.

Benefits

- Uses scientific principles to improve sediment balance and reduce erosion, enhance percolation and reduce instability and sedimentation in creeks
- Can help reduce annual maintenance cost for sediment removal where erosion and incision problems can be addressed
- Improves native aquatic habitat
- Improves the aesthetic value of a stream
- Addresses climate change

Key Performance Indicators (FY22–36)

1. Construct the Hale Creek Enhancement Pilot Project, which includes restoration and stabilization of a 650-foot section of concrete-lined channel on Hale Creek, between Marilyn Drive and North Sunshine Drive on the border of Mountain View and Los Altos.
2. Construct the Bolsa Road Fish Passage Project along 1,700 linear feet of Uvas-Carnadero Creek in unincorporated Santa Clara County, which includes geomorphic design features that will restore stability and stream function.

Geographic Area of Benefit: Countywide

PROJECT E2

SUNNYVALE EAST AND SUNNYVALE WEST CHANNELS FLOOD PROTECTION

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

The Sunnyvale East Channel and Sunnyvale West Channel improvement projects have been combined into a single flood protection project with a single Environmental Impact Report (EIR) to reduce construction costs and improve efficiencies. Both projects decrease channel turbidity and sediment by repairing erosion sites, thereby improving water quality and reducing sediment to the San Francisco Bay.

In 2018, Valley Water entered into a Memorandum of Understanding with Google, LLC (Google) to incorporate Google's proposed enhancement effort along 1,100 linear feet of the Sunnyvale West Channel into the project. This portion of the project will also be part of Google's Caribbean Campus Project. Valley Water has completed 100% design and has submitted all required permit applications for the project. Once all permits are received, Valley Water will begin construction.

Benefits

- Provides 1% flood capacity for approximately 6.4 miles of channel along Sunnyvale East and approximately three (3) miles of channel along Sunnyvale West within the City of Sunnyvale, protecting 1,618 properties (Sunnyvale East) and 47 acres (11 properties) of industrial land (Sunnyvale West)
- Improves channel water quality by providing erosion control measures to decrease sediment and turbidity
- Identifies recreational opportunities that can be integrated by the City of Sunnyvale and others as appropriate
- Addresses climate change

Key Performance Indicator (FY22–36)

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

Geographic Area of Benefit: Sunnyvale

Modified Funding Allocation

Project E2: Sunnyvale East and Sunnyvale West Channels Flood Protection Financial Summary (\$ Thousand)	
15-Year Allocation	Modified 15-Year Allocation (approx.) *
\$49,268	\$23,075

**The modified funding allocations are approximated at this time and will be finalized through the development and Board approval of the Capital Improvement Program's FY 2024-28 Five-Year Plan.*

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PROJECT E4

UPPER PENITENCIA CREEK FLOOD PROTECTION

Preferred project: A federal-state-local partnership

This project continues a partnership with the U.S. Army Corps of Engineers (USACE), to plan, design and construct improvements along 4.2 miles of Upper Penitencia Creek from the confluence with Coyote Creek to Dorel Drive. Part of the project will protect the area around the Bay Area Rapid Transit's (BART) Berryessa station near King Road, which would otherwise be subject to flooding.

In addition to providing flood protection, this multi-objective project will provide ecological restoration and recreation benefits while preserving the water supply. The natural creek channel will be preserved while adjacent existing open space and parkland will remain as recreational areas, only rarely taking the role as a temporary floodplain so that floodwaters do not enter surrounding neighborhoods and commercial areas. Proposed construction measures may include modified floodplains, limited levees/ floodwalls, a bypass channel, and fish passage improvements.

Local-funding-only project

The original local-funding-only project was to acquire all necessary rights-of-way and construct a 1% (100-year event) flood protection project from Coyote Creek confluence to King Road, which would have protected 450 parcels. In December 2019, the Valley Water Board directed staff to use the available local funding to complete the design and construction of the locally funded project as well as build the reaches of the preferred project that can be constructed with the available funding. This approach extends the local-funding-only project from King Road to Capital Avenue and provides 1% flood protection for an additional 800 parcels. As a result, the new local-funding-only project would be to construct flood improvements along Upper Penitencia Creek from the confluence of Coyote Creek to Capital Avenue to increase the 1% flood protection provided with local available dollars to 1,250 parcels, including the new Berryessa BART station.

Benefits

- Preferred project provides up to 1% flood protection to approximately 8,000 homes, schools and businesses.
- Local-funding-only project provides 1% flood protection to 1,250 parcels, including the new Berryessa BART station.
- Restores/enhances ecological and riparian habitat
- Reduces sedimentation and maintenance requirements
- Improves water quality in Upper Penitencia and Coyote creeks
- Provides opportunities for recreation improvements consistent with the City of San José and Santa Clara County Park master plans
- Addresses climate change

Key Performance Indicators (FY22–36)

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

Modified Funding Allocation

E4: Upper Penitencia Creek Flood Protection Project Financial Summary (\$ Thousand)	
15-Year Allocation	Modified 15-Year Allocation (approx.) *
\$23,592	\$1,534

**The modified funding allocations are approximated at this time and will be finalized through the development and Board approval of the Capital Improvement Program's FY 2024-28 Five-Year Plan.*



Santa Clara Valley Water District

File No.: 23-0125

Agenda Date: 1/24/2023

Item No.: *2.8.

SUPPLEMENTAL BOARD AGENDA MEMORANDUM

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

SUBJECT:

Conduct a Public Hearing on Proposed Modifications to Projects under Priorities D and E of the Renewed Safe, Clean Water and Natural Flood Protection Program.

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:

- A. Open and conduct the public hearing to receive comments on the renewed Safe, Clean Water and Natural Flood Protection Program's following projects:
 - i. D3: Sediment Reuse to Support Shoreline Restoration;
 - ii. D4: Fish Habitat and Passage Improvement;
 - iii. D6: Restoration of Natural Creek Functions;
 - iv. E2: Sunnyvale East and Sunnyvale West Channels Flood Protection; and
 - v. E4: Upper Penitencia Creek Flood Protection Project;
- B. Close the public hearing;
- C. Review and Approve the Proposed Text Adjustments to D3: Sediment Reuse to Support Shoreline Restoration;
- D. Adopt the resolution APPROVING THE MODIFICATION TO D3: SEDIMENT REUSE TO SUPPORT SHORELINE RESTORATION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
- E. Adopt the resolution APPROVING THE MODIFICATION TO PROJECT D4: FISH HABITAT AND PASSAGE IMPROVEMENT PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
- F. Adopt the resolution APPROVING THE MODIFICATION TO D6: RESTORATION OF NATURAL CREEK FUNCTIONS PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
- G. Adopt the resolution APPROVING THE MODIFICATION TO E2: SUNNYVALE EAST AND SUNNYVALE WEST CHANNELS FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN

WATER AND NATURAL FLOOD PROTECTION PROGRAM; and
H. Adopt the resolution APPROVING THE MODIFICATION TO E4: UPPER PENITENCIA CREEK FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM.

SUMMARY:

No change from original memo.

ENVIRONMENTAL JUSTICE IMPACT:

No change from original memo.

FINANCIAL IMPACT:

No change from original memo.

CEQA:

No change from original memo.

ATTACHMENTS:

Supplemental Attachment 1: Project D3 Resolution
Supplemental Attachment 2: Project D4 Resolution
Supplemental Attachment 3: Project D6 Resolution
Supplemental Attachment 4: Project E2 Resolution
Supplemental Attachment 5: Project E4 Resolution
Supplemental Attachment 6: Public Notice Ad and Ad Placement Schedule

UNCLASSIFIED MANAGER:

Melanie Richardson, 408-630-2035

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

RESOLUTION NO. 23-003

**APPROVING THE MODIFICATION TO THE SEDIMENT REUSE TO SUPPORT
SHORELINE RESTORATION PROJECT OF THE SAFE, CLEAN WATER AND
NATURAL FLOOD PROTECTION PROGRAM**

WHEREAS, on July 21, 2020, the Board of Directors of the Santa Clara Valley Water District (Valley Water) adopted 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 (Resolution No. 20-64); and

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep Valley Water's flood protection system of levees, channels, drains, debris basins, and other 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 recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection storm drainage facilities; including in each case the cost of financing such activities; support public health and public safety as it relates to Valley Water's mission; and

WHEREAS, in November 2020, Valley Water's Measure S was overwhelmingly approved by more than a two-thirds majority vote of the electorate of Valley Water, renewing a special tax, the proceeds of which are used solely for the purpose of supporting the six funding priorities of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), which are as follows: 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; and Priority F: Support Public Health and Public Safety for Our Community; and

WHEREAS, Project D3: Sediment Reuse to Support Shoreline Restoration Project (Project D3) is included under Priority D of the Safe, Clean Water Program; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Project as follows: "This project reuses local sediment removed through Valley Water's Stream Maintenance Program, capital projects and other local sources to create and restore tidal marsh habitat. Sediment may be reused to support the South Bay Salt Pond Restoration project or other environmental enhancement and restoration projects."; and

WHEREAS, the Safe, Clean Water Program identifies the Key Performance Indicators (KPIs) for Project D3 as follows:

- "1. Maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities.
2. Provide up to \$4 million per 15-year period to support activities necessary for sediment reuse."; and

Approving the Modification to the Sediment Reuse to Support Shoreline Restoration Project of
the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-003

WHEREAS, pursuant to an agreement with the U.S. Fish and Wildlife Services (USFWS), Valley Water has been delivering sediment for Pond A8 at Alviso for the South Bay Salt Pond Restoration Project; and

WHEREAS, Valley Water has paused delivering sediment to Pond A8 following USFWS direction in July 2022 that it needs to renew permits, which could take approximately two years; and

WHEREAS, the use of sediment to projects beyond the South Bay Salt Pond Restoration Project creates greater opportunities for the sediment to be reused for environmental restoration projects throughout Santa Clara County (County); and

WHEREAS, to reflect the full potential of the Project scope, the proposed modifications will allow for expanded reuse of sediment on available Valley Water or partnership restoration projects throughout the County; and

WHEREAS, sediment reuse at Valley Water restoration project sites will not require partnerships agreements; and

WHEREAS, Valley Water desires to modify Project D3 KPI #1, and the Project name, description, and benefits, to better align the Project with the changing conditions and to accurately capture its purpose of supporting restoration projects beyond Shoreline Restoration efforts; and

WHEREAS, Valley Water's Resolution No. 20-64 authorizes modifications to proposed projects. Paragraph N. reads as follows: "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"; and

WHEREAS, at its regular Board meeting conducted on January 10, 2023, Valley Water's Board of Directors set a time and place for a formal public hearing to occur on January 24, 2023, at which time the Board will consider the Proposed Adjustments and Modification to Project D3: Sediment Reuse to Support Shoreline Restoration Project of the Safe, Clean Water and Natural Flood Protection Program.

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

1. Pursuant to the requirements stated in California Government Code section 6066, staff prepared and published advertisements in Santa Clara County newspapers of general circulation.
2. Pursuant to the requirements stated in Valley Water's Resolution No. 20-64, Paragraph N., a noticed public hearing was held.
3. Modify KPI #1 for Project D3: Sediment Reuse to Support Shoreline Restoration Project, as set forth in the Safe, Clean Water Program, as follows:

"1. Reuse sediment meeting applicable screening criteria at available Valley Water or partnership project sites to support restoration."

Approving the Modification to the Sediment Reuse to Support Shoreline Restoration Project of
the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-003

4. Valley Water's Safe, Clean Water and Natural Flood Protection Program's Project D3: Sediment Reuse to Support Shoreline Restoration Project KPI #1, is hereby modified as stated in Exhibit A: Adjusted Project Name, Description and Benefits; and Modified Key Performance Indicator, hereto, which includes the approved text adjustments to the Project name description and benefits.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on January 24, 2023:

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

NOES: Directors: None

ABSENT: Directors: None

ABSTAIN: Directors: None

SANTA CLARA VALLEY WATER DISTRICT

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JOHN L. VARELA
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

DocuSigned by:

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Clerk, Board of Directors

Approving the Modification to the Sediment Reuse to Support Shoreline Restoration Project of
the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-003

EXHIBIT A COVERSHEET

ADJUSTED PROJECT NAME, DESCRIPTION AND BENEFITS; AND MODIFIED KEY PERFORMANCE INDICATOR

No. of Pages: 1

Exhibit Attachments: None

Exhibit A – Adjusted Project Name, Description and Benefits; and Modified Key Performance Indicator

PROJECT D3 SEDIMENT REUSE TO SUPPORT SHORELINE RESTORATION PROJECTS

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

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

Benefits

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

Key Performance Indicators (FY22–36)

1. ~~Maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities.~~ Reuse sediment meeting applicable screening criteria at available Valley Water or partnership project sites to support restoration.
2. Provide up to \$4 million per 15-year period to support activities necessary for sediment reuse.

Geographic Area of Benefit: Countywide

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

RESOLUTION NO. 23-004

**APPROVING THE MODIFICATION TO THE FISH HABITAT AND PASSAGE IMPROVEMENT
PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM**

WHEREAS, on July 21, 2020, the Board of Directors of the Santa Clara Valley Water District (Valley Water) adopted 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 (Resolution No. 20-64); and

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep Valley Water's flood protection system of levees, channels, drains, debris basins, and other 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 recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection storm drainage facilities; including in each case the cost of financing such activities; support public health and public safety as it relates to Valley Water's mission; and

WHEREAS, in November 2020, Valley Water's Measure S was overwhelmingly approved by more than a two-thirds majority vote of the electorate of Valley Water, renewing a special tax, the proceeds of which are used solely for the purpose of supporting the six funding priorities of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), which are as follows: 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; and Priority F: Support Public Health and Public Safety for Our Community; and

WHEREAS, Project D4: Fish Habitat and Passage Improvement Project (Project D4) is included under Priority D of the Safe, Clean Water Program; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Project as follows: "This project helps restore and maintain healthy fish populations, especially steelhead, by improving fish passage and habitat. Sites may include Alamitos Creek at Almaden Lake and County of Santa Clara-owned Ogier Ponds, where human-made creek alterations disrupt fish migration. Project D4, which includes coordinating and partnering with other external parties, incorporates studies of streams throughout the county to determine what and where habitat improvements will most benefit steelhead. These studies can be used by regional partners to implement complementary habitat enhancements. The project also continues funding to place instream gravel, boulders, large wood, or other features to enhance fish habitat at appropriate locations. By adding natural stream features such as large wood, we can create habitat to provide refuge during fish migration, prolonged drought, or extreme rainfall events. Additionally, habitat restoration can improve ecosystem function and increase resiliency to climate change. By restoring natural functions, issues such as water quality may be less exacerbated and native species can continue to flourish and adapt."; and

Approving the Modification to the Fish Habitat and Passage Improvement Project of the Safe,
Clean Water and Natural Flood Protection Program Resolution No. 23-004

WHEREAS, the Safe, Clean Water Program identifies the Key Performance Indicators (KPIs) for Project D4 as follows:

- “1. Complete planning and design for one (1) creek/lake separation.
2. Construct one (1) creek/lake separation project in partnership with local agencies.
3. Use \$8 million for fish passage improvements by June 30, 2028.
4. Update study of all major steelhead streams in the county to identify priority locations for fish migration barrier removal and installation of large woody debris and gravel as appropriate.
5. Complete five (5) habitat enhancement projects based on studies that identify high priority locations for large wood, boulders, gravel, and/or other habitat enhancement features.”; and

WHEREAS, the KPIs do not identify specific projects; and

WHEREAS, in 2015, the Board chose the Ogier Ponds Project to be planned and designed under KPI #1; and

WHEREAS, in 2021, the Board chose the Almaden Lake Improvements Project as the creek/lake separation project which would separate Alamos Creek from Almaden Lake and return it to naturally flow into the Guadalupe River, to be constructed under KPI #2; and

WHEREAS, since selecting the Almaden Lake Improvements Project to be constructed under KPI #2, construction cost estimates have nearly tripled, making project construction unfeasible; and

WHEREAS, the Ogier Ponds Project has multiple funding sources for construction, including placeholder funding allocations under both the Watersheds Stream Stewardship Fund (Fund 12) and the Water Utility Enterprise Fund (Fund 61), which will help offset some of the project cost impacts; and

WHEREAS, infrastructure construction projects in the Safe, Clean Water Program are experiencing significant cost increases; and

WHEREAS, these increased costs are impacting the Safe, Clean Water Program Fund's (Fund 26) financial health, resulting in staff's recommendation that the Valley Water Board of Directors provide direction on balancing the overall Fund and delivering the voter-approved Safe, Clean Water Program; and

WHEREAS, as a result of construction cost escalations, staff is recommending that the Board select the Almaden Lake Improvements Project continue with its planning and design phases to deliver KPI #1 and the Ogier Ponds project to be constructed under KPI #2; and

WHEREAS, since the Ogier Ponds Project has additional funding allocations under Fund 12 and Fund 26, staff is recommending the Board modify KPI #2 to partially fund the construction of a creek/lake separation project; and

Approving the Modification to the Fish Habitat and Passage Improvement Project of the Safe,
Clean Water and Natural Flood Protection Program Resolution No. 23-004

WHEREAS, by modifying KPI #2 to partially fund construction of the Ogier Ponds Project, the 15-Year Funding Allocation could be reduced to approximately \$5 million, which would be finalized through the development and Board approval of the Capital Improvement Program's Fiscal Years 2024-28 Five-Year Plan; and

WHEREAS, Valley Water's Resolution No. 20-64 authorizes modifications to proposed projects. Paragraph N. reads as follows: "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"; and

WHEREAS, at its regular Board meeting conducted on January 10, 2023, Valley Water's Board of Directors set a time and place for a formal public hearing to occur on January 24, 2023, at which time the Board will consider the Proposed Modification to Project D4: Fish Habitat and Passage Improvement Project of the Safe, Clean Water and Natural Flood Protection Program.

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

1. Pursuant to the requirements stated in California Government Code section 6066, staff prepared and published advertisements in Santa Clara County newspapers of general circulation.
2. Pursuant to the requirements stated in Valley Water's Resolution No. 20-64, Paragraph N., a noticed public hearing was held.
3. Modify KPI #2 for Project D4: Fish Habitat and Passage Improvement Project, as set forth in the Safe, Clean Water Program, as follows:
 - "2. Partially fund the construction of one (1) creek/lake separation project in partnership with local agencies."
4. Valley Water's Safe, Clean Water and Natural Flood Protection Program's Project D4: Fish Habitat and Passage Improvement Project, is hereby modified as stated in Exhibit A: Modified Key Performance Indicator, hereto, which includes the approved Modified KPI #2.

Approving the Modification to the Fish Habitat and Passage Improvement Project of the Safe,
Clean Water and Natural Flood Protection Program Resolution No. 23-004

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by
the following vote on January 24, 2023:

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

NOES: Directors: None

ABSENT: Directors: None

ABSTAIN: Directors: None

SANTA CLARA VALLEY WATER DISTRICT

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JOHN L. VARELA
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

DocuSigned by:

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Clerk, Board of Directors

EXHIBIT A COVERSHEET

MODIFIED KEY PERFORMANCE INDICATOR

No. of Pages: 1

Exhibit Attachments: None

Exhibit A – Modified Key Performance Indicator

PROJECT D4 FISH HABITAT AND PASSAGE IMPROVEMENT

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

The project also continues funding to place instream gravel, boulders, large wood, or other features to enhance fish habitat at appropriate locations. By adding natural stream features such as large wood, we can create habitat to provide refuge during fish migration, prolonged drought, or extreme rainfall events. Additionally, habitat restoration can improve ecosystem function and increase resiliency to climate change. By restoring natural functions, issues such as water quality may be less exacerbated and native species can continue to flourish and adapt.

Benefits

- Improves habitat and passage for steelhead and other native fish within Santa Clara County watersheds.
- Contributes to required mitigation for environmental impacts of reservoir and recharge operations and countywide Stream Maintenance Program.
- Maintains investment in earlier habitat improvements.
- Addresses climate change.

Key Performance Indicators (FY22–36)

1. Complete planning and design for one (1) creek/lake separation.
2. ~~Partially fund the construction of~~ Construct one (1) creek/lake separation project in partnership with local agencies.
3. Use \$8 million for fish passage improvements by June 30, 2028.
4. Update study of all major steelhead streams in the county to identify priority locations for fish migration barrier removal and installation of large woody debris and gravel as appropriate.
5. Complete five (5) habitat enhancement projects based on studies that identify high priority locations for large wood, boulders, gravel, and/or other habitat enhancement features.

Geographic Area of Benefit: Countywide

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

RESOLUTION NO. 23-005

**APPROVING THE MODIFICATION TO THE RESTORATION OF NATURAL
CREEK FUNCTIONS PROJECT OF THE SAFE, CLEAN WATER AND
NATURAL FLOOD PROTECTION PROGRAM**

WHEREAS, on July 21, 2020, the Board of Directors of the Santa Clara Valley Water District (Valley Water) adopted 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 (Resolution No. 20-64); and

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep Valley Water's flood protection system of levees, channels, drains, debris basins, and other 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 recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection storm drainage facilities; including in each case the cost of financing such activities; support public health and public safety as it relates to Valley Water's mission; and

WHEREAS, in November 2020, Valley Water's Measure S was overwhelmingly approved by more than a two-thirds majority vote of the electorate of Valley Water, renewing a special tax, the proceeds of which are used solely for the purpose of supporting the six funding priorities of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), which are as follows: 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; and Priority F: Support Public Health and Public Safety for Our Community; and

WHEREAS, Project D6: Restoration of Natural Creek Functions Project (Project D6) is included under Priority D of the Safe, Clean Water Program; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Project as follows: "This project will develop, compile and use local hydrologic and geomorphic data to identify, design and construct projects to restore and improve natural functions and stability of stream channels. Geomorphically appropriate channels will be more resilient to damage from more intense rainfall patterns caused by climate change."; and

WHEREAS, the Safe, Clean Water Program identifies the Key Performance Indicators (KPIs) for Project D6 as follows:

- "1. Construct the Hale Creek Enhancement Pilot Project, which includes restoration and stabilization of a 650-foot section of concrete-lined channel on Hale Creek, between Marilyn Drive and North Sunshine Drive on the border of Mountain View and Los Altos.

Approving the Modification to the Restoration of Natural Creek Functions Project of the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-005

2. Construct the Bolsa Road Fish Passage Project along 1,700 linear feet of Uvas-Carnadero Creek in unincorporated Santa Clara County, which includes geomorphic design features that will restore stability and stream function.
3. Identify, plan, design, and construct a third geomorphic-designed project to restore stability and stream function by preventing incision and promoting sediment balance throughout the watershed.”; and

WHEREAS, KPI #3 does not identify a specific project; and

WHEREAS, infrastructure construction projects in the Safe, Clean Water Program are experiencing significant cost increases; and

WHEREAS, these increased costs are impacting the Safe, Clean Water Program Fund's (Fund 26) financial health, resulting in staff's recommendation that the Valley Water Board of Directors provide direction on balancing the overall Fund and delivering the voter-approved Safe, Clean Water Program; and

WHEREAS, as a result of construction cost escalations, staff is recommending that KPI#3 not be implemented; and

WHEREAS, Valley Water's Resolution No. 20-64 authorizes modifications to proposed projects. Paragraph N. reads as follows: “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”; and

WHEREAS, at its regular Board meeting conducted on January 10, 2023, Valley Water's Board of Directors set a time and place for a formal public hearing to occur on January 24, 2023, at which time the Board will consider the Proposed Modification to Project D4: Fish Habitat and Passage Improvement Project of the Safe, Clean Water and Natural Flood Protection Program.

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

1. Pursuant to the requirements stated in California Government Code section 6066, staff prepared and published advertisements in Santa Clara County newspapers of general circulation.
2. Pursuant to the requirements stated in Valley Water's Resolution No. 20-64, Paragraph N., a noticed public hearing was held.
3. Not implement KPI #3 for Project D6: Restoration of Natural Creek Functions Project, as set forth in the Safe, Clean Water Program, as follows:

~~“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.”~~

Approving the Modification to the Restoration of Natural Creek Functions Project of the Safe,
Clean Water and Natural Flood Protection Program Resolution No. 23-005

4. Valley Water's Safe, Clean Water and Natural Flood Protection Program's Project D6: Restoration of Natural Creek Functions Project, is hereby modified as stated in Exhibit A: Not Implement Key Performance Indicator, hereto, which includes the deleted KPI #3.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on January 24, 2023:

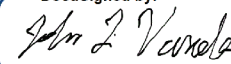
AYES: Directors: Estremera, Hsueh, Beall, Eisenberg, Keegan, Santos, Varela

NOES: Directors: None

ABSENT: Directors: None

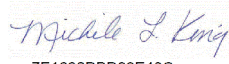
ABSTAIN: Directors: None

SANTA CLARA VALLEY WATER DISTRICT

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JOHN L. VARELA
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

DocuSigned by:

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Clerk, Board of Directors

EXHIBIT A COVERSHEET

NOT IMPLEMENT KEY PERFORMANCE INDICATOR

No. of Pages: 1

Exhibit Attachments: None

Exhibit A – Not Implement Key Performance Indicator

PROJECT D6 RESTORATION OF NATURAL CREEK FUNCTIONS

This project will develop, compile and use local hydrologic and geomorphic data to identify, design and construct projects to restore and improve natural functions and stability of stream channels.

Geomorphically appropriate channels will be more resilient to damage from more intense rainfall patterns caused by climate change.

Benefits

- Uses scientific principles to improve sediment balance and reduce erosion, enhance percolation and reduce instability and sedimentation in creeks
- Can help reduce annual maintenance cost for sediment removal where erosion and incision problems can be addressed
- Improves native aquatic habitat
- Improves the aesthetic value of a stream
- Addresses climate change

Key Performance Indicators (FY22–36)

1. Construct the Hale Creek Enhancement Pilot Project, which includes restoration and stabilization of a 650-foot section of concrete-lined channel on Hale Creek, between Marilyn Drive and North Sunshine Drive on the border of Mountain View and Los Altos.
2. Construct the Bolsa Road Fish Passage Project along 1,700 linear feet of Uvas-Carnadero Creek in unincorporated Santa Clara County, which includes geomorphic design features that will restore stability and stream function.
3. ~~Identify, plan, design, and construct a third geomorphic designed project to restore stability and stream function by preventing incision and promoting sediment balance throughout the watershed.~~

Geographic Area of Benefit: Countywide

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

RESOLUTION NO. 23-006

**APPROVING THE MODIFICATION TO THE SUNNYVALE EAST AND WEST CHANNELS
FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND
NATURAL FLOOD PROTECTION PROGRAM**

WHEREAS, on July 21, 2020, the Board of Directors of the Santa Clara Valley Water District (Valley Water) adopted 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 (Resolution No. 20-64); and

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep Valley Water's flood protection system of levees, channels, drains, debris basins, and other 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 recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection storm drainage facilities; including in each case the cost of financing such activities; support public health and public safety as it relates to Valley Water's mission; and

WHEREAS, in November 2020, Valley Water's Measure S was overwhelmingly approved by more than a two-thirds majority vote of the electorate of Valley Water, renewing a special tax, the proceeds of which are used solely for the purpose of supporting the six funding priorities of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), which are as follows: 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; and Priority F: Support Public Health and Public Safety for Our Community; and

WHEREAS, Project E2: Sunnyvale East and West Channels Flood Protection Project (Project E2) is included under Priority E of the Safe, Clean Water Program; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Project as follows: "This project is to upgrade approximately 6.4 miles of the existing Sunnyvale East Channel to provide 1% flood protection (100-year event) to 1,618 parcels and approximately three (3) miles of the existing West Channel to provide 1% flood protection for 47 acres of highly valuable industrial lands, including the Onizuka Air Force Base. The Sunnyvale East Channel and Sunnyvale West Channel improvement projects have been combined into a single flood protection project with a single Environmental Impact Report (EIR) to reduce construction costs and improve efficiencies. Both projects decrease channel turbidity and sediment by repairing erosion sites, thereby improving water quality and reducing sediment to the San Francisco Bay. In 2018, Valley Water entered into a Memorandum of Understanding with Google, LLC (Google) to incorporate Google's proposed enhancement effort along 1,100 linear feet of the Sunnyvale West Channel into the project. This portion of the project will also be part of Google's Caribbean Campus Project. Valley Water has completed 100% design and has submitted all required permit applications for the project. Once all permits are received, Valley Water will begin construction.."; and

Approving the Modification to the Sunnyvale East and West Channels Flood Protection Project
of the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-006

WHEREAS, the Safe, Clean Water Program identifies the Key Performance Indicator (KPI) for Project E2 as follows:

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

WHEREAS, Project E2 has a 15-Year Funding Allocation of approximately \$49.268 million; and

WHEREAS, infrastructure construction projects in the Safe, Clean Water Program are experiencing significant cost increases; and

WHEREAS, these increased costs are impacting the Safe, Clean Water Program Fund's (Fund 26) financial health, resulting in staff's recommendation that the Valley Water Board of Directors provide direction on balancing the overall Fund and delivering the voter-approved Safe, Clean Water Program; and

WHEREAS, as a result of construction cost escalations, staff is recommending modifying Project E2 funding allocation to reallocate construction-related planned expenditures for the Sunnyvale East Channel portion of the Project to the Fund 26 Operating and Capital Reserves; and

WHEREAS, modifying the 15-Year Funding Allocation to reallocate construction-related planned expenditures for the Sunnyvale East portion of the Project would reduce the allocation to approximately \$23.075 million, which would impact Valley Water's ability to construct the Project and fully deliver the KPI; and

WHEREAS, Valley Water will reassess the availability of funding on an annual basis as part of the Capital Improvement Program's financial planning process, through which the Board may reallocate construction funding to Project E2, when and if, funding becomes available; and

WHEREAS, Valley Water's Resolution No. 20-64 authorizes modifications to proposed projects. Paragraph N. reads as follows: “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”; and

WHEREAS, at its regular Board meeting conducted on January 10, 2023, Valley Water's Board of Directors set a time and place for a formal public hearing to occur on January 24, 2023, at which time the Board will consider the Proposed Modification to Project E2: Sunnyvale East and West Channels Flood Protection Project of the Safe, Clean Water and Natural Flood Protection Program.

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

1. Pursuant to the requirements stated in California Government Code section 6066, staff prepared and published advertisements in Santa Clara County newspapers of general circulation.

Approving the Modification to the Sunnyvale East and West Channels Flood Protection Project
of the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-006

2. Pursuant to the requirements stated in Valley Water's Resolution No. 20-64, Paragraph N., a noticed public hearing was held.
3. Modify the funding allocation for Project E2: Sunnyvale East and West Channels Flood Protection Project, as set forth in the Safe, Clean Water Program, as follows:

E2: Sunnyvale East and West Channels Flood Protection Project Financial Summary (\$ Thousand)	
15-Year Allocation	Modified 15-Year Allocation (approx.) *
\$49,268	\$23,075

**The modified funding allocations are approximated at this time and will be finalized through the development and Board approval of the Capital Improvement Program's FY 2024-28 Five-Year Plan.*

4. Valley Water's Safe, Clean Water and Natural Flood Protection Program's Project E2: Sunnyvale East and West Channels Flood Protection Project, is hereby modified as stated in Exhibit A, Modified 15-Year Funding Allocation, hereto, which includes the approved approximated Modified 15-Year Allocation, which will be finalized through the development and Board approval of the Capital Improvement Program's Fiscal Years 2024-28 Five-Year Plan.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on January 24, 2023:

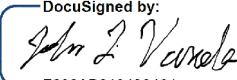
AYES: Directors: Estremera, Hsueh, Beall, Eisenberg, Keegan, Santos, Varela

NOES: Directors: None

ABSENT: Directors: None

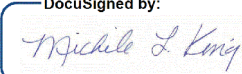
ABSTAIN: Directors: None

SANTA CLARA VALLEY WATER DISTRICT

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JOHN L. VARELA
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

DocuSigned by:

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Clerk, Board of Directors

Approving the Modification to the Sunnyvale East and West Channels Flood Protection Project
of the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-006

EXHIBIT A COVERSHEET

MODIFIED 15-YEAR FUNDING ALLOCATION

No. of Pages: 1

Exhibit Attachments: None

Exhibit A – Modified 15-Year Funding Allocation

PROJECT E2
SUNNYVALE EAST AND SUNNYVALE WEST
CHANNELS FLOOD PROTECTION

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

The Sunnyvale East Channel and Sunnyvale West Channel improvement projects have been combined into a single flood protection project with a single Environmental Impact Report (EIR) to reduce construction costs and improve efficiencies. Both projects decrease channel turbidity and sediment by repairing erosion sites, thereby improving water quality and reducing sediment to the San Francisco Bay.

In 2018, Valley Water entered into a Memorandum of Understanding with Google, LLC (Google) to incorporate Google’s proposed enhancement effort along 1,100 linear feet of the Sunnyvale West Channel into the project. This portion of the project will also be part of Google’s Caribbean Campus Project. Valley Water has completed 100% design and has submitted all required permit applications for the project. Once all permits are received, Valley Water will begin construction.

Benefits

- Provides 1% flood capacity for approximately 6.4 miles of channel along Sunnyvale East and approximately three (3) miles of channel along Sunnyvale West within the City of Sunnyvale, protecting 1,618 properties (Sunnyvale East) and 47 acres (11 properties) of industrial land (Sunnyvale West)
- Improves channel water quality by providing erosion control measures to decrease sediment and turbidity
- Identifies recreational opportunities that can be integrated by the City of Sunnyvale and others as appropriate
- Addresses climate change

Key Performance Indicator (FY22–36)

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

Geographic Area of Benefit: Sunnyvale

Modified Funding Allocation

Project E2: Sunnyvale East and Sunnyvale West Channels Flood Protection Financial Summary (\$ Thousand)	
15-Year Allocation	Modified 15-Year Allocation (approx.) *
\$49,268-	\$23,075

**The modified funding allocations are approximated at this time and will be finalized through the development and Board approval of the Capital Improvement Program’s FY 2024-28 Five-Year Plan.*

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

RESOLUTION NO. 23-007

**APPROVING THE MODIFICATION TO THE UPPER PENITENCIA CREEK
FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND
NATURAL FLOOD PROTECTION PROGRAM**

WHEREAS, on July 21, 2020, the Board of Directors of the Santa Clara Valley Water District (Valley Water) adopted 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 (Resolution No. 20-64); and

WHEREAS, the purpose of the special tax is to supplement other available but limited revenues to keep Valley Water's flood protection system of levees, channels, drains, debris basins, and other 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 recreation; to conduct environmental education; to protect and improve water quality; and, to construct and operate flood protection storm drainage facilities; including in each case the cost of financing such activities; support public health and public safety as it relates to Valley Water's mission; and

WHEREAS, in November 2020, Valley Water's Measure S was overwhelmingly approved by more than a two-thirds majority vote of the electorate of Valley Water, renewing a special tax, the proceeds of which are used solely for the purpose of supporting the six funding priorities of the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program), which are as follows: 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; and Priority F: Support Public Health and Public Safety for Our Community; and

WHEREAS, Project E4: Upper Penitencia Creek Flood Protection Project (Project E4) is included under Priority E of the Safe, Clean Water Program; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Preferred Project as follows: "This project continues a partnership with the U.S. Army Corps of Engineers (USACE), to plan, design and construct improvements along 4.2 miles of Upper Penitencia Creek from the confluence with Coyote Creek to Dorel Drive. Part of the project will protect the area around the Bay Area Rapid Transit's (BART) Berryessa station near King Road, which would otherwise be subject to flooding. In addition to providing flood protection, this multi-objective project will provide ecological restoration and recreation benefits while preserving the water supply. The natural creek channel will be preserved while adjacent existing open space and parkland will remain as recreational areas, only rarely taking the role as a temporary floodplain so that floodwaters do not enter surrounding neighborhoods and commercial areas. Proposed construction measures may include modified floodplains, limited levees/ floodwalls, a bypass channel, and fish passage improvements."; and

WHEREAS, the Safe, Clean Water Program describes the primary objective of the Local-Funding-Only Project as follows: "The original local-funding-only project was to acquire all necessary rights-of-way and construct a 1% (100-year event) flood protection project from Coyote Creek confluence to King Road, which would have protected 450 parcels. In December 2019, the Valley Water Board directed staff to use the available local funding to complete the design and construction of the locally funded project as well as build the reaches

Approving the Modification to the Upper Penitencia Creek Flood Protection Project of the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-007

of the preferred project that can be constructed with the available funding. This approach extends the local-funding-only project from King Road to Capital Avenue and provides 1% flood protection for an additional 800 parcels. As a result, the new local-funding-only project would be to construct flood improvements along Upper Penitencia Creek from the confluence of Coyote Creek to Capital Avenue to increase the 1% flood protection provided with local available dollars to 1,250 parcels, including the new Berryessa BART station.”; and

WHEREAS, the Safe, Clean Water Program identifies the Key Performance Indicators (KPIs) for Project E4 as follows:

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

WHEREAS, Project E4 has a 15-Year Funding Allocation of approximately \$23.592 million; and

WHEREAS, infrastructure construction projects in the Safe, Clean Water Program are experiencing significant cost increases; and

WHEREAS, these increased costs are impacting the Safe, Clean Water Program Fund's (Fund 26) financial health, resulting in staff's recommendation that the Valley Water Board of Directors provide direction on balancing the overall Fund and delivering the voter-approved Safe, Clean Water Program; and

WHEREAS, as a result of construction cost escalations, staff is recommending modifying Project E4 funding allocation to reallocate construction-related planned expenditures to the Fund 26 Operating and Capital Reserves; and

WHEREAS, modifying the 15-Year Funding Allocation to reallocate construction-related planned expenditures would reduce the allocation to approximately \$1.534 million which would impact Valley Water's ability to construct the project and deliver the KPIs; and

WHEREAS, Valley Water will reassess the availability of funding on an annual basis as part of the Capital Improvement Program's financial planning process, through which the Board may reallocate construction funding to Project E4, when and if, funding becomes available; and

WHEREAS, Valley Water's Resolution No. 20-64 authorizes modifications to proposed projects. Paragraph N. reads as follows: “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”; and

WHEREAS, at its regular Board meeting conducted on January 10, 2023, Valley Water's Board of Directors set a time and place for a formal public hearing to occur on January 24, 2023, at which time the Board will consider the Proposed Modification to Project E4: Upper Penitencia Creek Flood Protection Project of the Safe, Clean Water and Natural Flood Protection Program.

Approving the Modification to the Upper Penitencia Creek Flood Protection Project of the Safe, Clean Water and Natural Flood Protection Program Resolution No. 23-007

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

1. Pursuant to the requirements stated in California Government Code section 6066, staff prepared and published advertisements in Santa Clara County newspapers of general circulation.
2. Pursuant to the requirements stated in Valley Water's Resolution No. 20-64, Paragraph N., a noticed public hearing was held.
3. Modify the funding allocation for Project E4: Upper Penitencia Creek Flood Protection Project, as set forth in the Safe, Clean Water Program, as follows:

E4: Upper Penitencia Creek Flood Protection Project Financial Summary (\$ Thousand)	
15-Year Allocation	Modified 15-Year Allocation (approx.) *
\$23,592	\$1,534

**The modified funding allocations are approximated at this time and will be finalized through the development and Board approval of the Capital Improvement Program's FY 2024-28 Five-Year Plan.*

4. Valley Water's Safe, Clean Water and Natural Flood Protection Program's Project E4: Upper Penitencia Creek Flood Protection Project, is hereby modified as stated in Exhibit A, Modified 15-Year Funding Allocation, hereto, which includes the approved approximated Modified 15-Year Allocation, which will be finalized through the development and Board approval of the Capital Improvement Program's Fiscal Years 2024-28 Five-Year Plan.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on January 24, 2023:

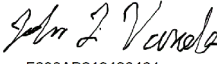
AYES: Directors: Estremera, Hsueh, Beall, Eisenberg, Keegan, Santos, Varela

NOES: Directors: None

ABSENT: Directors: None

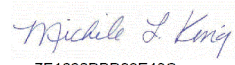
ABSTAIN: Directors: None

SANTA CLARA VALLEY WATER DISTRICT

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JOHN L. VARELA
 Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

DocuSigned by:

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Clerk, Board of Directors

EXHIBIT A COVERSHEET

MODIFIED 15-YEAR FUNDING ALLOCATION

No. of Pages: 2

Exhibit Attachments: None

Exhibit A – Modified 15-Year Funding Allocation

PROJECT E4 UPPER PENITENCIA CREEK FLOOD PROTECTION

Preferred project: A federal-state-local partnership

This project continues a partnership with the U.S. Army Corps of Engineers (USACE), to plan, design and construct improvements along 4.2 miles of Upper Penitencia Creek from the confluence with Coyote Creek to Dorel Drive. Part of the project will protect the area around the Bay Area Rapid Transit's (BART) Berryessa station near King Road, which would otherwise be subject to flooding.

In addition to providing flood protection, this multi-objective project will provide ecological restoration and recreation benefits while preserving the water supply. The natural creek channel will be preserved while adjacent existing open space and parkland will remain as recreational areas, only rarely taking the role as a temporary floodplain so that floodwaters do not enter surrounding neighborhoods and commercial areas. Proposed construction measures may include modified floodplains, limited levees/ floodwalls, a bypass channel, and fish passage improvements.

Local-funding-only project

The original local-funding-only project was to acquire all necessary rights-of-way and construct a 1% (100-year event) flood protection project from Coyote Creek confluence to King Road, which would have protected 450 parcels. In December 2019, the Valley Water Board directed staff to use the available local funding to complete the design and construction of the locally funded project as well as build the reaches of the preferred project that can be constructed with the available funding. This approach extends the local-funding-only project from King Road to Capital Avenue and provides 1% flood protection for an additional 800 parcels. As a result, the new local-funding-only project would be to construct flood improvements along Upper Penitencia Creek from the confluence of Coyote Creek to Capital Avenue to increase the 1% flood protection provided with local available dollars to 1,250 parcels, including the new Berryessa BART station.

Benefits

- Preferred project provides up to 1% flood protection to approximately 8,000 homes, schools and businesses.
- Local-funding-only project provides 1% flood protection to 1,250 parcels, including the new Berryessa BART station.
- Restores/enhances ecological and riparian habitat.
- Reduces sedimentation and maintenance requirements.
- Improves water quality in Upper Penitencia and Coyote creeks.

Exhibit A – Modified 15-Year Funding Allocation

- Provides opportunities for recreation improvements consistent with the City of San José and Santa Clara County Park master plans.
- Addresses climate change.

Key Performance Indicators (FY22–36)

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

Modified Funding Allocation

E4: Upper Penitencia Creek Flood Protection Project Financial Summary (\$ Thousand)	
15-Year Allocation	Modified 15-Year Allocation (approx.) *
\$23,592	\$1,534

**The modified funding allocations are approximated at this time and will be finalized through the development and Board approval of the Capital Improvement Program's FY 2024-28 Five-Year Plan.*



Safe, Clean Water and Natural Flood Protection Program Modifications - Countywide



What: Public Hearing on Proposed Modifications to the Safe, Clean Water and Natural Flood Protection Program

Who: Santa Clara Valley Water District (Valley Water)

When: Tuesday, January 24, 2023, at 1:00 p.m.

Where: Valley Water Headquarters Building Boardroom
5700 Almaden Expressway, San Jose, CA
and by Zoom Teleconference at: <https://valleywater.zoom.us/j/84454515597>

Valley Water invites you to a public hearing regarding proposed modifications to the Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program).

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

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

Priority D: Restore Wildlife Habitat

D3: Sediment Reuse to Support Shoreline Restoration (MODIFY KPI)

The project key performance indicator (KPI) #1 is to maintain partnership agreements to reuse sediment to improve the success of salt pond and tidal marsh restoration projects and activities. Valley Water has been delivering sediment to Salt Pond A8 via an agreement with U.S. Fish and Wildlife Services (USFWS). Valley Water is pausing delivering sediment to Pond A8 for approximately two years as USFWS renews necessary permits. To support continued sediment reuse for restoration purposes, staff is recommending that the Board modify KPI #1 to expand sediment reuse beyond the South Bay Salt Pond Restoration Project. Staff is also recommending adjusting the project's name, description and benefits in alignment with the proposed modification. Below is the proposed modification.

D3 – KPI #1: Reuse sediment meeting applicable screening criteria at available Valley Water or partnership project sites to support restoration.

D4: Fish Habitat and Passage Improvement (MODIFY KPI)

KPI #1 is to plan and design one creek/lake separation project and KPI #2 is to construct a creek/lake separation project. As the KPIs do not identify specific projects, the Board selects which projects should meet the KPIs. In 2021, the Board chose the Almaden Lake Project to be constructed under KPI #2; however, since then, the estimated project costs have nearly tripled, making the project's construction unfeasible. Therefore, staff is recommending that the Board select the Ogier Ponds project to be constructed under KPI #2. As Valley Water is also funding the Ogier Ponds project as part of the required mitigation for the Anderson Dam Seismic Retrofit Project, staff is recommending that the Board modify KPI #2 to partially fund the construction of a creek/lake separation project. Below is the proposed modification.

D4 – KPI #2: Partially fund the construction of one (1) creek/lake separation project in partnership with local agencies.

D6: Restoration of Natural Creek Functions (NOT IMPLEMENT KPI - KPI # 3 placeholder project)

Staff is recommending not implementing KPI #3 and reallocating the placeholder project funding to the Safe, Clean Water Program's Operating and Capital (Fund 26 Reserves), thus supporting the fund's financial health. The project commits Valley Water to construct three geomorphic-designed projects. Valley Water is on track to complete the construction of the first two projects in fiscal year 2023-24. The third project is yet to be identified. Below is the proposed modification.

NOT IMPLEMENT D6 – KPI #3: Identify, plan, design, and construct a third geomorphic-designed project to restore stability and stream function by preventing incision and promoting sediment balance throughout the watershed.

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

E2: Sunnyvale East and Sunnyvale West Channels Flood Protection (MODIFY FUNDING)

Staff is recommending modifying the project funding allocation to construct Sunnyvale West Channel, putting Sunnyvale East Channel construction on hold, and reallocating Sunnyvale East Channel-construction-related planned expenditures to the Fund 26 Reserves. This will support the fund's financial health; however, it will impact Valley Water's ability to construct the project and deliver the KPI. Should additional funding become available within the Fund 26 Reserves or through partnership and/or grant funding, the Board may reallocate the construction funding to the project through a direction provided during a regular board meeting. Below is the proposed modified funding.

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

E4: Upper Penitencia Creek Flood Protection Project (MODIFY FUNDING)

Staff is recommending modifying the funding allocation for the Upper Penitencia Flood Protection project and reallocating construction-related planned expenditures to the Fund 26 Reserves. This will support the fund's financial health; however, it will impact Valley Water's ability to construct the project and deliver the project KPIs. Should additional funding become available within the Fund 26 Reserves or through partnership and/or grant funding, the Board may reallocate the construction funding to the

project through a direction provided during a regular board meeting. Below is the proposed modified funding.

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

This meeting is being held in accordance with the Brown Act. The 1:00 p.m., January 24, 2023, public hearing will be held during a Board Meeting and is accessible for public in-person participation at the time, date, and location shown above, or by public virtual participation at the Zoom link above. Document(s) associated with this hearing are available for public inspection prior to the meeting in the Clerk of the Board's Office or online at www.valleywater.org, and will be available at the meeting.

For more information, contact Meenakshi Ganjoo, Program Administrator, at 408-630-2295.

Important Notices:

Valley Water, in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access and/or participate in Valley Water Board meetings to please contact the Clerk of the Board's office at (408) 630-2711, at least 3 business days before the scheduled Valley Water Board meeting to ensure that Valley Water may assist you. Reasonable efforts will be made to accommodate persons with disabilities.

重要通知：

Valley Water 遵守美國殘疾人法案 (ADA)，要求需要特殊便利才能訪問和/或參加 Valley Water 委員會會議的個人請致電 (408) 630-2711 聯繫委員會辦公室的書記員，網址為在預定的 Valley Water 委員會會議召開前至少 3 個工作日，以確保 Valley Water 可以為您提供幫助。將做出合理的努力以容納殘疾人。

Thông báo quan trọng:

Valley Water, để tuân thủ Đạo luật Người Mỹ Khuyết tật (ADA), yêu cầu những cá nhân cần điều chỉnh đặc biệt để tiếp cận và/hoặc tham gia các cuộc họp của Hội đồng Valley Water vui lòng liên hệ với Văn phòng Thư ký của Hội đồng theo số (408) 630-2711, tại ít nhất 3 ngày làm việc trước cuộc họp đã lên lịch của Hội đồng Valley Water để đảm bảo rằng Valley Water có thể hỗ trợ bạn. Những nỗ lực hợp lý sẽ được thực hiện để hỗ trợ người khuyết tật.

Aviso Importantes:

Valley Water, en cumplimiento de la Ley de Estadounidenses con Discapacidades (ADA), solicita a las personas que requieren adaptaciones especiales para acceder y/o participar en las reuniones de la Junta de Valley Water que se comuniquen con la oficina del Secretario de la Junta al (408) 630-2711, al menos 3 días hábiles antes de la reunión programada de la Junta de Valley Water para asegurarse de que Valley Water pueda ayudarlo. Se harán esfuerzos razonables para acomodar a las personas con discapacidades

SCW PUBLIC NOTICE AD Publication Schedule:

San Jose Post - Jan. 13 & Jan. 20

El Observador - Jan. 20

Vietnam Daily - Jan. 14

Chinese News - Jan. 15

Community papers - Jan. 20

All ads were submitted on Jan 11.