



Santa Clara Valley Water District Environmental Creek Cleanup Committee Meeting

HQ. Bldg. Boardroom, 5700 Almaden Expressway, San Jose, California
Join Zoom Meeting: <https://valleywater.zoom.us/j/88314500886>

REGULAR MEETING AGENDA

**Thursday, August 29, 2024
9:00 AM**

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

Environmental Creek Cleanup
Committee

Director Jim Beall (District 4)
Director John Varela (District 1,
Committee Vice Chair)
Director Richard P. Santos (District 3,
Committee Chair)

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Jennifer Codianne (Staff
Liaison)

Dave Leon, (COB Liaison)
Assistant Deputy Clerk II
daveleon@valleywater.org
(408) 630-2006

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.

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Environmental Creek Cleanup Committee
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Join Zoom Meeting:

<https://valleywater.zoom.us/j/88314500886>

Meeting ID:883 1450 0886

Join by Phone:

1 (669) 900-9128, 88314500886#

1. CALL TO ORDER:

1.1. Roll Call.

2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA.

Notice to the public: Members of the public who wish to address the Board/Committee on any item not listed on the agenda may do so by filling out a Speaker Card and submitting it to the Clerk or using the "Raise Hand" tool located in the Zoom meeting application to identify yourself to speak. Speakers will be acknowledged by the Board/Committee Chair in the order requests are received and granted speaking access to address the Board/Committee. Speakers' comments should be limited to three minutes or as set by the Chair. The law does not permit Board/Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board/Committee action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board/Committee may take action on any item of business appearing on the posted agenda.

3. APPROVAL OF MINUTES:

- 3.1. Approval of July 29, 2024 Committee Meeting Minutes. [24-0810](#)

Recommendation: Approve the July 29, 2024 Meeting Minutes.

Manager: Candice Kwok-Smith, 408-630-3193

Attachments: [Attachment 1: 072924 ECCC Minutes](#)

4. REGULAR AGENDA:

- 4.1. Receive Update on Unhoused People and Environment Summit. [24-0745](#)

Recommendation: Receive an update on the Unhoused People and Environment Summit.

Manager: Marta Lugo, 408-630-2237

Attachments: [Attachment 1: Draft Agenda](#)

- 4.2. Proposed Water Resources Protection Zones Ordinance. [24-0796](#)

Recommendation: A. Receive information regarding the revised Water Resources Protection Zones Ordinance and Ordinance Implementation Plan; and
B. Recommend the Water Resources Protection Zones Ordinance to the Board for consideration and adoption; and
C. Provide feedback and input to staff as necessary.

Manager: Jennifer Codianne, 408-630-3876

Attachments: [Attachment 1: Listening Session Input Summary](#)
[Attachment 2: Water Resources Protection Zones Ordinance](#)
[Attachment 3: Ordinance Implementation Plan](#)
[Attachment 4: PowerPoint](#)

Est. Staff Time: 10 min

- 4.3. Review the Environmental Creek Cleanup Committee (ECCC) Work Plan. [24-0811](#)

Recommendation: Review the Committee work plan to guide the committee's discussions regarding policy alternatives and implications for Board deliberation.

Manager: Candice Kwok-Smith, 408-630-3193

Attachments: [Attachment 1: ECCC 2024 Work Plan](#)

5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.

This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.

6. ADJOURN:

6.1. Adjourn.

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Santa Clara Valley Water District

File No.: 24-0810

Agenda Date: 8/29/2024
Item No.: 3.1.

COMMITTEE AGENDA MEMORANDUM Environmental Creek Cleanup Committee

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

SUBJECT:

Approval of July 29, 2024 Committee Meeting Minutes.

RECOMMENDATION:

Approve the July 29, 2024 Meeting Minutes.

SUMMARY:

A summary of Committee discussions, and details of all actions taken by the Committee, during all open and public Committee meetings, is transcribed and submitted for review and approval.

Upon Committee approval, minutes transcripts are finalized and entered into the District's historical records archives and serve as historical records of the Committee's meetings.

ENVIRONMENTAL JUSTICE IMPACT:

There are no Environmental Justice impacts associated with this item.

ATTACHMENTS:

Attachment 1: 072924 ECCC Minutes

UNCLASSIFIED MANAGER:

Candice Kwok-Smith, 408-630-3193

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ENVIRONMENTAL CREEK CLEANUP COMMITTEE

DRAFT MINUTES

MONDAY, July 29, 2024

(Paragraph numbers coincide with agenda item numbers)

A special scheduled meeting of the Environmental Creek Cleanup Committee Meeting was held on July 29, 2024, at Santa Clara Valley Water District, Headquarters Building, 5700 Almaden Expressway, San Jose, California.

1. CALL TO ORDER

Committee Chair Director Richard P. Santos called the meeting to order at 9:03 a.m.

1.1. ROLL CALL

Committee Board Members in attendance were: Director Jim Beall (District 4), and Committee Chair Director Richard P. Santos (District 3), constituting a quorum of the Committee. Vice Chairperson Director John Varela, (District 1) was absent.

Valley Water Staff in attendance were: Antonio Alfaro, Audrey Beaman, Mark Bilski, Rick Callender, Isela Chaparro, Jennifer Codianne, Andrew Diaz, Jiana Escobar, Ray Fields, Rachael Gibson, Chris Hakes, Jeff Ham, Mary Harvey, Brian Hopper, Michele King, Candice Kwok-Smith, Cecil Lawson, Dave Leon, Marta Lugo, Sadie Lum, Becky Manchester, Patrice McElroy, Janet Middleton, Don Rocha, Maged Salib, Stephanie Simunic, Cheryl Togami, Derek Woodbury, and Genevieve Yip.

Public in attendance were: Ali, Sarah Balcha, Aisha Daffeh, Derek, Felice, Deb K., Jamie Marcil, Jethroe Moore, Paul, Rick, Bill Roth, John Varela, and Olympia Williams.

2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA

Chairperson Santos declared time open for public comment on any item not on the agenda. There was no one who wished to speak.

3. APPROVAL OF MINUTES

It was moved by Director Beall and seconded by Chairperson Santos, and unanimously carried, to approve the May 17, 2024 Environmental Creek Cleanup Committee meeting minutes as submitted.

4. REGULAR AGENDA ITEMS

4.1 UPDATE ON VALLEY WATER AND CITY OF SAN JOSÉ COLLABORATION TO REDUCE ENCAMPMENTS ALONG WATERWAYS.

Mark Bilski, Kip Harkness, Deputy City Manager, City of San Jose, Rachael Gibson, and Antonio Alfaro reviewed the information on this item, per the attached Committee Agenda Memo. Mark Bilski, Kip Harkness, Rachael Gibson, Antonio Alfaro, and Jennifer Codianne were available to answer questions.

Public Comments: Mark Culcasi spoke about concerns relating to unhoused individuals living on Los Gatos Creek between Leigh and Bascom Avenues.

The Committee received the information, took no formal action, and requested that staff report to the Committee with information relating to various points raised by Director Beall, including the creation of a joint entity with the City of San Jose and the County of Santa Clara to assist unhoused individuals living in the creeks, and maximizing Proposition 1 money.

4.2 RECEIVE AN UPDATE REGARDING ASSEMBLY BILL 1469 IMPLEMENTATION.

Mark Bilski, Rachael Gibson, and Jennifer Codianne reviewed the information on this item, per the attached Committee Agenda Memo, and were available to answer questions.

Public Comments: Gail Osmer spoke relating to the Cherry Avenue site, and Jethroe Moore spoke relating to employee safety and opportunities for community involvement.

The Committee received the information and took no formal action.

4.3 RECEIVE UPDATE ON VALLEY WATER'S ENCAMPMENT CLEANUP OPERATIONS.

Jennifer Codianne reviewed the information on this item, per the attached Committee Agenda Memo, and the corresponding presentation materials contained in Attachment 1. Jennifer Codianne and Ray Fields were available to answer questions.

Public comments: Deb Kramer spoke about trash removal.

The Committee received the information and took no formal action.

4.4 REVIEW THE ENVIRONMENTAL CREEK CLEANUP COMMITTEE (ECCC) WORK PLAN.

The Committee considered this item without a staff presentation.

Public Comments: None.

The Committee received the information and took no formal action.

5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE'S REQUESTS TO THE BOARD

The Committee took no action.

6. ADJOURNMENT

6.1 ADJOURN

Chairperson Santos adjourned the meeting at 11:01 a.m.

Submitted by:

Dave Leon
Assistant Deputy Clerk II

Date Approved:

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Santa Clara Valley Water District

File No.: 24-0745

Agenda Date: 8/29/2024

Item No.: 4.1.

COMMITTEE AGENDA MEMORANDUM Environmental Creek Cleanup Committee

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

SUBJECT:

Receive Update on Unhoused People and Environment Summit.

RECOMMENDATION:

Receive an update on the Unhoused People and Environment Summit.

SUMMARY:

Santa Clara Valley Water District is convening an event entitled: Unhoused People and Environment Summit on October 11, 2024, to bring together local leaders from Santa Clara County, South Bay cities, businesses, nonprofit groups, advocacy organizations, and law enforcement agencies, as well as leaders at the state and federal level to discuss addressing encampments of unsheltered people along our agency's waterways. The summit will focus on the public safety and environmental crisis as well as the humanitarian crisis of homelessness happening along our waterways and will feature panels on the causes and impacts of encampments along our waterways, tools and strategies to address unsheltered people experiencing homelessness in riparian corridors, and opportunities for collaboration with local and regional leaders.

Staff will provide a verbal update on the summit. The draft agenda is included with this report as Attachment 1.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

There are no Environmental Justice impacts associated with this update.

ATTACHMENTS:

Attachment 1: Draft Agenda

File No.: 24-0745

Agenda Date: 8/29/2024
Item No.: 4.1.

UNCLASSIFIED MANAGER:
Marta Lugo, 408-630-2237

UNHOUSED PEOPLE AND ENVIRONMENT SUMMIT

Santa Clara Convention Center
5001 Great America Pkwy, Santa Clara, CA 95054
Virtually via Zoom: <https://valleywater.zoom.us/j/84454515597>

October 11, 2024 | 9:00 a.m. - 12:15 p.m.

DRAFT AGENDA*

9:00 a.m.	Welcome from Valley Water Chair Nai Hsueh and Vice Chair Richard Santos
9:05 a.m.	Panel Discussion: Identifying the Causes and Impacts of Encampments Along Waterways <i>Invited Panelists: Destination Home, Bay Area Council, Valley Water</i>
10:05 a.m.	Panel Discussion: Collaboration on Solutions that Work <i>Invited Panelists: County of Santa Clara, City of San Jose, Santa Clara County District Attorney's Office, California Department of Housing and Community Development, Destination Home, Dignity Moves</i>
11:05 a.m.	Remarks from Valley Water Board of Directors
11:35 a.m.	Public Comment
12:15 p.m.	Adjournment

*Please be advised this is a preliminary draft of the Unhoused People and Environment Summit agenda and that the overall timing, panel topics, and panelists are subject to change depending on the availability of the invited panelists. The agenda may also change based on the availability of speakers.

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Santa Clara Valley Water District

File No.: 24-0796

Agenda Date: 8/29/2024

Item No.: 4.2.

COMMITTEE AGENDA MEMORANDUM Environmental Creek Cleanup Committee

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

SUBJECT:

Proposed Water Resources Protection Zones Ordinance.

RECOMMENDATION:

- A. Receive information regarding the revised Water Resources Protection Zones Ordinance and Ordinance Implementation Plan; and
- B. Recommend the Water Resources Protection Zones Ordinance to the Board for consideration and adoption; and
- C. Provide feedback and input to staff as necessary.

SUMMARY:

At the May 17, 2024, meeting, the Santa Clara Valley Water District's (Valley Water) Environmental Creek Cleanup Committee (ECCC) recommended that the Board adopt a proposed Water Resources Protection Zones Ordinance (Ordinance). The Ordinance is intended to protect water resources, endangered species, and other ecological resources, as well as to support and improve safety for Valley Water's field operations staff. On July 9, 2024, the Board considered the ECCC's recommendation to adopt the proposed Ordinance. The Board received significant public testimony and recommended that the proposed Ordinance be referred back to the ECCC for further review and that consideration for its adoption be postponed until after the Unhoused People and Environment Summit on October 11, 2024.

At the July 9 Board meeting, several community members raised concerns regarding the potential for criminalization of unsheltered people, and the need for safe relocation sites, housing, support services, cross-agency collaboration, and community engagement. To gather input and learn from stakeholders who voiced concerns about the Ordinance, staff hosted an in-person facilitated Listening Session on July 25, 2024, at Valley Water Headquarters. Advocates and nonprofits who support the unsheltered community were invited to share their concerns about the Ordinance as well as their ideas and solutions for addressing the needs of unsheltered people living near waterways, while also ensuring Valley Water staff safety and environmental protection.

Listening Session participants shared their concerns with Valley Water's current approach to addressing encampments of unsheltered people near waterways, including the proposed Ordinance. Participants' main concerns about the Ordinance were that it would displace unsheltered people from the waterways before safe relocation sites, shelter, or housing options are available and that it could potentially criminalize unsheltered people through its enforcement provisions. They also had concerns about how the Ordinance would be implemented and enforced.

Participants offered ideas and suggestions for solutions to achieve Valley Water's goals of keeping waterways clean and safe and ensuring staff safety. The primary themes of the solutions were the need for short- and long-term shelter and housing away from waterways; support services and resources for unsheltered people; collaboration and partnerships with other agencies, advocates, and nonprofits; and funding for these solutions. Many of their recommendations align with Valley Water's current or planned efforts and actions and a number fall outside of Valley Water's authority and scope as a water resources management and environmental stewardship agency. Staff is further investigating several of the ideas raised, to determine their feasibility.

Staff received the valuable feedback and incorporated a significant amount of the stakeholder input into a revised draft Ordinance and proposed Ordinance Implementation Plan. A summary of the input received at the Listening Session and staff responses are provided in Attachment 1.

Modifications to the Ordinance

Staff revised the proposed Ordinance (Attachment 2) in response to concerns that its enforcement would displace unsheltered people without safe relocation options and that it could result in criminalization of unsheltered people. Section 4 was modified to clarify and improve the enforcement provisions, including good faith efforts to connect unsheltered people to social services and the option for the District Attorney to recommend to the court community service in lieu of fines.

New provisions were added to Section 1 of the Ordinance to reflect Valley Water's intent to humanely implement the Ordinance. Section 1.5 sets the priorities for enforcement, including protecting employee safety, environmental mitigation sites, and water quality, as well as resolving impediments to project construction and operations. Section 1.6 establishes the Board's intent to safely relocate unsheltered people to interim or permanent housing, and to facilitate access to social services provided by other local government partners. Further, Section 1.7 was added to reflect Valley Water's intent to develop a plan to guide staff in the implementation of the Ordinance.

Finally, the possession or use of firearms, ammunition, or fireworks within the Water Resources Protection Zone are prohibited in Section 3.3. Prohibiting possession will enable law enforcement to take action to remove these serious community risks without the need to witness or prove their actual or threatened use. Section 1.4 encourages property owners to institute the same prohibitions where Valley Water has easements or maintenance obligations.

Ordinance Implementation Plan

As recommended by several Listening Session participants, staff prepared a draft Ordinance Implementation Plan (Implementation Plan) (Attachment 3) that provides a framework and timeline for implementation of the Ordinance. Staff incorporated several key recommendations regarding Ordinance implementation, including adopting a pilot and/or phased approach, defining procedures for how the Ordinance would be implemented and enforced, identifying high priority enforcement areas, and creating a process for evaluating the impacts and effectiveness of the Ordinance. The Implementation Plan establishes priority levels for enforcement to support a progressive implementation approach, clearly delineated procedures for education, warning, and enforcement, and built-in timelines for review and monitoring of the Ordinance implementation, including evaluation by the Environmental Creek Cleanup Committee by December 31, 2025.

In developing the Implementation Plan, staff also researched and incorporated best practices, guidelines, and specific language from several government agencies that have implemented similar frameworks in their jurisdictions to mitigate the environmental, health, and safety impacts of encampments. Among these communities were Seattle, Tacoma, Portland, Sacramento, Berkeley, Oakland, Fremont, Santa Cruz, Santa Rosa, Escondido, and San Diego.

Stakeholders raised concerns that unsheltered people would have nowhere else to go if displaced from waterways. Valley Water recognizes that immediate implementation of the Ordinance across all Valley Water lands would displace some unsheltered people from encampments before adequate safe relocation sites, shelter, and housing options are available in Santa Clara County. In consideration of this reality, Encampment Condition Guidelines (Guidelines) have been incorporated into the Implementation Plan that will apply to all encampments located on Valley Water property. Adherence to the Guidelines will minimize the environmental, health, and safety impacts of encampments by promoting positive camping practices and discouraging harmful actions.

As part of Valley Water's progressive Ordinance implementation, encampments and individuals adhering to the Guidelines would be considered a low priority for enforcement. The Guidelines will serve to further the overall intent of the Ordinance to reduce the environmental impacts of encampments, ensure field staff safety, and respond to community concerns.

Valley Water Contribution to Housing

Valley Water is committed to helping solve the regional shelter and housing crisis by collaborating with local agencies to provide land for temporary and permanent housing options. Assembly Bill (AB) 1469 amended the Santa Clara Valley Water District Act to give Valley Water the authority to assist unsheltered people living along streams, in riparian corridors, or otherwise in its jurisdiction, in consultation with a city or the County of Santa Clara, to provide solutions or improve outcomes for the unsheltered individuals. Specifically, the law allows Valley Water the flexibility to use district land and a part of an existing ad valorem property tax for lasting encampment solutions.

The District Act now enables Valley Water's to work with local agencies to construct low-barrier navigation centers, supportive housing, transitional housing, affordable housing, or other facilities to assist unsheltered people. These facilities would be operated by a city, the County, or a non-profit

with the appropriate expertise to provide shelter and services that can improve outcomes for unsheltered people.

Under the authority granted by AB 1469, staff is discussing with nonprofit organizations and local government agencies the use of specific Valley Water-owned properties for potential temporary and permanent supportive housing. Valley Water and the City of San José are in current negotiations to allow the City's use of Valley Water's two-acre property on Cherry Avenue to develop an Emergency Interim Housing site. The City of San José is also evaluating four additional Valley Water properties for use as safe sleeping sites. Staff has met with other potential partners as well, as Valley Water continues to seek opportunities to contribute to shelter and housing options.

Interagency Collaboration

Valley Water collaborates with local agencies and other service providers to address the challenges posed by encampments and their impacts to waterways and water supply and flood protection facilities, including supporting the provision of outreach and other services by these agencies and service providers. Valley Water maintains an agreement with County of Santa Clara to provide up to \$200,000 annually to support County outreach teams visiting encampments on Valley Water property for outreach and offers of shelter or housing.

Valley Water and the City of San José are finalizing a Letter of Intent to partner in holistically managing encampments on waterways throughout the City, including Valley Water priority areas and areas within the City's stormwater Municipal Regional Permit discharge sites. Valley Water and City of San José also are working to extend their agreement to provide comprehensive services to unsheltered individuals living within the high-risk flood zones of Valley Water's Coyote Creek Flood Protection Project footprint. Additionally, Valley Water either maintains or is pursuing Memoranda of Agreement with the County and other local municipalities to collaboratively manage the impacts of encampments on waterways. Valley Water will continue to work with local partners and assist in efforts to find solutions to address unsheltered homelessness.

On October 11, 2024, Valley Water will host an event titled, Unhoused People and Environment Summit. The Summit aims to bring together local leaders from Santa Clara County, South Bay cities, businesses, nonprofit groups, advocacy organizations, and law enforcement agencies, as well as leaders at the state and federal level to discuss addressing encampments of unsheltered people along waterways. The Summit will explore actionable ideas for collaboration towards solutions for those experiencing homelessness while also protecting our waterways and the environment.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

The Water Resources Protection Zones Ordinance addresses environmental stewardship by protecting water resources, endangered species, and other ecological resources which may be located near disadvantaged communities.

ATTACHMENTS:

Attachment 1: Listening Session Input Summary
Attachment 2: Water Resources Protection Zones Ordinance
Attachment 3: Ordinance Implementation Plan
Attachment 4: PowerPoint

UNCLASSIFIED MANAGER:
Jennifer Codianne, 408-630-3876

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VALLEY WATER LISTENING SESSION

July 25, 2024

SUMMARY OF INPUT FROM ADVOCATES AND NONPROFIT SERVICE PROVIDERS WHO SUPPORT UNHOUSED AND UNSHELTERED PEOPLE

1. Concern that the proposed Water Resources Protection Zones Ordinance takes the wrong approach and is not needed.

Stakeholder Input:

- *Overall approach is backwards. Don't sweep encampments first. Housing needs to be provided before the Ordinance goes into effect.*
- *We need housing before the Ordinance goes into effect. We need to house people, then clear the creeks.*
- *The Ordinance will be unenforceable because people need a place to move to. The issue will shift to scatter in neighborhoods.*
- *There are no shelters, transitional, or interim housing for people to move to and stay if they are swept from the creeks.*
- *Valley Water should not use the stick method. We need to see alternative, more humane options instead of criminalizing unhoused people.*
- *There should be no sweeps, fines, or jail. Remove the threat and stick. Everything should be voluntary.*
- *The behavior that is being reported at encampments is already against the law and can be enforced with existing laws.*
- *Valley Water should use data collection that informs solutions, such as tracking seasonal trends of when fires are occurring. Conduct data collection that informs solutions (e.g., track seasonal trends for what part of the year fires are occurring).*

Valley Water Staff Response:

The intent of the Water Resources Protection Zones Ordinance (Ordinance) is to reduce the environmental impacts of encampments, ensure Valley Water field staff safety, and respond to community concerns. Valley Water must act now to achieve these objectives, and the Ordinance will be one tool within a suite of collaborative and solutions-based efforts.

Encampments and encampment-related activities that violate basic standards of public health and safety must be addressed as a matter of urgency. Implementation of the Ordinance will enable Valley Water to better manage encampment impacts while continuing to work with local agencies to implement strategic, community-wide plans and develop policy and funding approaches to contribute to long-term solutions to unsheltered homelessness within Santa Clara County.

Valley Water has an obligation to protect its field staff whose workplace is in and along waterways, and whose work is critical to maintaining flood protection and water supply infrastructure and meeting regulatory requirements. The continued presence of encampments of unsheltered people on lands where Valley Water holds property rights threatens Valley Water's ability to carry out its mission and ensure the safety of its staff.

Over the last several years there has been an increase in the number of staff security incidents associated with unsheltered people living on Valley Water property, including physical violence, armed threats of violence, verbal assaults and physical intimidation, vicious dog encounters, and fire-related occurrences. Compounding the severity of these dangerous incidents is a rise in drug activity among the unsheltered people residing on Valley Water property, as evidenced by an increasing rate of overdoses and drug arrests.

It should be noted that existing laws *have* been applied to violent offenders, most of whom, even in the case of firearms offenders, served minimal sentences and then returned to Valley Water property where many had further dangerous interactions with our staff. To truly protect staff, Valley Water must ensure that bad actors are not allowed to be present on Valley Water property and given potential opportunities to interact with staff conducting work there. Valley Water acknowledges that not all unsheltered people living on Valley Water lands pose safety threats. However, a lack of information puts Valley Water in a reactive position as it tries to respond to individuals who do pose a threat.

2. Concern that the Ordinance implementation is unclear, and that an implementation plan is needed.

Stakeholder Input:

- *The Ordinance is a "one-size-fits-all" solution. Will it be countywide or just in hot spots?*
- *The Ordinance language is vague and doesn't say how it will be enforced.*
- *The Ordinance doesn't include an implementation process or timeline.*
- *The Ordinance should define what specific areas along creeks Valley Water is concerned about, target those problem areas, and then hold relevant stakeholders accountable.*
- *Valley Water should provide more specificity on the ordinance implementation, including an action plan and timeline for the implementation process as well as dates to evaluate the effectiveness of the Ordinance.*
- *Valley Water should consider a one-year pilot program and then evaluate its effectiveness.*
- *Valley Water should consider a phased approach; identify where unhoused people can go; use collaboration and partnerships and different phases; and only use law enforcement in select cases.*

Valley Water Staff Response:

Based on the feedback received from advocates and nonprofit service providers at the Listening Session, staff prepared an Ordinance Implementation Plan (Implementation Plan) that provides a framework and timeline for the implementation of the Ordinance. The

Implementation Plan establishes priority levels to support a progressive implementation approach, clearly delineated procedures for education and enforcement, and built-in timelines for review, monitoring, and ultimate oversight by Valley Water's Environmental Creek Cleanup Committee.

3. Concern for the potential criminalization of unhoused people and the need for compassion.

Stakeholder Input:

- *The Ordinance will criminalize people, not behaviors.*
- *The Ordinance is biased and blames the victim. It profiles and stereotypes unhoused people.*
- *The Ordinance will exacerbate disparities for vulnerable groups.*
- *The Ordinance will disproportionately target people of color and separate families.*
- *Unhoused people are people first with the same rights and dignity.*
- *Unhoused people don't have money to pay fines. It will make them more impoverished. There is not enough capacity to house people in jail.*
- *Valley Water doesn't have enforcement capabilities.*
- *Valley Water staff should go location by location and police themselves. They should choose who goes out into the creeks and police their own people.*
- *Valley Water staff should partner with nonprofits, advocates, and outreach teams when going into encampments. They should use advocates or camp contacts for safety and to ensure that dogs are on leashes. Valley Water staff should contact advocates prior to projects.*
- *Valley Water staff could have unhoused guides to help them.*
- *Valley Water staff has a lack of training on how to interact with unhoused people. For unhoused people, perception is everything.*
- *Valley Water needs to have dedicated outreach and build trust with the unhoused community.*
- *Valley Water staff should build and foster positive relationships with unhoused people.*
- *Valley Water staff should receive de-escalation and sensitivity, empathy, and compassion training as well as coaching on community relations.*
- *Valley Water staff should use an advocate or encampment contact as a liaison.*
- *Valley Water should do ride-alongs and meetups to meet unhoused people where they are and to talk to them and gather data.*

Valley Water Staff Response:

The intent of the Ordinance is not to criminalize unsheltered homelessness itself or to stigmatize unsheltered people. However, Valley Water must urgently address encampment-related activities and impacts that violate basic standards of public health and safety. The

Ordinance Implementation Plan focuses on reducing the most harmful environmental, health, and safety impacts that encampment activity has on people living in encampments, Valley Water staff, and the broader community.

The Implementation Plan includes principles that will guide the application and enforcement of the Ordinance, including the following principles related to how unsheltered people will be treated: *1. People experiencing homelessness have the same civil rights as housed residents and deserve to be treated with dignity and respect. 2. Any relocation or removal of an encampment must follow clear procedures that respect unsheltered individuals' rights. Valley Water is committed to harm-reduction approaches to resolving problems associated with any particular encampment.* The Implementation Plan includes a progressive enforcement approach for violations of prohibited activities that states: *Valley Water is committed to non-criminal alternatives to enforcement, and to avoid citation and arrest wherever possible. While ensuring effective enforcement, Valley Water will delay or avoid pursuing infractions and misdemeanors and provide options to cure violations through positive actions such as education.*

Proposed amendments to the Ordinance underscore the Valley Water Board's intent that unsheltered people being safely relocated based on prioritized enforcement conditions be treated with respect. This intent includes that Valley Water will make a good faith attempt to connect individuals with social services, including safe sleeping locations or interim or permanent housing; will provide information on Ordinance requirements and resources for identifying Valley Water lands; or both. In extreme cases where an unsheltered individual must be prosecuted, proposed amendments to the ordinance provide the district attorney and the court options of infraction, misdemeanor, and in lieu of fines, community service. Criminalization is not the intent, and the ordinance provides enforcement tools to help ensure that it is not the reality.

The Implementation Plan also includes Encampment Condition Guidelines (Guidelines) that provide straightforward parameters by which encampment residents can minimize negative environmental, health, and safety impacts by promoting positive camping practices and discouraging harmful actions. Those who apply the Guidelines will be considered Low Priority for encampment removal actions under the Ordinance. As outlined in the Implementation Plan, Valley Water staff will conduct education and outreach to unsheltered individuals residing in encampments, informing them about the Guidelines on a real-time, continual basis when visiting encampment sites. Advocates and others who support unsheltered individuals residing in encampments on Valley Water property also will receive information and education on the Guidelines.

Valley Water is committed to harm-reduction approaches. Our field staff already receive mandatory training on "Calming & De-escalation Strategies." Encampment Cleanup crew staff have developed working relationships with many encampment residents whom they encounter on a regular basis as staff conduct recurring cleanups countywide. While Valley Water staff seeks to have positive interactions with unsheltered people living in encampments as they perform their work operations, Valley Water is not a social services agency and staff is not trained to be social workers.

Safety concerns for field staff have led to increasing requests for police officer presence during work activities, at a cost of hundreds of thousands of dollars. Valley Water also provides up to \$340,000 per year under an agreement with the City of San José for police to conduct patrols targeting criminal activities along local waterways, including Coyote Creek and the Guadalupe River. Valley Water does not possess police powers, and due to

the number and type of dangerous situations staff encounter on a regular basis, it is infeasible to expect staff members to ensure their own safety by “policing themselves” or to rely on encampment guides to ensure safety.

4. The need for shelter and housing as the solution to encampments.

Stakeholder Input:

- *The Ordinance approach does not address the root cause of encampments.*
- *The Ordinance approach does not take Assembly Bill (AB) 1469 into consideration. Valley Water should use resources for housing and services to prevent homelessness under AB 1469.*
- *Identify alternatives such as shelter, safe parking, sanctioned encampments, and tiny homes.*
- *Offer housing to unhoused individuals, including safe sleeping sites like “SJ LUV” (“Lifting Up LiVes”) and transformational campuses like “Haven for Hope” model.*
- *Identify Valley Water properties that can be used for safe sleeping sites, safe parks, managed camping, tiny homes under AB 1469.*
- *Valley Water should identify surplus properties to provide for unhoused people.*
- *Have sanctioned encampments in each district and use support from other districts to get them in every single district.*
- *Use the County fairgrounds or other County or city properties for relocation sites.*
- *Money is being funded into solutions that have not been working.*
- *Valley Water should redirect creek cleanup resources to housing people or giving them approved areas to occupy.*
- *Licensed social workers should be made available to transition people to acceptable temporary housing.*
- *Unhoused people should be grouped according to their lifestyle, specifically sober people wanting to stay sober should not be grouped with people that are not sober.*

Valley Water Staff Response:

Valley Water is committed to helping solve the regional shelter and housing crisis by collaborating with local agencies to provide land for the development of temporary and permanent housing. AB 1469 amended the Santa Clara Valley Water District Act to give Valley Water the authority to assist unsheltered people living along streams, in riparian corridors, or otherwise in its jurisdiction, in consultation with a city or the County of Santa Clara, to provide solutions or improve outcomes for the unsheltered individuals. Specifically, the law allows Valley Water the flexibility to use district land and a part of an existing ad valorem property tax for lasting encampment solutions.

Under the authority granted by AB 1469, staff is discussing with nonprofit organizations and local government agencies the use of specific Valley Water-owned properties for potential temporary and permanent supportive housing. Valley Water and the City of San José are in

current negotiations to allow the City's use of Valley Water's two-acre property on Cherry Avenue to develop an Emergency Interim Housing site. The City of San José is evaluating four additional Valley Water properties for use as safe sleeping sites. Staff has met with other potential partners, both public and private, as Valley Water continues to seek opportunities to contribute to shelter and housing options. Staff is conducting a comprehensive assessment of Valley Water lands to identify viable properties for development and use as interim or permanent housing sites.

Over the long term, Valley Water will strive toward the goal of safely relocating all unsheltered individuals residing in encampments on Valley Water property into interim or permanent housing with access to support services, as these resources become available. However, as a water resources management agency, Valley Water's primary obligation is to carry out its mission to provide Silicon Valley safe, clean water for a healthy life, environment, and economy.

5. The need for more support services to engage and benefit unhoused people living along waterways.

Stakeholder Input:

- *Educate the public that unhoused people are good people who are not at fault and that they are not all on drugs or alcoholics.*
- *Provide education and outreach to unhoused people with dedicated outreach teams.*
- *Provide education to Valley Water staff and to encampments.*
- *Educate unhoused people on the environment and safety.*
- *Valley Water staff should use pizza parties in encampments where there are issues to "break bread" and create camaraderie with encampment occupants.*
- *Valley Water staff should bring water and supplies every time they work in an encampment.*
- *Valley Water should provide more porta potties, trash/dumping receptacles, and wash/cleanup stations at encampments.*
- *Valley Water should provide portable showers on the south side of the County.*
- *Implement "Cash for Trash" Program.*
- *Have unhoused people be the ones to remove trash from the creeks, not Valley Water staff.*
- *Provide leadership training to unhoused people who are environmentalists at the creeks.*
- *Educate and employ unhoused people as creek stewards and have them partner with the people who are doing that work.*
- *Provide Valley Water jobs for unhoused people. Hire encampment occupants for cleanup.*
- *Valley Water should provide cleanup jobs to unhoused people and generally offer jobs to qualified individuals.*

- *Valley Water should reinvest money being spent on creek cleanups to hire unhoused people and to implement an education and outreach program.*
- *Valley Water should reinvest \$3.4 million of funding for cleanups into alternatives such as dedicated education and outreach teams for encampments, short term housing options, focus groups to gather input from encampments, and hiring people in encampments for cleanup.*
- *There is the need for better supportive services.*
- *Use focus groups to gather input from encampments to learn what types of resources they need.*
- *Provide sober programs to unhoused people.*
- *Intensive case management should be required and funded.*
- *Valley Water staff should provide fire extinguishers at encampments. They are inexpensive.*

Valley Water Staff Response:

Valley Water acknowledges that comprehensive support services are needed for unhoused people living near waterways. However, as a water district, Valley Water's ability to provide these services is limited.

Valley Water is not a social services agency and does not have authority to hire staff to directly provide outreach or other services, nor to gather personal or demographic data related to people living in encampments on its property. Valley Water does collaborate with local social service agencies to address the challenges posed by encampments and their impacts, including supporting the provision of outreach and other services by these agencies. However, providing direct support services—such as physical or mental health care services, employment support services, and counseling and case management—falls outside Valley Water's scope as a water resources management and environmental stewardship agency. While Valley Water staff seeks to have positive interactions with unhoused people living in encampments as staff performs its work operations, Valley Water does not have the authority or funding to supply provisions such as food, water, and hygiene products.

When an encampment removal is necessitated by associated risk factors, a key step of Valley Water's encampment resolution protocol is to request that outreach providers visit unhoused individuals residing in the encampment to offer services and/or available housing or shelter options. Within the City of San José, Valley Water coordinates these services directly through the City Housing Department. Valley Water also maintains an agreement with County of Santa Clara Office of Supportive Housing to support County outreach teams proactively visiting encampments on Valley Water property outside the City of San José. Additionally, in Fiscal Year 2023-2024, the Valley Water Board of Directors voted to support a Portable Toilet Facilities Program, which provides portable toilets and wash stations at critical locations along local creeks.

As part of the Ordinance Implementation Plan, the Encampment Condition Guidelines provide straightforward parameters by which encampment residents can minimize negative environmental, health, and safety impacts by promoting positive camping practices and discouraging harmful actions. This includes trash-reduction recommendations and

reinforcement through education by Valley Water staff. However, keeping pace with removing the significant amounts of trash, debris, and hazardous pollutants generated by encampments will continue to require the services of Valley Water's dedicated Encampment Cleanup crew, who have training on waste collection, hauling, and disposal, and the use of light and heavy equipment.

It would be inadvisable for Valley Water to redirect its encampment cleanup funding at this time. The amount of encampment-generated trash, debris, and hazardous material continues to increase each year, and Valley Water, as an environmental stewardship agency, has an obligation to keep up with its removal. In the most recent fiscal year, Valley Water's Encampment Cleanup crew removed over 1,000 tons of trash from Valley Water-owned lands. As housing and shelter options continue to come online, the need for encampment cleanups may be reduced in the future; Valley Water may be able to reassess its encampment cleanup funding level and redirect those funds to other solutions-based activities within its purview.

Finally, warming or cooking fires are not permitted on Valley Water lands and can be very unsafe. Valley Water cannot, through the provision of fire extinguishers, create an implication that any kind of fire activity is acceptable. Uncontained fires, toxic fumes, gases, and smoke can pose serious harm to the individual(s) creating the fire, the surrounding community, and the environment. Valley Water must insist that no fire activity occur anywhere on Valley Water property.

6. The need for collaboration, partnership, and funding for solutions.

Stakeholder Input:

- *There is not a single agency that can solve this alone. We need to be able to work together.*
- *We need to pool resources across jurisdictions to create places where unsheltered people can stay and receive services away from creeks until housing becomes available.*
- *Coordination is key. People with lived experience, advocates, service providers, law enforcement, neighbors, neighborhood leaders, public agencies (state, local, and regional) all need to come to the table to solve homelessness.*
- *Valley Water should use its political power to endorse, advocate for, and help pass the regional housing bond.*
- *Valley Water should look into Environmental Protection Agency (EPA) Community Change Grant. Twenty million dollars in funding is being given out for projects that improve the environment (150 grants available).*
- *Valley Water should consider forming a Joint Powers Authority (JPA) with the state, County, cities, and different agencies for a joint mission and shared advocacy in helping and serving our unhoused communities all over the county. The Joint Powers Authority should include funders and partners together.*
- *Valley Water should partner with nonprofits.*

- *Collaboration should focus on building relationships between service providers. There should be defined roles and a workflow for a better understanding of how the partnerships work.*
- *Valley Water should fine cities instead of unhoused people. There should be accountability for agencies.*

Valley Water Staff Response:

Valley Water collaborates with local agencies and other service providers to address the challenges posed by encampments and their impacts to waterways and water supply and flood risk reduction facilities, including supporting the provision of outreach and other services by these agencies and service providers. Valley Water coordinates with the City of San José and requests that City outreach teams visit encampments of unsheltered people on Valley Water property to provide outreach and offers of available housing or shelter. Further, Valley Water and the City of San José are working to extend their agreement to provide comprehensive services to unsheltered individuals living within the high-risk flood zones of Valley Water's Coyote Creek Flood Protection Project footprint. Valley Water also maintains an agreement with County of Santa Clara to support County outreach teams visiting encampments on Valley Water property outside the City of San José.

Valley Water and the City of San José are finalizing a Letter of Intent to partner in holistically managing encampments on waterways throughout the City, including Valley Water priority areas and areas within the City's stormwater Municipal Regional Permit discharge sites. Valley Water and the City will establish and implement a shared roadmap to secure sites for shelter and housing, identify areas for targeted relocation of encampments, and ultimately reduce the impacts of camping along waterways within the City of San José. Additionally, Valley Water either maintains or is pursuing Memoranda of Agreement with the County and other local municipalities to collaboratively manage the impacts of encampments on waterways.

Staff has begun to research the EPA Environmental and Climate Justice Community Change Grants Program and will conduct a more in-depth review to determine its viability as a potential funding opportunity. Staff previously considered the feasibility and interest in a JPA to address issues related to homelessness, however, such an entity may not be a part of the current local government strategy.

Valley Water is assessing other opportunities to leverage the expertise and relationships that advocates and service providers maintain with people living in encampments. Valley Water will continue to work with local partners and assist in efforts to find solutions to address unsheltered homelessness.

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

ORDINANCE NO. 24-

**ESTABLISHING PROHIBITIONS WITHIN
WATER RESOURCES PROTECTION ZONES**

WHEREAS, the Santa Clara Valley Water District Act (District Act) authorizes the Santa Clara Valley Water District (Valley Water) to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County, in order to provide a reliable supply of healthy and clean water; reduce the potential for flood damage; protect, and when appropriate, enhance and restore natural resources of streams and watersheds; and

WHEREAS, trampling, excavation, vegetation and tree removal, and increased fire frequency associated with encampments have damaged and destroyed required habitat mitigation on lands that Valley Water holds in fee and easement. Encampments and associated uses can degrade water quality, obstruct fish passage, and damage and destroy habitats that these species depend on; and

WHEREAS, there has been an increase in the number of security incidents and fire-related occurrences encountered by Valley Water staff that were related to unsheltered people; and

WHEREAS, this ordinance is intended to protect water resources, endangered species and other ecological resources, as well as to support and improve the safety of Valley Water's field operations staff.

The Board of Directors of the Santa Clara Valley Water District does ORDAIN as follows:

SECTION 1: PURPOSE AND INTENT

- 1.1 The purpose of the Water Resources Protection Zones Ordinance (Ordinance) is to establish water resources protection zones (WRPZ) to better enable Valley Water to continue providing Silicon Valley safe, clean water for a healthy life, environment, and economy.
- 1.2 The Ordinance is intended to address the impacts of encampments near waterways and water supply facilities where Valley Water holds land rights in order to improve water quality and to protect the riparian habitat of creeks and waterways.
- 1.3 The Ordinance aims to reduce encampments and prevent re-encampment along creeks, waterways and water supply facilities. It is intended to protect water resources, endangered species and other ecological resources, as well as to support and improve safety for Valley Water staff.
- 1.4 The Ordinance prohibits the possession and use of firearms, ammunition, and fireworks on lands owned by Valley Water in fee title. The Board of Directors encourages property owners to institute and enforce the same prohibitions where Valley Water has an easement or has maintenance obligations pursuant to effective licenses and agreements.
- 1.5 It is the intent of the Board of Directors that this Ordinance be implemented with an enforcement priority of protecting employee safety, environmental mitigation sites, and water quality, as well as resolving impediments to Valley Water project construction and operations.

- 1.6 It is further the intent of the Board of Directors that individuals illegally occupying Valley Water property be safely relocated to interim or permanent housing and that social services from other local government partners be offered to individuals who may need them.
- 1.7 It is further the intent of the Board of Directors that Valley Water will develop a plan to guide staff in the implementation of this ordinance.

Valley Water adopts the Ordinance pursuant to the authorities granted to it by the Santa Clara Valley Water District Act (California Water Code Appendix, Chapter 60, Section 9(b)).

SECTION 2: DEFINITIONS

- 2.1 “Water Resources Protection Zone” is defined as all lands where Valley Water owns property in fee title, has an easement, or has maintenance obligations pursuant to effective licenses and agreements.

Valley Water’s property rights in fee and easement can be viewed using the following link: <https://gis.valleywater.org/FeeEasement/>

- 2.2 “Camping” is defined as unauthorized sleeping, erecting a shelter of any type, storing, using, maintaining, or placing personal property.
- 2.3 “Encampments” is defined as one (1) or more structures occupied by an individual or group of individuals that is located illegally on Valley Water or other public property. An area where there are no structures, but where personal property is stored or where animals are kept and/or maintained without authorization from Valley Water, is also considered an encampment.
- 2.4 “Habitat” is defined as a place in which the physical, chemical, and/or biological factors which support the survival and/or reproduction of a particular species or biological community is present, including places in which these factors are naturally occurring, places in which these factors have been established by human action, and places in which these factors are actively and intentionally being developed for the purpose of supporting the species or biological community.

SECTION 3: PROHIBITIONS WITHIN WATER RESOURCES PROTECTION ZONES

- 3.1 Camping is prohibited within the WRPZ to protect the adjacent waterways, water supply facilities, water quality, and riparian corridors.
- 3.2 The following activities are prohibited in the WRPZ:
- (a) Unauthorized establishment of encampments and any depositing of trash, debris, and/or hazardous pollutants related to the establishment or presence of encampments.
 - (b) Any activity or nuisance that unreasonably disturbs the occupants of neighboring properties, including but not limited to the possession or use of explosives, fireworks, or other toxic or hazardous materials or substances, or use of any loudspeakers, public address systems, sound amplifiers, radio, or broadcast within the WRPZ in such manner that sounds are unreasonably loud or directed beyond the immediate area of the listener, except to the extent appropriate permits are obtained in accordance with any applicable municipal code section.

- (c) Any activities that could create a hazard or potential hazard to Valley Water employees or the public, or that could interfere with, obstruct, or prevent the safe operation of Valley Water facilities, including but not limited to buildings or habitat, or its activities associated with water quality, environmental stewardship, or flood risk reduction.
- (d) Any unlawful activities.

3.3 Possession of firearms, ammunition, or fireworks are prohibited as follows.

- (a) Possession or use of any of the following items is prohibited on lands where Valley Water owns property in fee title.
 - i. Firearm, as defined in Section 16520 of the California Penal Code.
 - ii. Ammunition, as defined subdivision (a) of Section 16150 of the California Penal Code.
 - iii. Fireworks, as defined in Section 12511 of the California Health and Safety Code.
- (b) This prohibition shall not extend to peace officers as defined in Section 830 of the California Penal Code.

SECTION 4: ENFORCEMENT/REGULATION OF WATER RESOURCES PROTECTION ZONES

- 4.1 For violations of the prohibitions set forth in Section 3, the following enforcement procedures apply. In steps (a) and (b) below, Valley Water will provide opportunities for a violator of the Ordinance to voluntarily relocate or otherwise remedy a violation before any enforcement actions in step (c) are pursued.

- (a) Warning, Education, and Notice
 - i. For violations of the prohibited activities in Sections 3.2(a) – (c), Valley Water will first employ an educational approach, providing a single warning. The warning and education process will include information on Ordinance requirements, resources for identifying Valley Water lands, and a request to relocate the encampment or cease other prohibited activities. the following.
 - A. A good faith attempt to have a direct discussion with unsheltered individuals to connect them to social services, distribution of written materials containing information on how unsheltered individuals can connect to social services, or both.
 - B. Information on Ordinance requirements and resources for identifying Valley Water lands.
 - C. A request to relocate the encampment or cease other prohibited activities.
 - ii. For any unauthorized encampment in violation of Section 3.2(a) – (c), that is identified for cleanup and removal, Valley Water will post a written notice of scheduled cleanup and removal concurrently with the warning and education process.

(b) Time Period for Voluntary Relocation or Remedy

If an encampment in violation of Section 3.2(a) of this Ordinance is not voluntarily relocated after Valley Water has provided warning, education, and notice pursuant to step 4.1(a), and after a period of seventy-two (72) hours has passed, Valley Water will proceed with its encampment removal protocol, which includes collaborating with other local agencies, arranging for the processing and storage of identifiable personal belongings, and encampment cleanup and removal. Any violation of Sections 3.2(b) – (c) must be remedied by the violating party upon receiving warning and education from Valley Water. A ~~potential~~ violation of Section 3.2(d) or Section 3.3 will be referred to law enforcement officers for immediate enforcement.

(c) Violation a Misdemeanor Enforcement

If the prohibited activities set forth in Sections 3.2(a) – (c) persist after the time period for voluntary relocation or remedy in Section 4.1(b), or immediately upon observation of a violation of Section 3.2(d) or Section 3.3, law enforcement may enforce this Ordinance against any person in violation of any of the provisions herein. Prosecution will be determined by the District Attorney pursuant to the Santa Clara Valley Water District Act and other laws. The District Attorney may in his or her discretion charge specify that the offense as is an infraction or a misdemeanor, recommend to the court an appropriate fine of any amount not to exceed \$500, or in lieu of a fine recommend to the court community service pursuant to California Penal Code Section 1209.5. Any violation or threatened violation may also be enjoined by civil action.

SECTION 5: SEVERABILITY

If any section or provision of this Ordinance is held to be unconstitutional or invalid, that finding will not affect the validity of the Ordinance as a whole nor any part thereof, other than the part held to be unconstitutional or invalid.

SECTION 6: EFFECTIVE DATE

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on July 9, 2024 ~~October 22, 2024~~, and effective thirty (30) days after adoption pursuant to Section 9 of the District Act:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

NAI HSUEH

Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors

WATER RESOURCES PROTECTION ZONES ORDINANCE IMPLEMENTATION PLAN

Water Resources Protection Zones Ordinance

BACKGROUND

The Water Resources Protection Zones Ordinance (Ordinance) was adopted by Valley Water to address the environmental and safety impacts of encampments located along creeks, waterways, and water supply facilities on land that Valley Water owns or manages.

- The Ordinance establishes Water Resources Protections Zones (WRPZ) on lands where Valley Water owns property in fee title, has an easement, or has maintenance obligations pursuant to effective licenses and agreements.
- The Ordinance prohibits camping and other related activities, including unlawful activities, within the WRPZs, and provides for enforcement for violations of the Ordinance.
- The Ordinance is intended to protect water resources, endangered species, and other ecological resources, as well as to support and improve safety for Valley Water's field operations staff.
- The Ordinance is part of Valley Water's larger strategy to address the environmental and safety impacts resulting from encampments in riparian areas, while also acknowledging and addressing the needs of unsheltered people who may live in the encampments.
- The intent of the Ordinance is not to criminalize unsheltered homelessness. However, encampments and encampment-related activities that violate basic standards of public health and safety must be addressed as a matter of urgency.

Implementation of the Ordinance will enable Valley Water to better manage encampment generated impacts while concurrently working with local agencies to implement strategic, community-wide plans and develop policy and funding approaches to address unsheltered homelessness within Santa Clara County. The Ordinance Implementation Plan (Implementation Plan) focuses on reducing and eliminating the most serious environmental, health, and safety impacts that encampments have on the environment, unsheltered individuals, and the broader community. The Implementation Plan describes how Valley Water will prioritize its response to harmful impacts stemming from encampments and what interventions will be used to address them.

PROHIBITED ACTIVITIES

The Ordinance prohibits camping within Water Resources Protection Zones, which encompass all lands where Valley Water owns property in fee title, has an easement, or has maintenance obligations pursuant to effective licenses and agreements. "Camping" is defined as

unauthorized sleeping, erecting a shelter of any type, storing, using, maintaining, or placing personal property. The Ordinance also prohibits the following activities (refer to Appendix 1 for a complete list of prohibited activities):

- Dumping trash, debris, and/or other hazardous pollutants;
- Noisy activities, including using explosives, loudspeakers, public address systems, sound amplifiers, and radios;
- Possessing or using firearms, ammunition, or fireworks.

ORDINANCE IMPLEMENTATION TIMELINE

Milestone 1 – Valley Water’s Board of Directors adopts the Ordinance. (October 22, 2024)

Milestone 2 – Valley Water staff conducts education and outreach to the community, advocates and social service providers who support unsheltered people, unsheltered individuals residing in encampments, local agencies, and law enforcement officers—informing them about the Ordinance, Implementation Plan, and compliance expectations. (October 22, 2024 – November 21, 2024)

Milestone 3 – The Ordinance goes into effect (November 21, 2024); Valley Water staff initiates Ordinance rollout in accordance with the Implementation Plan.

Milestone 4 – Valley Water staff monitors and assesses progress, impacts, and effectiveness of the Ordinance implementation and adjusts as needed with input from key stakeholders, including community residents, advocates and social service providers who support unsheltered people, unsheltered individuals residing in encampments, and local agencies and/or their police or fire departments. (November 21, 2024 – December 31, 2025)

Milestone 5 – Valley Water’s Environmental Creek Cleanup Committee reviews and evaluates the Ordinance’s impact and effectiveness and provides feedback to Valley Water staff. (December 31, 2025)

Ordinance Implementation Plan

The Implementation Plan has been developed by Valley Water to provide a framework for the implementation of the Ordinance. The Implementation Plan provides essential information to Valley Water staff; unsheltered individuals residing in encampments; advocates and social service providers who support unsheltered people; local agencies, including law enforcement agencies; and the broader public about the requirements and procedures related to the Ordinance.

The Implementation Plan outlines the path that Valley Water intends to follow in the implementation of the Ordinance, but it does not have the force or effect of law. Therefore, in the case of any discrepancy or inconsistency between the Ordinance and the Implementation Plan, the Ordinance language will always prevail. The full text of the Ordinance is included in Appendix 1.

The Implementation Plan includes principles for safe and humane implementation of the Ordinance, guidance for Valley Water staff on how to apply and enforce the Ordinance, guidance for unsheltered individuals residing in encampments on how the Ordinance will affect them, and implementation priorities and procedures.

PRINCIPLES

Valley Water aims to follow these principles when implementing the Ordinance:

1. People experiencing homelessness have the same civil rights as housed residents and deserve to be treated with dignity and respect.
2. Any relocation or removal of an encampment must follow clear procedures that respect unsheltered individuals' rights. Valley Water is committed to harm-reduction approaches to resolving problems associated with any particular encampment.
3. Valley Water is committed to assisting unsheltered people living along streams, in riparian corridors, or otherwise within the district's jurisdiction, to provide solutions or improve outcomes for the unsheltered individuals.
4. Valley Water intends for unsheltered individuals residing in encampments to be safely relocated to interim or permanent housing as these resources are available, and that social services from other local government partners be offered to individuals who may need them.

VALLEY WATER RESPONSE TO PROHIBITED ACTIVITIES

In response to activities prohibited by the Ordinance, Valley Water may take one or more of the following enforcement actions:

1. Request that a violator of the Ordinance cease a prohibited activity or activities
2. Request that a violator of the Ordinance relocate an encampment
3. Prioritize an encampment for cleanup and/or removal
4. Request law enforcement involvement to address unlawful activities

ENFORCEMENT PRIORITY LEVELS

As it is written, the Ordinance prohibits camping on all Valley Water lands. Valley Water does not have the resources or enforcement power to implement and enforce the Ordinance everywhere or all at once. Additionally, implementation of the Ordinance uniformly across all Valley Water lands would displace unsheltered people from encampments before adequate safe relocation sites, shelter, and housing options are available in Santa Clara County. In consideration of this reality, Valley Water will establish priority levels for encampment cleanup and removal under the Ordinance.

In general, Valley Water will prioritize encampment cleanup and removal as necessary to protect employee and/or public safety and to carry out Valley Water construction, maintenance, operations, vegetation management, and environmental mitigation projects.

Priority Levels are defined as follows:

High Priority:

An encampment will be prioritized as High Priority for cleanup and removal if any of the following criteria are present:

1. An encampment in the path of, or obstructing access to
 - a. flood protection or water infrastructure facilities or projects;
 - b. designated mitigation or vegetation management sites; or
2. An encampment that poses an immediate safety risk, including situations that involve staff safety as determined by Valley Water, or public safety issues, which can be determined by local, State, or Federal government agencies or their police or fire departments.
3. An encampment that poses extreme environmental hazards, including impacts to fish and wildlife, or imminent health or fire hazards.
4. The presence within a WRPZ of unauthorized motor vehicles of any kind, including trailers.
5. An encampment that is located within an area with posted signage listing restrictions on camping or re-encamping.

Low Priority:

Encampments that meet the Encampment Condition Guidelines (as defined below and in Appendix 2) and that maintain an external footprint, including all belongings, of 12'x12' or less and that do not otherwise create operations or maintenance access issues.

ENCAMPMENT CONDITION GUIDELINES

Valley Water's Encampment Condition Guidelines (Guidelines; see Appendix 2) are basic standards that Valley Water expects of all unsheltered people living in encampments on Valley Water land. The Guidelines establish parameters by which encampment residents can minimize negative environmental, health, and safety impacts by promoting positive camping practices and discouraging harmful actions. Unsheltered people residing in encampments within the WRPZs who apply the Guidelines will be considered Low Priority for encampment removal actions under the Ordinance.

Valley Water staff will inform and educate unsheltered people living within the WRPZs on the Guidelines on a real-time, continual basis as needed when staff visit encampment sites. Valley Water will monitor encampments to ensure that conditions are safe and sanitary. Observations or complaints will be addressed with the unsheltered individuals living in an encampment where complaints or observations occur. Although Valley Water may still need to intervene for other reasons as stated above, the Guidelines will provide straightforward parameters for encampment residents to follow to avoid violations.

PROGRESSIVE ENFORCEMENT FOR VIOLATIONS OF PROHIBITED ACTIVITIES

Valley Water is committed to non-criminal alternatives to enforcement, and to avoid citation and arrest wherever possible. While ensuring effective enforcement, Valley Water will delay or avoid pursuing infractions and misdemeanors and provide options to cure violations through positive actions such as education.

The progressive enforcement model includes an educational approach that first includes:

- Providing educational information on activities prohibited by the Ordinance;
- Helping identify Valley Water lands where Ordinance prohibitions apply;
- Providing an opportunity to self-remedy any violations.

When cleanup and removal action is warranted, per the Priority Levels described above, Valley Water staff will follow an encampment removal protocol that includes:

- Posting the encampment for cleanup and removal;
- Providing a minimum of 72-hours' notice prior to cleanup and removal;
- Requesting that outreach providers visit the unsheltered individual(s) residing in the encampment to offer services and/or available housing or shelter options;
- Collaborating with other local agencies;
- Arranging for the processing and storage of identifiable personal belongings; and
- Performing encampment cleanup and removal.

DISCLAIMER

The information provided in the Implementation Plan is solely for informational purposes and does not constitute legal or regulatory guidance. The enforcement of the Ordinance and the Implementation Plan may vary based on the discretion of relevant authorities, including Valley Water staff and guidance they receive from local, State, or Federal government agencies and/or their police or fire departments. This document does not guarantee any specific outcomes or decisions by regulatory bodies or enforcement agencies. Users should be aware that enforcement discretion allows authorities to make determinations based on various factors, including the specific circumstances of each case.

APPENDICES

1. Water Resources Protection Zones Ordinance
2. Encampment Condition Guidelines

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Appendix 1

See Water Resources Protection Zones Ordinance

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Appendix 2
Encampment Condition Guidelines

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ENCAMPMENT CONDITION GUIDELINES

This document provides guidance for individuals living in encampments and seeks to reduce harm toward these individuals, the surrounding community, and the environment. Valley Water recognizes that public encampments can have significant community health and safety issues. Valley Water prioritizes its encampment management and intervention activities using the below guidance.

THE FOLLOWING STANDARDS ARE NECESSARY TO MAINTAIN HEALTH AND SAFETY:

Your shelter and belongings:

- Keep your shelter and belongings within a 12-foot x 12-foot area. Store personal belongings inside your shelter or no more than 2 feet outside of your tent while still within the 12'x12' area.
- Tents should remain a minimum of 12 feet apart.
- Do not build any structures out of wood, metal, or other materials that can create a fire hazard or injury risk.
- Do not affix any object to a fence or tree for the purpose of building an encampment or any other structure.
- Keep all belongings off of Valley Water maintenance access roads and ramps at all times.
- Unauthorized motor vehicles of any kind, including trailers, are prohibited along waterways, in riparian areas, or on Valley Water maintenance access roads and ramps.
- Storage or accumulation of combustible materials is prohibited.
- Fires, including warming or cooking fires, are not permitted on Valley Water lands.
- Do not dump trash, debris, and/or hazardous pollutants on Valley Water lands.
- Dispose of trash and food waste. To prevent vermin and pests, please keep food in closed containers and throw away food waste and scraps. To help assist with this, Valley Water staff can provide you with trash bags to help stash your trash.
- Do not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, sewage, drug paraphernalia, improperly disposed of syringes, or other evidence of drug use on Valley Water lands.
- Do not assemble, disassemble, sell, offer to sell, distribute, offer to distribute, or store multiple bicycles or bicycle parts.

Respect your neighbors:

- Do not engage in violent, harassing, or disruptive behavior.
- Do not possess, keep, or store any firearms, ammunition, or any other weapons.
- All pets and service/support animals must be kept under control at all times and must be leashed when Valley Water employees are present.
- Refrain from noisy activities that may unreasonably disturb others nearby, including using explosives, fireworks, loudspeakers, public address systems, sound amplifiers, radios, percussive instruments.
- Quiet hours must be observed from 10 p.m. – 7 a.m.
- Utilize provided portable lavatories and handwashing stations. Please call American Portables if the facilities need servicing at (866) 332-7471.

This document is intended to be a living document. It will be reviewed and updated regularly to reflect new information, changes in circumstances, and the evolving needs of Valley Water.



Respect the natural environment:

- Do not dig, excavate, terrace soil, alter the ground or infrastructure, cause environmental damage or damage to vegetation or trees, or otherwise reconfigure or destroy the natural landscape.
- Do not affix any object to trees or other vegetation for the purpose of building an encampment or any other structure, or for any other reason.
- Do not erect bridges, or use objects, boulders, or trees to create a waterway crossing or obstruction.
- Do not harm or capture fish or wildlife.
- Do not move, alter, or damage boulders, fencing, gates, signs, maintenance access roads, or ramps.
- Do not drive, park, or bring any shopping cart, wheeled vehicle, or trailer onto Valley Water lands.
- Do not discharge waste, garbage, refuse, debris, hazardous waste, or human or animal waste into a waterway, and do not store such waste in a manner that would reasonably result in its discharge into a waterway.

THE FOLLOWING VIOLATIONS WILL RESULT IN IMMEDIATE ENFORCEMENT:

- Possessing or using firearms, ammunition, or fireworks
- Criminal activity including, but not limited to, theft, threats, acts of violence, and drug solicitation
- Constructing encampments out of wood, metal, or other materials that can create a fire hazard or injury risk
- Destroying property or the natural environment, or modifying or vandalizing infrastructure (e.g., graffiti, digging, damaging trees and other vegetation)
- Dumping trash, debris, and/or hazardous pollutants
- Dumping of materials or liquids into waterways or that otherwise affect water quality
- Keeping or maintaining non-operable or immobile vehicles, or unregistered or expired vehicles
- Trespassing, loitering, or dumping on adjacent properties
- Noisy activities, including using explosives, loudspeakers, public address systems, sound amplifiers, and radios
- Tapping into electrical or water utility lines

Observations or complaints regarding an encampment will be addressed with the person(s) living in the encampment where complaints or observations occur. **Failure to comply with these Guidelines may result in cleanup and removal of encampments, removal of items and debris, impoundment of vehicle(s), removal of any non-compliant person(s), citations, or monetary fines. Criminal activities can result in arrest.**

Although Valley Water may still need to intervene for other reasons not stated above, sticking to these guidelines provides straightforward parameters for encampment occupants to follow to be considered Low Priority for encampment removal or other interventions.

IF YOU ARE HAVING A MENTAL HEALTH CRISIS: Call the Santa Clara County Suicide Hotline at 988 or (800) 704-0900, or Santa Clara County Behavioral Health Services at (855) 278-4204 or text 'RENEW' to 741741.

This document is intended to be a living document. It will be reviewed and updated regularly to reflect new information, changes in circumstances, and the evolving needs of Valley Water.



Water Resources Protection Zones Ordinance

Environmental Creek Cleanup Committee
August 29, 2024

Water Resources Protection Zones Ordinance

- Establishes “water resources protection zones” to reduce encampments and prevent re-encampments along creeks and waterways
- Ordinance goals:
 - Protect water resources, endangered species, riparian habitat of creeks and waterways, and other ecological resources
 - Protect Valley Water investments in environmental mitigation projects
 - Support and improve the safety of Valley Water’s field operations staff



Response to Stakeholder Input

- Stakeholders raised concerns about Ordinance implementation, including lack of places for relocation and possible criminalization of unsheltered individuals
- Revised Ordinance, proposed Ordinance Implementation Plan, and Encampment Condition Guidelines address stakeholder concerns and incorporate recommended ideas and solutions



Response to Stakeholder Input: Ordinance

Stakeholder recommendations for Ordinance implementation:

- Create an implementation plan
- Have a pilot and/or phased implementation and evaluate impacts and effectiveness over time
- Target and prioritize problem areas
- Ordinance should not harm or criminalize unsheltered people living in encampments
- Ordinance should not be implemented until safe relocation sites are available

Valley Water's Ordinance Implementation Plan:

- Provides a framework and timeline for implementation, including education, review, monitoring, and evaluation
- Establishes High Priority enforcement level: 1) ensure VW facility access, and 2) address most harmful environmental, health, safety, and community impacts
- Includes non-harm principles, progressive enforcement approach, and Encampment Condition Guidelines to follow to help avoid violations

Response to Stakeholder Input: Solutions to Encampment Issues and Unsheltered Homelessness

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Stakeholder Ideas

Valley Water staff should:

- Partner with nonprofits and other agencies to solve homelessness
- Build positive relationships with unhoused people and receive sensitivity, compassion, and de-escalation training
- Provide porta potties and wash stations at encampments
- Use its resources to provide housing and services to prevent homelessness under Assembly Bill (AB) 1469, including offering surplus Valley Water properties

Valley Water Current and Planned Efforts

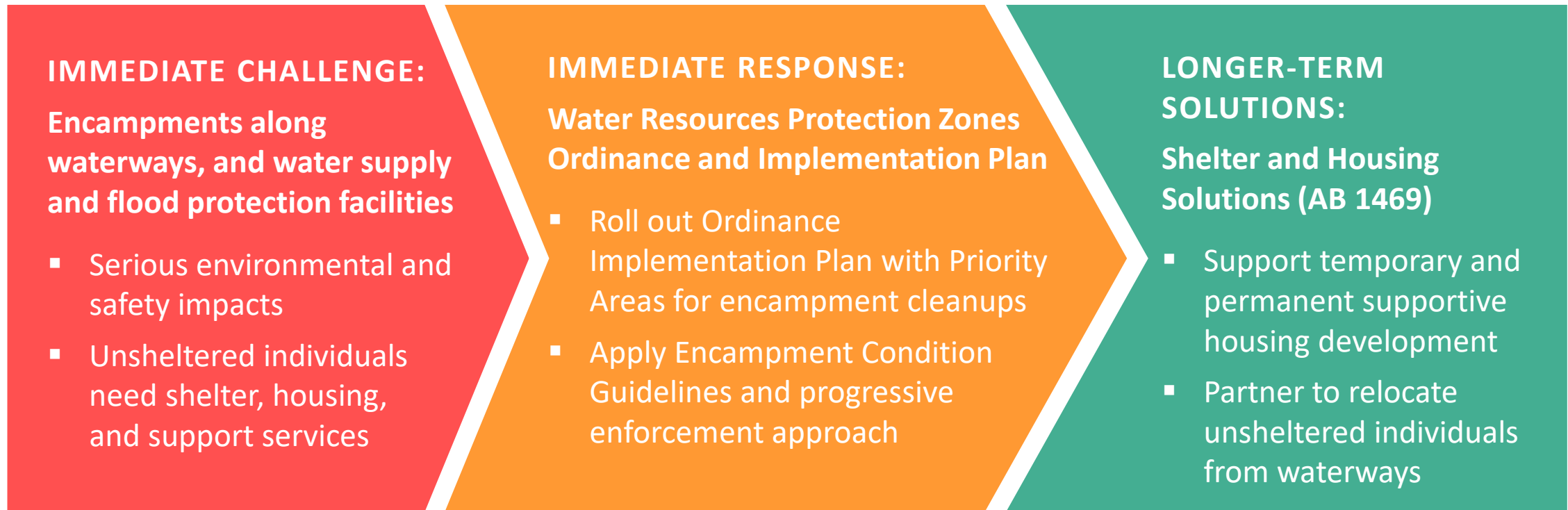
- Outreach and offers of available housing, shelter, and services in collaboration with City of San José and County of Santa Clara
- Mandatory field staff training on “Calming and De-escalation Strategies”
- Portable Toilet Facilities Program for toilets and wash stations along creeks
- AB 1469 efforts: exploring use of Valley Water-owned properties for potential temporary and supportive housing in partnership with nonprofits and local government agencies

Ordinance Implementation

- **Ordinance Implementation Plan** includes stakeholder education and outreach, implementation timeline, enforcement priority areas, and progressive enforcement approach
- **Encampment Condition Guidelines** provide straightforward parameters for encampment occupants to follow to avoid violations that could result in high priority enforcement



Valley Water's Approach to Addressing Urgent, Immediate-Term Challenges Related to Encampments



Valley Water's Response Strategy for Unsheltered Homelessness and Encampments

**Valley Water Board of Directors
and Environmental Creek
Cleanup Committee:**
Leadership and Oversight

**Safe, Clean Water and Natural Flood
Protection Program Project F5
Good Neighbor Program:** Collaborative
Encampment Cleanup and Safety Measures

**Water Resources Protection Zones Ordinance and
Implementation Plan:** Priority Cleanup Areas,
Encampment Condition Guidelines, Education and
Outreach, Progressive Enforcement and Implementation

Shelter and Housing Solutions under Assembly Bill 1469:
Valley Water-owned properties to be used for potential
temporary and permanent supportive housing in collaboration
with nonprofit organizations and local government agencies



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valleywater.org

QUESTIONS



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Santa Clara Valley Water District

File No.: 24-0811

Agenda Date: 8/29/2024

Item No.: 4.3.

COMMITTEE AGENDA MEMORANDUM Environmental Creek Cleanup Committee

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

SUBJECT:

Review the Environmental Creek Cleanup Committee (ECCC) Work Plan.

RECOMMENDATION:

Review the Committee work plan to guide the committee's discussions regarding policy alternatives and implications for Board deliberation.

SUMMARY:

The attached Work Plan outlines the approved topics for discussion to be able to prepare policy alternatives and implications for Board deliberation. The work plan is agendaized at each meeting as accomplishments are updated and to review additional work plan assignments by the Board.

BACKGROUND:

Governance Process Policy-8:

The District Act provides for the creation of advisory boards, committees, or commissions by resolution to serve at the pleasure of the Board.

Accordingly, the Board has established Advisory Committees, which bring respective expertise and community interest, to advise the Board, when requested, in a capacity as defined: prepare Board policy alternatives and provide comment on activities in the implementation of the District's mission for Board consideration. In keeping with the Board's broader focus, Advisory Committees will not direct the implementation of District programs and projects, other than to receive information and provide comment.

Further, in accordance with Governance Process Policy-3, when requested by the Board, the Advisory Committees may help the Board produce the link between the District and the public through information sharing to the communities they represent.

ENVIRONMENTAL JUSTICE IMPACT:

There are no Environmental Justice impacts associated with this item.

ATTACHMENTS:

Attachment 1: ECCC 2024 Work Plan

UNCLASSIFIED MANAGER:

Candice Kwok-Smith, 408-630-3193

2024 ENVIRONMENTAL CREEK CLEANUP COMMITTEE WORKPLAN												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<i>Category</i>												
Updates on Valley Water Encampment Cleanup Operations		X			X		X					
Subsection: Update on Fencing Issues and Repairs		X			X							
Subsection: County of Santa Clara Outreach Report		X			X		X					
Subsection: Creek Safety Issues Report		X			X		X					
Subsection: Encampment & Unsheltered Individual Count		X										
Subsection: Inter-agency Benchmarking		X										
Subsection: City of San José Update on Cherry Ave. Site					X							
Subsection: Update on CCFMMP Encampment Resolution					X							
Update on Countywide Collaboration – Consultant report		X										
Assembly Bill 1469 Implementation		X			X		X					
Water Resources Protection Zones Ordinance					X			X				
Update on Proposition 1 Funding					X							
Update on Collaboration with City of San Jose							X					
Update on Unhoused People and Environment Summit								X				
<i>Standing Items:</i>												
Election of Officers					X							
Approval of Minutes		X			X		X	X				
Review of Committee Work Plan					X		X	X				

LEGEND: Blue strikes (*new items*); Red strikes (*deleted text*)

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