



Santa Clara Valley Water District Stream Planning and Operations Committee Meet

Teleconference Zoom Meeting
5700 Almaden Expressway
San Jose, CA 95118

REGULAR MEETING AGENDA

Thursday, March 11, 2021
12:00 PM

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

FAHCE AD HOC COMMITTEE

Barbara Keegan - District 2
Linda J. LeZotte - District 4
Tony Estremera - District 6

During the COVID-19 restrictions, all public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body, will be available to the public through the legislative body agenda web page at the same time that the public records are distributed or made available to the legislative body, or through a link in the Zoom Chat Section during the respective meeting. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to participate in the legislative body's meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

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

**Santa Clara Valley Water District
Stream Planning and Operations Committee**

**REGULAR MEETING
AGENDA**

Thursday, March 11, 2021

12:00 PM

Teleconference Zoom Meeting

IMPORTANT NOTICES

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor’s Emergency Declaration related to COVID-19, and the Governor’s Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the Committee, staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

Members of the public wishing to address the Committee during a video conferenced meeting on an item not listed on the agenda, or any item listed on the agenda, should use the “Raise Hand” or “Chat” tools located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in the order requests are received and granted speaking access to address the Committee.

Santa Clara Valley Water District (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 Committee meetings to please contact the Clerk of the Board’s office at (408) 630-2711, at least 3 business days before the scheduled meeting to ensure that Valley Water may assist you.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has not been prepared with a view to informing an investment decision in any of Valley Water’s bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water’s bonds, notes or other obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access System for municipal securities disclosures and Valley Water’s Investor Relations website, maintained on the World Wide Web at <https://emma.msrb.org/> and <https://www.valleywater.org/how-we-operate/financebudget/investor-relations>, respectively.

Under the Brown Act, members of the public are not required to provide identifying information in order to attend public meetings. Through the link below, the Zoom webinar program requests entry of a name and email address, and Valley Water is unable to modify this requirement. Members of the public not wishing to provide such identifying information are encouraged to enter "Anonymous" or some other reference under name and to enter a fictional email address (e.g., attendee@valleywater.org) in lieu of their actual address. Inputting such values will not impact your ability to access the meeting through Zoom.

Join Zoom Meeting:

<https://valleywater.zoom.us/j/98460637852>

Meeting ID: 984 6063 7852

One tap mobile

+16699009128,,98460637852# US (San Jose)

Dial by your location

+1 669 900 9128 US (San Jose)

Meeting ID: 984 6063 7852

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 Committee on any item not listed on the agenda should access the "Raise Hand" or "Chat" tools located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in order requests are received and granted speaking access to address the Committee. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If 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 Committee may take action on any item of business appearing on the posted agenda.

3. APPROVAL OF MINUTES:

3.1. Approval of Minutes.

[21-0160](#)

Recommendation: Approve the January 14, 2021 Stream Planning and Operations Committee (SPOC) minutes.

Manager: Michele King 408-630-2711

Attachments: [Attachment 1: January 14, 2021 SPOC Minutes.](#)

4. INFORMATION AND ACTION ITEMS:

- 4.1. Receive Updates on Fish and Aquatic Habitat Collaborative Effort (FAHCE) Progress and Deliverables. [21-0164](#)
 Recommendation: Receive updates on the FAHCE progress and deliverables.
 Manager: Vincent Gin, 408-630-2633.
 Attachments: [Attachment 1: Update on FAHCE Pilot Flow Implementation](#)
[Attachment 2: FAHCE Monitoring Plan PowerPoint](#)
- 4.2. Discuss District and Non-District Projects and Other Activities that May Affect the FAHCE Settlement Agreement and Implementation. [21-0166](#)
 Recommendation: Discuss District and Non-District Projects and Other Activities that May Affect the FAHCE Settlement Agreement and Implementation.
 Manager: Vincent Gin, 408-630-2633.
- 4.3. Receive update on Anderson Dam Seismic Retrofit Project. [21-0168](#)
 Recommendation: Receive update on Anderson Dam Seismic Retrofit Project (ADSRP).
 Manager: Christopher Hakes, 408-630-3796
 Attachments: [Attachment 1: Anderson Hydroelectric Facility Board Agenda Men](#)
[Attachment 2: Anderson Dam Tunnel Project Plans and Specs Bo](#)
- 4.4. Receive Updates on Discussions with the FAHCE Adaptive Management Team. [21-0170](#)
 Recommendation: Receive Updates on Discussions with the FAHCE Adaptive Management Team (AMT).
 Manager: Vincent Gin, 408-630-2633.
- 4.5. Review Stream Planning and Operations Committee (SPOC) Work Plan, Outcomes of Board Action of Committee Requests, and the Next Meeting Agenda. [21-0161](#)
 Recommendation: A. Review 2021 SPOC work plan, outcomes of Board action of Committee requests, and next meeting agenda; and
 B. Schedule Committee meetings as appropriate.
 Manager: Michele King, 408-630-2711
 Attachments: [Attachment 1: 2021 SPOC Work Plan](#)
[Attachment 2: May 13, 2021 Draft Agenda](#)
- 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 to Regular Meeting at 12:00 p.m., on May 13, 2021, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.



Santa Clara Valley Water District

File No.: 21-0160

Agenda Date: 3/11/2021
Item No.: 3.1.

COMMITTEE AGENDA MEMORANDUM

Stream Planning and Operations Committee

SUBJECT:

Approval of Minutes.

RECOMMENDATION:

Approve the January 14, 2021 Stream Planning and Operations Committee (SPOC) minutes.

SUMMARY:

A summary of SPOC Committee discussions, and details of actions taken during an open and public meeting is submitted for review and approval.

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

ATTACHMENTS:

Attachment 1: January 14, 2021 SPOC Minutes.

UNCLASSIFIED MANAGER:

Michele King 408-630-2711



STREAM PLANNING AND OPERATIONS COMMITTEE

DRAFT MINUTES

THURSDAY, JANUARY 14, 2021
12:00 PM

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER

1.1 ROLL CALL

A meeting of the Santa Clara Valley Water District (Valley Water) Stream Planning and Operations Committee (SPOC) was called to order by Director Barbara Keegan at 12:00 p.m. on January 14, 2021, in the District Headquarters Building, Conference Room A-124, 5700 Almaden Expressway, San Jose, California.

Board Members in attendance in Conference Room A-124: Director Barbara Keegan-District 2;

Board members attending by videoconference: Director Linda J. LeZotte-District 4 and Director Tony Estremera-District 6, constituting a quorum of the SPOC.

Staff members in attendance in Conference Room A-124: Michele King, Clerk of the Board.

Staff in attendance by videoconference: Emmanuel Aryee, Aaron Baker, John Bourgeois, Rick Callender, Anthony Fulcher, Vincent Gin, Chris Hakes, Ryan Heacock, Alexander Hunt, Bassam Kassab, Susana McCloskey, Lisa Porcella, Sue Tippetts, Greg Williams and Sarah Young.

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

Director Keegan declared time open for public comment on any item not on the agenda. Mr. Reggie Collins, Staff Attorney, California Trout, expressed his appreciation for Mr. Callender and staff's current and future support on the Memorandum of Agreement with Valley Water, and also requested that consideration be given to making an inflation adjustment to the current \$42 million budgeted for implementation in the FAHCE settlement agreement.

3. Information and Action Items

3.1 ELECTION OF 2021 STREAM PLANNING AND OPERATIONS COMMITTEE CHAIRPERSON AND VICE CHAIRPERSON

It was moved by Director Estremera, seconded by Director LeZotte, and unanimous approved by roll call vote, to retain Director Keegan as Chairperson and Director LeZotte as Vice Chairperson, for the 2021 SPOC.

3.2 APPROVAL OF MINUTES

The SPOC considered the draft minutes from the October 8, 2020 FAHCE Ad Hoc Committee meeting. It was moved by Director Estremera, seconded by Director LeZotte, and unanimously carried by roll call vote to approve the minutes as presented.

3.3 REVIEW OF DRAFT STREAM PLANNING AND OPERATIONS COMMITTEE (SPOC) 2021 WORK PLAN, OVERVIEW AND UPDATE ON THE FISH AQUATIC HABITAT COLLABORATIVE EFFORT (FAHCE), AND UPDATE ON THE ANDERSON DAM SEISMIC RETROFIT PROJECT.

Ms. Lisa Porcella reviewed and provided an update on the FAHCE program as outlined in Handout 3.3-A. Copies of the handout were distributed to the SPOC members and made available to the public.

Director LeZotte requested that the History of FAHCE Program Adaptation and Progress timeline, as presented in the PowerPoint, be made available on the web page so that the public and interested parties can have access to this very beneficial information.

Chris Hakes provided a verbal update the Anderson Dam Seismic Retrofit Project.

Ms. Porcella reviewed the SPOC Committee Work Plan for 2021 as listed in Handout 3.3-B. Copies of the handout were distributed to the SPOC members and made available to the public.

Director LeZotte requested that the SPOC members receive copies of the FAHCE Draft EIR in June, when it's made available to the public.

Director Estremera requested that the public be included in the field tour.

It was moved by Director LeZotte, seconded by Director Estremera, and unanimously carried by roll call vote to approve the 2021 SPOC Work Plan as presented.

Chair Keegan announced that the Committee would adjourn to Closed Session for consideration of Item 3.4.

3.4 CLOSED SESSION

**CONFERENCE WITH LEGAL COUNSEL - Pending Litigation
Pursuant to Government Code Section 54956.9(d)(1):
Fish and Aquatic Habitat Collaborative Effort (FAHCE) Guadalupe
Coyote Resources Conservation District v. SCVWD Settlement
regarding Water Rights**

3.5 DISTRICT COUNSEL REPORT ON CLOSED SESSION

Anthony Fulcher, Senior Assistant District Counsel, reported that in regard to Item 3.4 the Committee met in in Closed Session with all members present and provided direction to staff.

4. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.

Ms. Michele King reported that the committee had approved their 2021 Work Plan.

5. ADJOURNMENT

Chair Keegan adjourned the meeting at approximately 2:00 p.m. to a meeting in March.

Michele L. King
Clerk of the Board

Approved:



Santa Clara Valley Water District

File No.: 21-0164

Agenda Date: 3/11/2021

Item No.: 4.1.

COMMITTEE AGENDA MEMORANDUM

Stream Planning and Operations Committee

SUBJECT:

Receive Updates on Fish and Aquatic Habitat Collaborative Effort (FAHCE) Progress and Deliverables.

RECOMMENDATION:

Receive updates on the FAHCE progress and deliverables.

SUMMARY:

Following the January 14, 2021 Stream Planning and Operations Committee (SPOC) meeting, FAHCE updates include:

Program Overview Posted on FAHCE Website: As requested by SPOC Committee, staff posted the FAHCE program overview presentation along with its timeline to the FAHCE website.

Draft Environmental Impact Report (EIR): The public Draft EIR is still targeted for release in June 2021.

FAHCE Plus Pilot Flows Implementation at Guadalupe Creek and Stevens Creek:

Valley Water initiated the FAHCE Plus Pilot Flow Project for Guadalupe Creek and Stevens Creek on October 1, 2020. The two-year Pilot Project provides storage-based releases from Guadalupe Reservoir and Stevens Creek Reservoir into these two creeks, respectively. Flow releases are conforming to the FAHCE plus rule curves however, pulse releases are not currently scheduled since storage is below the threshold at each of the two reservoirs in the FAHCE Plus Pilot Flows Program (Attachment 1).

FAHCE Monitoring Plan: Staff will be providing SPOC with an overview presentation of the current FAHCE Monitoring Program (Attachment 2).

Other Updates Provided: On February 8, 2021, staff provided other updates to the Initialing Parties (IP) including the status of the FAHCE Memorandum of Agreement (MOA), the Anderson Dam Seismic Retrofit Project, and invited members of the IPs to participate in a future meeting on the One Water Plan.

ATTACHMENTS:

Attachment 1: Update on FAHCE Pilot Flow Implementation

Attachment 2: FAHCE Monitoring Program PowerPoint

UNCLASSIFIED MANAGER:

Vincent Gin, 408-630-2633.



Guadalupe Reservoir

FAHCE Plus Pilot Program Implementation at Guadalupe Creek and Stevens Creek

Bassam Kassab, P.E.

Water Supply Operations Manager

March 11, 2021

15

FAHCE Plus Pilot Program

1. When did the FAHCE Plus Pilot Program start?
2. Storage-based releases from Guadalupe and Stevens Creek Reservoirs
3. Current storage levels in the two reservoirs
4. Current releases into Guadalupe Creek and Stevens Creek

**Stevens Creek Reservoir at deadpool
approx. during the recent drought**



01/10/2014 12:04



Fish and Aquatic Habitat Collaborative Effort

Monitoring Program

Prepared for the Stream Planning & Operations Committee Meeting
March 11, 2021



FAHCE Fisheries Staff

The Faces behind FAHCE



Introduction

Monitoring is designed to assess compliance with the new rule curves, validation of the habitat conditions and long term trend monitoring within the Guadalupe, Coyote, and Stevens Creek Watersheds.

Monitoring includes:

- Flow Monitoring
- Temperature Monitoring
- Fall Juvenile Rearing Electrofishing Surveys
- PIT Tagging Migration Monitoring
- Vaki RiverWatcher Adult Migration Monitoring



Flow Monitoring

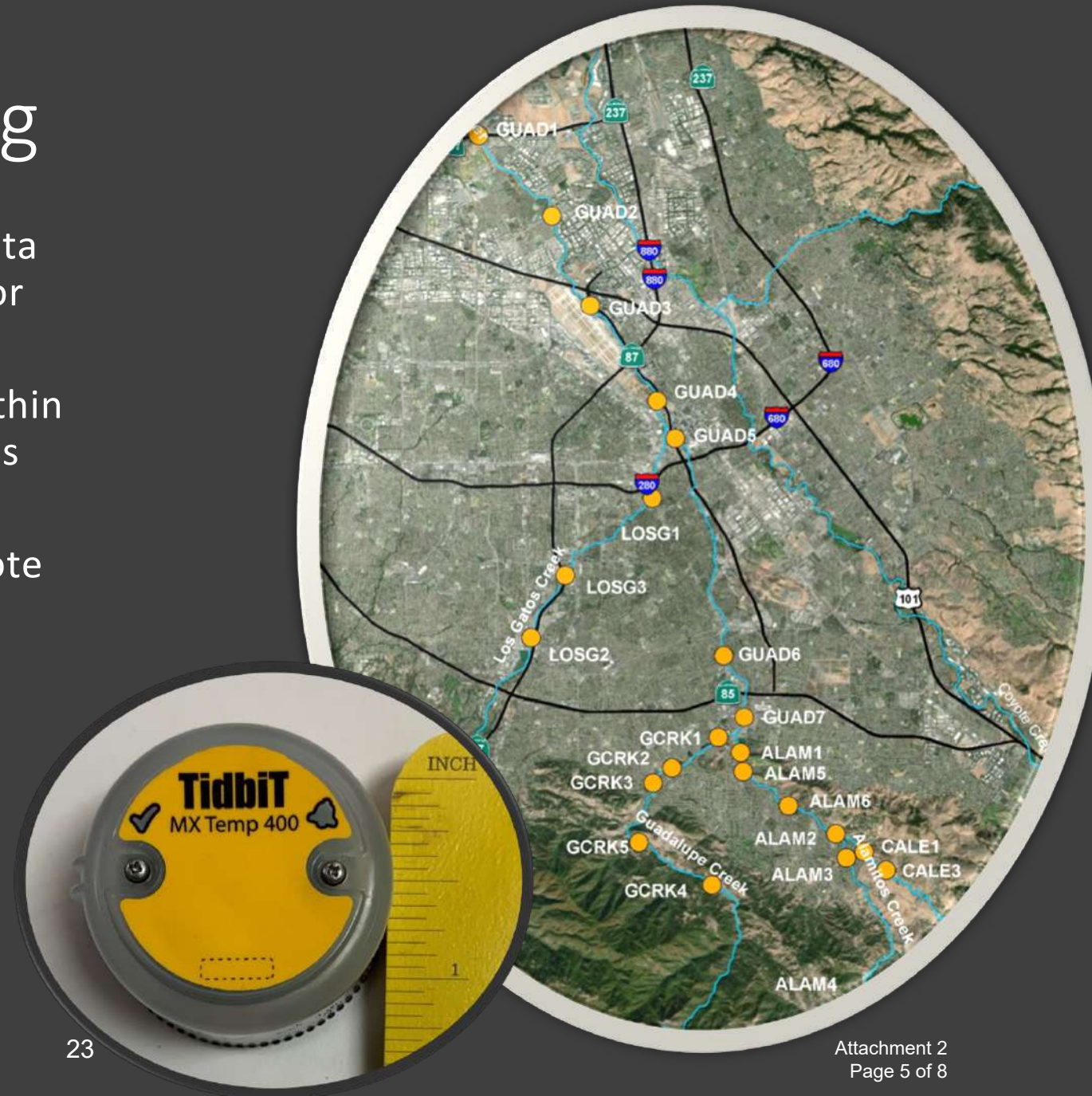
- Flow transects will be monitored to determine habitat and passage conditions at a variety of flows



Temperature Monitoring

Unattended temperature loggers collecting data every hour. Bluetooth enabled loggers allow for quick data transfer.

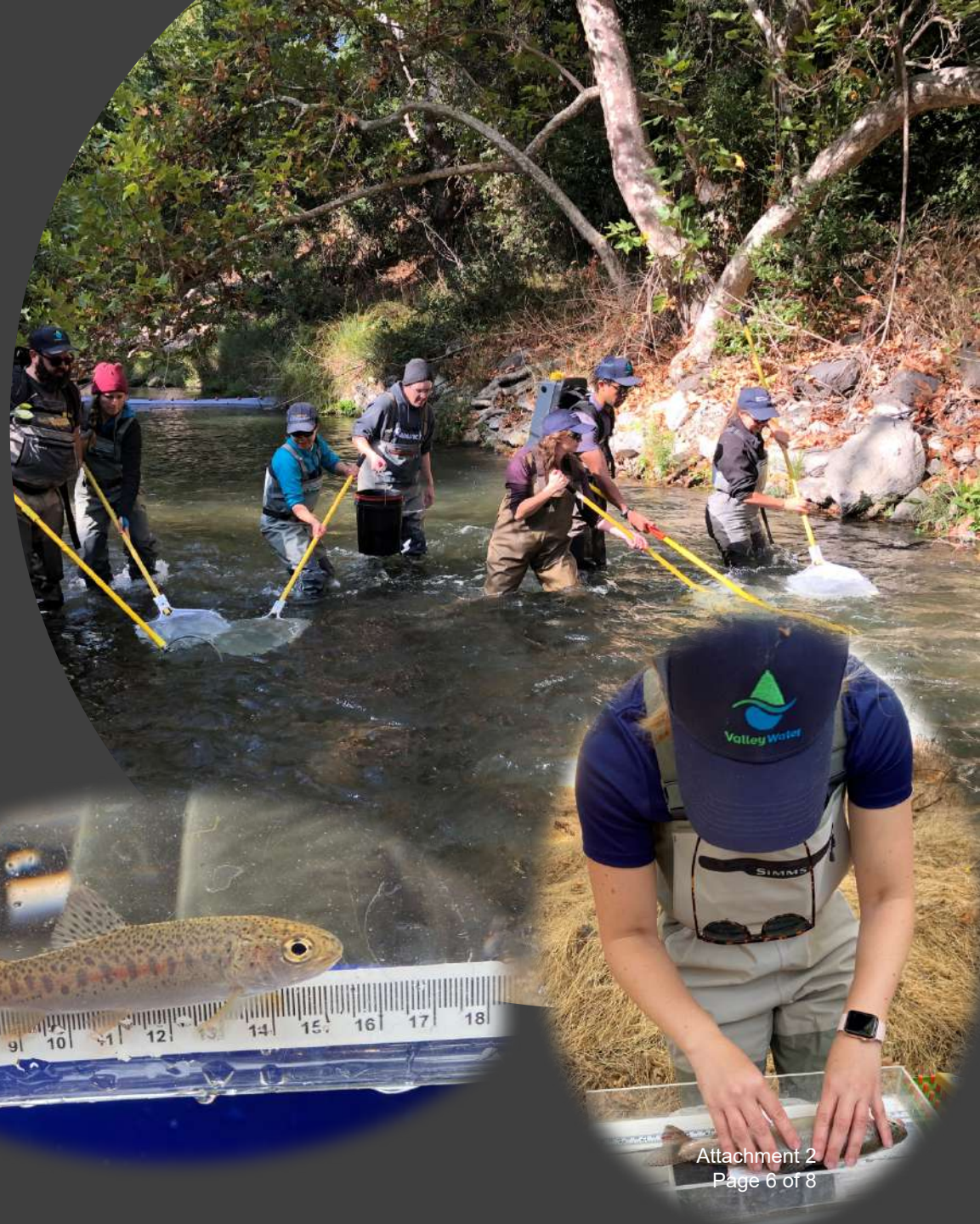
- 24 Stations in the Guadalupe Watershed within Guadalupe River, Guadalupe Creek, Alamitos Creek, Calero Creek and Los Gatos Creek
- 17 Station in Coyote Watershed within Coyote Creek and Upper Penitencia
- 6 Stations in Stevens Creek



Fall Juvenile Rearing Monitoring

Provides an opportunity to assess densities after summer rearing, allows for PIT tagging to occur before the migration season, and gives insight into fish conditions.

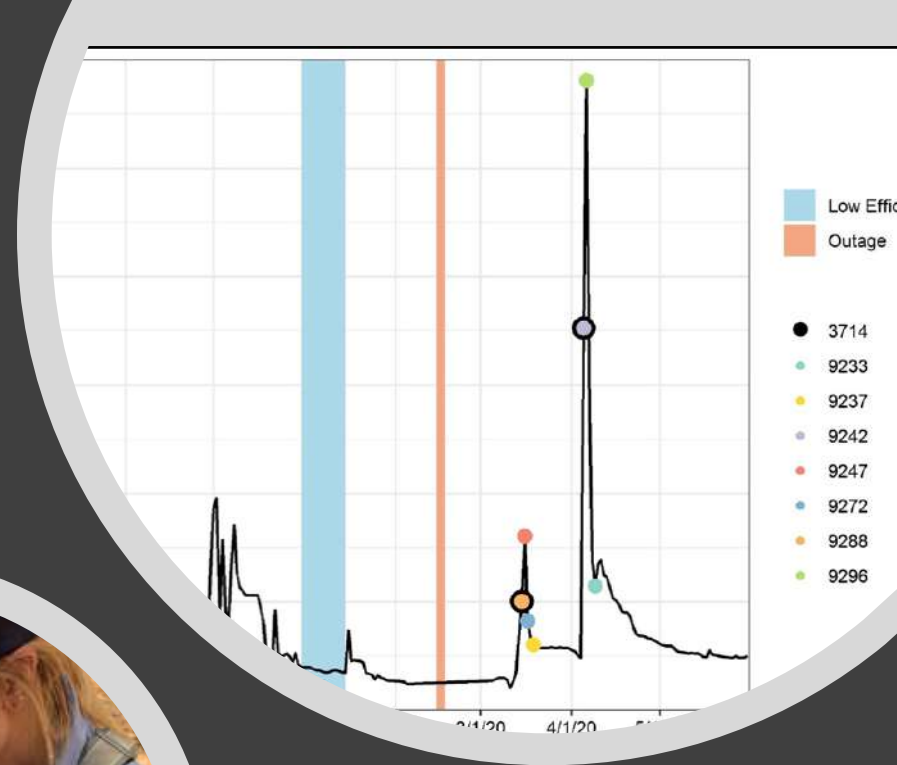
- Guadalupe Watershed
 - 23 stations within Guadalupe River, Guadalupe Creek, Alamos Creek, Calero Creek and Los Gatos Creek
 - 2021 will be the 4th year of monitoring
- Coyote Watershed
 - 10 Stations within Coyote Creek and Upper Penitencia Creek
 - 2021 will be the 3rd year of monitoring*
- Stevens Creek Watershed
 - 6 Stations with Stevens Creek
 - 2021 will be the 2nd year of monitoring



Passive Integrated Transponder (PIT) Tag Monitoring

Provides an opportunity to assess migration timing and to assess growth over time.

- Guadalupe Watershed
 - 270 tags have been implanted since 2018
 - Antenna stations on Alamitos Creek, Guadalupe Creek, and Guadalupe River
 - 2021 will be the 4th year of monitoring
- Coyote Watershed
 - 112 tags have been implanted since 2019
 - Antenna stations on Coyote Creek and Upper Penitencia Creek
 - 2021 will be the 3rd year of monitoring*
- Stevens Creek Watershed
 - 37 tags have been implanted since 2020
 - An antenna on Stevens Creek
 - 2021 will be the 2nd year of monitoring





Adult Migration Monitoring Vaki Riverwatcher

- Vaki Riverwatcher is computer-based fish counter which employs scanner plates and a digital camera to capture videos and silhouette images of fish as they pass between the plates. This allows adult salmonids and other species to be monitored without handling.
- Units are deployed on Guadalupe River, Coyote Creek, and Stevens Creek



Santa Clara Valley Water District

File No.: 21-0166

Agenda Date: 3/11/2021

Item No.: 4.2.

COMMITTEE AGENDA MEMORANDUM

Stream Planning and Operations Committee

SUBJECT:

Discuss District and Non-District Projects and Other Activities that May Affect the FAHCE Settlement Agreement and Implementation.

RECOMMENDATION:

Discuss District and Non-District Projects and Other Activities that May Affect the FAHCE Settlement Agreement and Implementation.

SUMMARY:

Staff plans to update the Committee on FAHCE related activities in SPOC meetings focusing on key projects. Staff is providing an update on removal of the fish passage barrier at Singleton Road. Singleton Road at Coyote Creek is one of the fish passage barriers identified in the FAHCE program. The site is owned by the City of San Jose (City). The road crossing is currently the most crucial fish passage barrier along Coyote Creek.

The Singleton Road Interim Project (Project) at Coyote Creek aims to restore steelhead trout passage at the City's Singleton Road low flow crossing, allowing steelhead to have easier access to upper reaches of the creek. The project would restore access to 14 miles of preferred habitat upstream of this obstruction to the Anderson Dam.

Valley Water is working with the City to improve fish passage while maintaining the trail connection with an interim crossing until the City fully replaces the crossing with a permanent high-level bridge. The project would resolve the fish passage issue as quickly and effectively as possible. The City will continue to pursue the resources needed to advance the larger permanent bridge project in the future.

Depending environmental permitting, and a Memorandum of Understanding on Valley Water's funding being negotiated between the agencies, the Project is targeting for construction in the summer of 2021.

ATTACHMENTS:

None.

File No.: 21-0166

Agenda Date: 3/11/2021
Item No.: 4.2.

UNCLASSIFIED MANAGER:
Vincent Gin, 408-630-2633.











Santa Clara Valley Water District

File No.: 21-0168

Agenda Date: 3/11/2021
Item No.: 4.3.

COMMITTEE AGENDA MEMORANDUM

Stream Planning and Operations Committee

SUBJECT:

Receive update on Anderson Dam Seismic Retrofit Project.

RECOMMENDATION:

Receive update on Anderson Dam Seismic Retrofit Project (ADSRP).

SUMMARY:

Coordination of the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE) and ADSRP work remains an ongoing effort. The update to the Committee on ADSRP progress includes the following:

Board Actions Taken at the January 26, 2021 Board Meeting

- The Board approved the surrendering and decommissioning of the Anderson Hydroelectric Facility. The decommissioning activities will be evaluated along with the seismic retrofit activities in the ADSRP Environmental Impact Report (EIR). After completion of the ADSRP EIR, the Board will consider the final EIR for certification prior to approving the ADSRP activities including decommissioning of the facility.
- The Board also approved the Anderson Dam Tunnel Project's final plans and specifications and authorized staff to advertise for construction bids in spring 2021.

New FERC Order Compliance Project (FOCP) Progress

On February 2, 2021, staff received a new order from the Federal Energy Regulatory Commission (FERC) along with the supplemental environmental assessment, both for FOCP.

Staff continues to hold and participate in regular technical and permitting discussions with resource agencies for FOCP and ADSRP.

ATTACHMENTS:

Attachment 1: Anderson Hydroelectric Facility Board Agenda Memo

Attachment 2: Anderson Dam Tunnel Project Plans and Specs Board Agenda Memo

UNCLASSIFIED MANAGER:

File No.: 21-0168

Agenda Date: 3/11/2021
Item No.: 4.3.

Christopher Hakes, 408-630-3796



Santa Clara Valley Water District

CONFORMED COPY

File No.: 20-0918

Agenda Date: 1/26/2021

Item No.: 5.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Consider Decommissioning of the Anderson Hydroelectric Facility.

RECOMMENDATION:

- A. Receive the cost-benefit analysis for the Anderson Hydroelectric Facility (Facility);
- B. Concur with staff's determination, based on results from the cost-benefit analysis, that it would be justified for Valley Water to pursue the surrender and decommissioning of the Facility; and
- C. Direct staff to take the necessary steps to seek approval from the Federal Energy Regulatory Commission (FERC) to surrender and decommission the Facility, including, but not limited to:
 - i. Evaluate the surrender of the license exemption and decommissioning of the Facility in the Anderson Dam Seismic Retrofit Project (ADSRP) Environmental Impact Report (EIR); and
 - ii. Coordinate with FERC and other regulatory agencies to submit all applications and obtain any necessary approvals to implement decommissioning of the Facility as part of the ADSRP.

SUMMARY:

The Santa Clara Valley Water District (Valley Water) has been operating the Anderson Hydroelectric Facility (Facility) at Anderson Dam for over 30 years. The Facility has been generating renewable energy as part of the overall energy portfolio of Valley Water. Over the last several years, staff has made significant strides in diversifying our energy portfolio towards much more economically favorable and greener solutions to the point that almost 100% of Valley Water's energy use is from carbon-free sources at a very competitive cost. As with any aging infrastructure, the cost of Operations and Maintenance (O&M) has been increasing over the years and, in the last 18 years, exceeded the revenues from power generation at the Facility. Revenues are projected to keep declining over the years and the O&M cost will continue to increase as we reach the end of useful life of the assets at this Facility. Given the negative return on investment as well as the fact that the overall energy portfolio for Valley Water is already at 100% renewable through the Power and Water Resources Pooling Authority (PWRPA), staff recommends discontinuing operations and decommissioning of the Facility. In order to proceed with those actions, Valley Water would need to surrender the license exemption to the Federal Energy Regulatory Commission (FERC).

Background

In April 1984, Valley Water submitted to FERC an application for exemption of the Facility from licensing and has been operating the Facility since January 1988 under the FERC license exemption. The Facility was constructed in the mid-1980s to generate energy from water released from Anderson Dam through its outlet pipe. The Facility consists of two 500-kilowatt (kW) Francis turbines and two 470-kW induction generators. Throughout the lifetime of the Facility, it has generated approximately 39,700,000 kilowatt-hours (kWh) of renewable energy, valued at approximately \$2,910,000, at an O&M cost of \$3,450,000. In recent years, the operational restrictions placed on the Facility have resulted in decrease of revenues while the maintenance costs have increased as the assets continue to age and are reaching their end of useful life.

Utility Agreements and Revenue

In order to sell power from the Facility to the utility grid, Valley Water entered a 30-year Qualifying Facilities Power Purchase Agreement (PPA) with the Pacific Gas and Electric Company (PG&E). The terms of the PPA included a rate schedule that was designed to be higher in the first 10 years to accelerate the capital recovery, whereas the rate was variable during the remaining 20 years of the PPA and was based on wholesale market rates. Valley Water received an average of \$0.10 per kWh generated during the initial 10-year period of the agreement, and an average of \$0.05 per kWh in the subsequent 20 years.

In November 2018, at the conclusion of the original 30-year PPA, staff worked with a consultant to evaluate multiple transition options. Valley Water transitioned the Facility to PG&E's new Renewable Energy Self-Generation Bill Credit Transfer program, which allows Valley Water to export renewable energy generated at the Facility to the grid and receive generation credits to up to fifty (50) of Valley Water's PG&E electrical services. During calendar year 2019, the hydroelectric generation data and resulting bill credit (savings) from the facility came out to an average of \$0.06 per kWh.

O&M Costs

From fiscal year (FY) 2010 through FY 2019, Valley Water expended an average of \$118,000 in annual Facility O&M costs. In comparison, the average annual revenue for the same 10-year period was only \$42,000. On the other hand, the average O&M costs over the 32-year life of the Facility was \$108,000 per year, whereas the annual revenue was \$91,000.

Cost-Benefit Analysis

The data for the last 18 years shows that the Facility has been running a deficit. Figure 1 reflects that 17 out of the last 18 years of operating the Facility resulted in an annual financial loss.

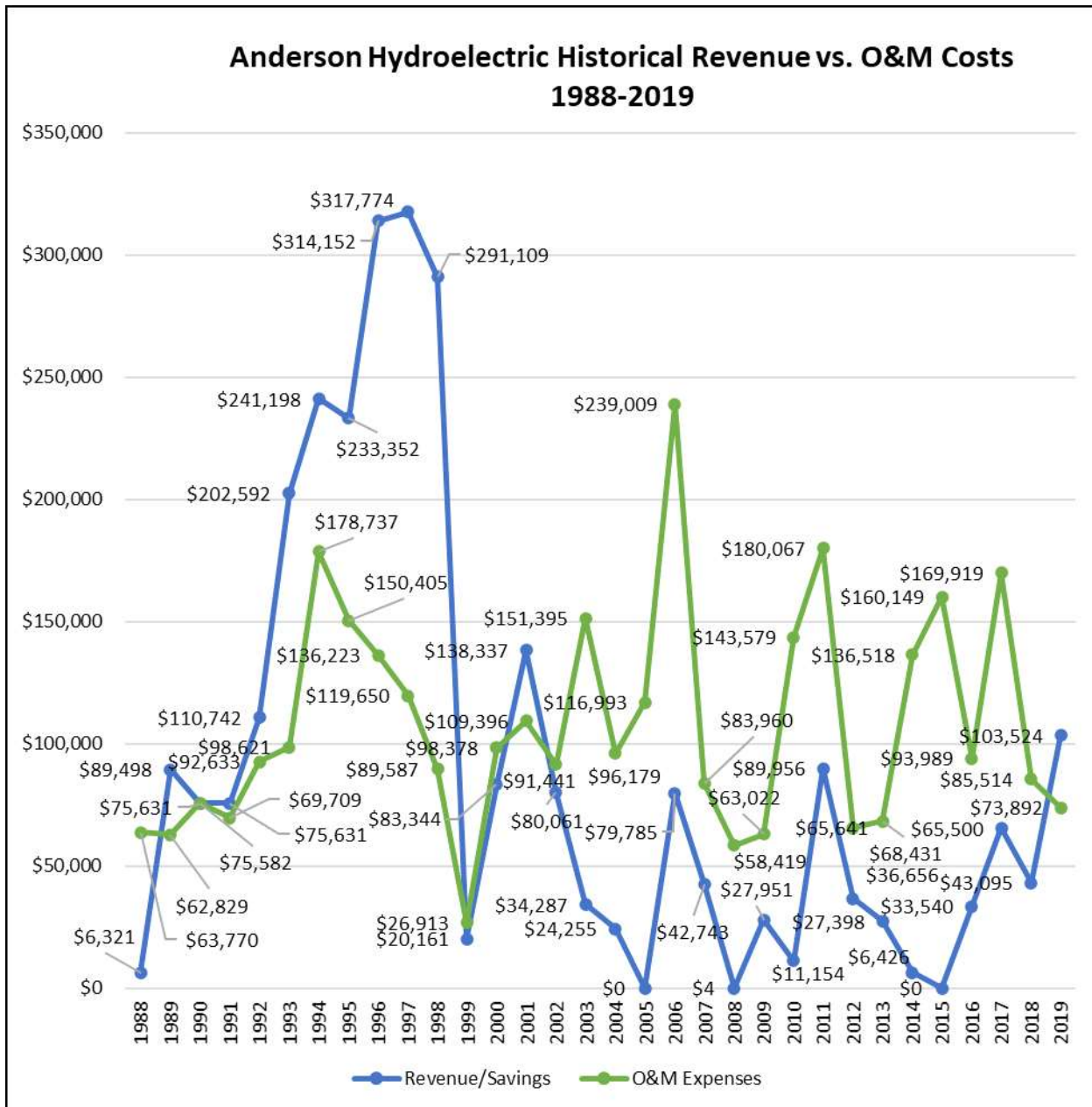


Figure 1: Facility Cost and Revenue

In addition, the Facility currently relies on aging infrastructure to generate energy. In recent years, the Facility has experienced unforeseen downtime or partial downtime due to equipment failure.

When equipment is available, multiple constraints have hindered the potential generation and revenue from the Facility. Recent California drought conditions have led to periods of low reservoir levels and seismic restrictions have limited the maximum amount of water that can be stored in Anderson Reservoir. The lower reservoir levels decrease the head pressure available to drive the turbines and limit power generation. The downstream environmental flow regulations of Coyote

Creek also dictate the amount of flow available for power generation at the Facility. Depending on creek conditions, the flows to Coyote Creek may not meet the minimum flow requirement to operate the turbine generators at the Facility. As a result, the generation of power at the Facility has been - and will likely continue to be- much lower than what is necessary to recoup the O&M cost.

The Facility would cost about \$2,950,000 in rehabilitation and components replacement during the next 20 years, per Valley Water's asset management plan. The cost covers upgrades to the turbines, the electrical and SCADA systems, and the building that houses the Facility. The changes to the Facility to account for rehabilitation of aging equipment and the changing operating conditions are subject to FERC coordination and approval.

Instead of operating the Facility at a loss, staff believes Valley Water is better off investing in green energy projects elsewhere. Renewable energy can be generated at large-scale solar projects that have a much better cost-benefit outlook.

Conclusion

Based on the cost-benefit analysis, staff recommends that Valley Water should file an application with FERC to surrender its license exemption and to decommission the Facility. FERC is expected to condition the surrender of the license exemption on Valley Water's completion of the ADSRP to FERC's satisfaction. If the Board concurs with this recommended "conditional surrender" approach, the decommissioning activities would be evaluated along with the seismic retrofit activities in the ADSRP EIR. Once the draft ADSRP EIR is completed, staff would file a surrender application with FERC to implement the ADSRP. After completion of the ADSRP EIR, our Board will consider the final EIR for certification prior to approving the ADSRP activities including decommissioning of the Facility.

FINANCIAL IMPACT:

Staff estimates an annual saving of about \$75,000 on average associated with approval of this item. On the other hand, there is an immediate cost of about \$5,000 to place flanges on the pipe and decommission the Facility. Funding for this last item is included in the FY202-21 budget of the Local Reservoir/Diversion Planning and Analysis project (# 91761001).

CEQA:

Should the Board concur with staff's recommendations, the decommissioning of the Facility will be included in the project description of the ADSRP EIR. The EIR will be completed and presented to the Board for review and certification prior to the Board deciding whether to approve the ADSRP, which will include decommissioning of the Facility.

ATTACHMENTS:

None.

File No.: 20-0918

Agenda Date: 1/26/2021
Item No.: 5.1.

UNCLASSIFIED MANAGER:
Greg Williams, 408-630-2867

THIS PAGE INTENTIONALLY LEFT BLANK



Santa Clara Valley Water District

CONFORMED COPY

File No.: 21-0097

Agenda Date: 1/26/2021

Item No.: *3.3.

BOARD AGENDA MEMORANDUM

SUBJECT:

Adopt Plans and Specifications and Authorize Advertisement for Bids for the Anderson Dam Tunnel Project, Project No. 91864005, Contract No. C0663 (Morgan Hill) (District 1).

RECOMMENDATION:

- A. Adopt the plans and specifications and authorize advertisement for bids for the construction of the Anderson Dam Tunnel Project (Project), per the Notice to Bidders, exclusively to the list of Valley Water pre-qualified bidders; and
- B. Authorize the Designated Engineer to issue addenda, as necessary, during bidding.

SUMMARY:

Santa Clara Valley Water District (Valley Water) is undertaking the Anderson Dam Federal Energy Regulatory Commission Order Compliance Project (FOCP) as a result of the February 20, 2020 directive from the Federal Energy Regulatory Commission (FERC) to implement interim risk reduction measures at Anderson Dam. One of those measures is the Anderson Dam Tunnel Project (ADTP).

The ADTP will construct a diversion system to augment the existing outlet, which will consist of a new diversion tunnel, an outlet structure, a micro-tunnel lake tap, and modifications to Coyote Creek just downstream of the base of the dam. The Project also includes reservoir bank and rim stability improvements and existing intake structure modification.

The diversion system will consist of a 23-ft diameter approximately 1,450-ft long tunnel, will be able to pass releases from the reservoir at flow rates up to 2,000 cubic feet per second (cfs). The new outlet structure will be used to control flows through the tunnel which will go through dissipation chambers and will be discharged into a rip-rap lined channel, before entering the Coyote Creek. Modifications to Coyote Creek just downstream of the base of the dam will be made to accommodate the higher flows from the tunnel.

Staff is recommending the Board approve the Project's final plans and specifications and authorize staff to advertise for construction bids.

Relevant Prior Board Action(s)

Attachment 2
1 of 33

On June 23, 2020 the Board approved the CEQA emergency exemption determination for the FOCP; adopted the Resolution approving the Engineer's Report for the FOCP; and approved the Project.

On August 25, 2020 the Board approved implementing a best value construction contractor selection method for the ADTP.

On December 8, 2020, the Board approved a budget adjustment in the amount of \$21 million from the Capital Warranty Services Project No. 95074001 to the Anderson Dam Seismic Retrofit Project No. 91864005.

Rights of Way

Staff anticipates acquiring a permanent easement from the County of Santa Clara which is required to construct the Coyote Creek modifications portion of the Project.

Staff will not recommend Board award of a construction contract until all required permanent rights of way are secured.

Permits

Staff anticipates receiving all permits necessary for construction prior to recommending award of the construction contract to the Board.

Public Outreach

Valley Water will utilize a variety of outreach strategies to keep the community informed of the Project progress and important milestones. During the Project's design phase, outreach strategies included numerous public meetings and mailed notices to collect input, a Project website (<https://www.valleywater.org/anderson-dam-project>), Project fact sheets, and media relations.

During construction, outreach will be targeted to the surrounding neighborhoods and include pre-construction and post-construction public meetings. In addition to the outreach tactics used during the design phase, construction phase outreach will include regular email updates and construction site signage.

Outreach to Bidders for Pre-Qualification Process

Because of the size and complexity of the ADTP, staff prequalified contractors, using the California State Department of Industrial Relations sample prequalification application questionnaires and approach as a guide. The prequalification questionnaire required contractors wishing to bid on this Project to demonstrate they have successfully completed projects of a similar size and scope.

The District did extensive outreach to potential contractors seeking to prequalify to bid by advertising in the San Jose Post-Record and notifying 27 plan rooms. The District also notified all

450 contractors listed in the District's contractor database. The Notice of Request for Prequalification was issued on August 18, 2020 and a mandatory prequalification conference for contractors was held via Zoom on August 27, 2020. Ten (10) contractors submitted the prequalification questionnaire by the September 25, 2020 deadline. The information in the prequalification questionnaires was reviewed by staff and external consultants (the Project design firm and the Project program management firm).

The list of final prequalified contractors was posted on the District's website on November 25, 2020. The following six contractors met the prequalification requirements and will be the only contractors eligible to bid on the Project.

- 1) Guy F. Atkinson Construction, LLC d.b.a. Guy F. Atkinson
- 2) Dragados USA, Inc. / Obayashi Corporation Joint Venture
- 3) Flatiron West, Inc.
- 4) Granite Construction Company
- 5) Kiewit Infrastructure West Co.
- 6) Traylor Brothers, Inc. / Michels Pipeline Joint Venture

The Notice to Bidders will be posted on the District's website and sent only to the prequalified contractors for the Anderson Dam Tunnel Project. On August 25, 2020 the Board approved implementing a best value construction contractor selection method for the ADTP. A combination of price and non-price items will be considered in choosing the contractor.

Next Steps

If the Board approves the recommendations, staff will proceed to advertise for bids for Project construction. Staff anticipates recommending the Board award a construction contract on April 27, 2021.

FINANCIAL IMPACT:

The estimated construction contract cost for the Project is between \$175 million and \$225 million. The Project is included in the Five-Year FY 2021-2025 Capital Improvement Program. There is sufficient funding in the Fiscal Year 2020-21 Budget to encumber a portion of the construction contract.

Staff anticipates scheduling another Board agenda item to be considered for an additional budget adjustment which will fund the anticipated construction costs relating to the construction contract for the ADTP project. The increase in the Project Plan cost was presented to the CIP Committee on November 9, 2020 as part of the significant Project Plan updates since adoption of the adopted Fiscal Year 2021-25 CIP and will be incorporated into the Five-Year 2022-26 CIP.

The Project is funded by a combination of Safe Clean Water (Fund 26) and Water Utility (Fund 61).

CEQA:

CEQA provides a statutory exemption for emergency projects, which include specific actions necessary to prevent or mitigate an emergency (Public Resources Code §21080(b)(4) and CEQA Guidelines §15269(c)). After analysis of the facts and applicable law, on June 23, 2020 following a public hearing, the Board determined that the FOCP, inclusive of the ADTP measure, qualifies for this emergency exemption. Valley Water filed a Notice of Exemption with the County of Santa Clara Clerk/Recorder on June 26, 2020.

ATTACHMENTS:

- Attachment 1: Notice to Bidders
- Attachment 2: Project Delivery Process Chart
- *Supplemental Agenda Memorandum
- *Supplemental Attachment 1: Notice to Bidders
- *Supplemental Attachment 2: Non-Disclosure Agreement

UNCLASSIFIED MANAGER:

Christopher Hakes, 408-630-3796

ANDERSON DAM TUNNEL PROJECT

Project No. 91864005

Contract No. C0663

1. **Notice. Due to the County of Santa Clara Public Health Officer's Order, the Santa Clara Valley Water District offices remain closed to the public until further notice.**

Notice is hereby given that sealed Bids will be received by the Construction Program of the Santa Clara Valley Water District (District), delivered either by a third party carrier such as FED EX, UPS, DHL, Overnight, Golden State Overnight, etc. or by hand delivery, at the District's Winfield Warehouse Building located at 5905 Winfield Boulevard, San Jose, California 95123-2428 only between the hours of 1:00 p.m. to 2:00 p.m. on **Wednesday, March 10, 2021**, for furnishing all material and performing all work necessary for construction of Anderson Dam Tunnel Project, within the Cities of Morgan Hill, California, and San Jose, California, and within Unincorporated Santa Clara County, California.

NO BIDS WILL BE ACCEPTED VIA USPS (US MAIL).

Additional information and Instructions to Bidders are posted on the District's Construction Administration webpage: <https://www.valleywater.org/construction>.

2. **California State Department of Industrial Relations Contractor and Subcontractor Registration Requirements.**

California Labor Code Section 1771.1 requires:

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the California Labor Code.

An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

- A. The subcontractor is registered prior to the bid opening.
- B. Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee.
- C. The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code within 24 hours after the bid opening.

3. Summary of Work

A. Project Description. The project scope, in accordance with the Contract Documents, includes the following:

- Full compliance with federal, state, and local laws, orders, ordinances, and various agencies permit's terms and conditions, as required to construct the project;
- Furnish a qualified biologist, certified and licensed arborist, and licensed geologist as required for the project;
- Compliance with NPDES Construction General Permit, including SWPPP preparation, and installation of Best Management Practices (BMPs);
- Installation of a temporary soundwall to reduce construction noise to the surrounding businesses and residences;
- Proper excavation, handling, and placement in the on-site disposal area of naturally occurring asbestos containing materials;
- Control of water, including the design, implementation, and maintenance of dewatering facilities;
- Mobilization, including, but not limited to the installation of fully operational temporary trailers/office facilities;
- Demobilization, including, but not limited to the removal and/or legal disposal of all temporary facilities;
- Implement and maintain public safety measures, including, but not limited to installation of temporary fencing at the perimeter of the work areas;
- Clearing and grubbing within the project limits, including demolition, the removal of trees, vegetation, concrete, and other miscellaneous items;
- Surveying, grade control, and construction staking;
- The Installation and monitoring of portal and tunnel instrumentation;
- Establishment of site access roads, staging areas, and disposal areas;
- Excavation and reinforcement of the downstream tunnel portal;
- Dredging and preparation of the upstream portal;
- Excavation and initial support of the 18.5-foot tunnel, 24-foot tunnel, and the micro-tunnel boring machine (MTBM) launch chamber;
- Driving of the 8-foot MTBM tunnel lake-tap from the launch chamber to Anderson Reservoir;

- Excavation and initial support of the High-Level Outlet Works (HLOW) drop shaft;
- Installation of the final reinforced concrete lining in the MTBM launch chamber and the 24-foot tunnel;
- Installation of steel pipe in the diversion tunnel and HLOW drop shaft;
- Construction of the diversion outlet structure;
- Construction of the upstream trash rack structure below water;
- Installation of steel pipe, displacement couplers, two 132-inch butterfly valves, two 132-inch fixed cone valves, and other mechanical equipment at the diversion outlet structure;
- Installation of electrical components, instrumentation and controls;
- Testing of diversion system;
- Construction of the Coyote Creek channel improvements including the outlet discharge channel, the northern channel, and the reinforced concrete weirs in the northern and southern channels;
- Installation of landscape and landscape maintenance. Landscape maintenance includes maintenance during the landscape installation and maintenance during the one-year establishment period following the landscape installation;
- Provide all the necessary traffic control, traffic control signage, devices, etc. as required for temporary road work, including closures;
- Furnishing and Installation of permanent fencing and gates;
- Utility coordination and installation including, but not limited to raw water line facilities overhead and underground electrical facilities;
- Non-native plant control;
- Revegetation (hydroseeding);
- Other miscellaneous construction work and items necessary to satisfactorily complete the project work.

B. Sole Source Products. None.

4. Basis of Award.

Valley Water Board of Directors adopted Resolution No. 20-70 Approving Best Value Contractor Selection for the Anderson Dam Tunnel Project on August 25, 2020. A

“value” will be established for each bid submitted, determined by evaluation of objective criteria based on price (cost), and qualification (competency, capability, capacity to complete a project of similar size, scope, complexity, recently performed similar projects, references to verify past performance, history of regulatory compliance, bonding capacity, and ability to meet insurance requirements).

The “value” is established by a number, which is calculated by dividing each bidder’s price (P) by its qualification (Q) score. When the calculated individual numbers (for each bid) are arranged in ascending order, from lowest to highest, the lowest number becomes or is ranked as the “Best Value” bid, followed by the next highest number and so on. The formula as detailed in the Prequalification Application, Revision 2, Appendix D Calculating a Bidder’s Best Value Score, will be used to calculate the qualifications score to weigh quality at 40% and price at 60%.

5. **Contract Time.** Time limit for the completion of the Work is **1,050** calendar days. See Contract Documents, Special Provisions, Article 12.03. Contract Time(s) for Milestones and Contract Times.
6. **Liquidated Damages.** See Standard Provisions, Liquidated Damages, Article 5.08 and Special Provisions, Liquidated Damages, Article 12.05 of the Contract Documents for requirements regarding Liquidated Damages.
7. **Estimated Cost.** The estimated cost of the Project is between \$175 million and \$225 million. This estimate is intended to serve merely as an indication of the magnitude of the Work. Neither the Bidder(s) nor the Contractor will be entitled to pursue a claim or be compensated due to variance in the stated estimated cost range.
 - A. **Additive/Deductive Bid Items. [NOT USED].**
 - B. **Supplemental Bid Items.** These Bid Items may or may not be required. Supplemental Bid items include development of staging areas and access roads, excavation, grading, soil nail installation, instrumentation installation to remediate two existing landslides located along the southwestern reservoir rim and excavation, grading, reinforced concrete, soil nail installation, and other miscellaneous work to strengthen the existing sloping intake located on the left abutment upstream of Anderson Dam. The Supplemental Bid Items may be deleted entirely or in part, by deductive change order(s), at the sole discretion of the District.
8. **Contractor’s License Requirement.** The Bidder must possess a current **Class A** Contractor’s license issued by the California Department of Consumer affairs, Contractor’s State License Board when the Bid is submitted. Regardless of whether a subcontractor must be identified at the time of Bid, each subcontractor must also be properly licensed to perform its scope of Work.

9. **Pre-Bid Conference and Site Visit.** A Pre-Bid conference/site visit will be conducted by the District on **Wednesday, February 17, 2021**. The Pre-Bid conference/site visit will convene at 10:00 a.m. (by District time), at the parking lot at the toe of Anderson Dam at 2499 Cochrane Road, Morgan Hill, CA 95027 (APN 729-48-001). Attendance at the Pre-Bid conference/site visit by subcontractors is not required.

Attendance by the Bidder at the Pre-Bid conference/site visit is:

- Mandatory
 Optional

The objective of the Pre-Bid conference/site visit is to familiarize prospective Bidders with the site; no additional site visits will be allowed. Please confirm your intent to attend the Pre-Bid conference/site visit 24 hours in advance by sending an email to scvwdplanroom@valleywater.org.

Additional information regarding the Pre-Bid conference/site showing will be sent to all prospective Bidders who confirm their intention to attend.

In response to the COVID-19 pandemic, the District will require that all participants adhere to the orders of Social Distancing. All persons attending the Pre-Bid conference/site visit are required to adhere to the orders of Social Distancing and are also required to bring and wear the appropriate Personal Protection Equipment (PPE), i.e., protective face covering, in order to be allowed entrance onto the site and to remain on the site.

Reasonable efforts will be made to accommodate persons with disabilities wishing to attend the Pre-Bid conference/site visit. Please request accommodations when confirming attendance.

10. Availability of Bid Documents

Due to the County of Santa Clara Public Health Officer's Order, District offices will remain closed to the public until further notice.

The Project Plans and Specifications are considered by the Federal Energy Regulatory Commission as including highly sensitive, confidential information pertaining to critical infrastructure. Therefore, all prequalified Contractors must complete and execute the Non-Disclosure Agreement (NDA) before access to the Contract Documents will be provided. Contractors must also require any party to whom they provide access to the Contract Documents (such as subcontractors in all tiers and suppliers) to first complete and execute a Personal Non-Disclosure Agreement (PNDA) and provide Valley Water with a copy of the signed Agreement.

A copy of the NDA / PNDA form can be obtained at the Valley Water website: <https://www.valleywater.org/construction>. The completed form must be submitted by email at scvwdplanroom@valleywater.org.

The Contract Documents are only available in electronic (PDF) format. The electronic version is free and will be transferred via file transfer appliance (FTA) site.

11. **Inquiries.** The Bidder must submit all requests for clarification, or interpretation of the Bid Documents in accordance with the requirements stated in Instructions to Bidders, paragraph #7. Questions During Bidding. Written questions must be directed to the Contracts Administrator at scvwdplanroom@valleywater.org and submitted at least nine (9) calendar days before the deadline for receipt of Bids.

The District may issue written Addenda as appropriate for clarification or other purposes during the bidding period. Addendum notification(s) will be sent to each planholder at the email address provided by the contractor for the planholders list and addenda will be posted on the District's website at <https://www.valleywater.org/construction>.

- A. **Project Manager.** The District's project manager for this Project is Mr. Bal Ganjoo.
- B. **Process Questions.** For questions regarding the bid process, please contact the District Plan Room by email at scvwdplanroom@valleywater.org.

12. **Prevailing Wage Requirements**

- A. Workers employed on this Project must be paid at rates at least equal to the prevailing wage rates as determined by the State of California Department of Industrial Relations pursuant to Section 1770 *et seq.* of the Labor Code. Said wage rates are incorporated herein by reference and are available on the State of California Department of Industrial Relations website at: <http://www.dir.ca.gov/>. See Standard Provisions, Prevailing Wages Article 4.04. through Apprentices Article 4.06. for related requirements.

Due to the County of Santa Clara Public Health Officer's Order, District offices will remain closed to the public until further notice. The wage rates are therefore not currently available for review at District offices.

- B. This Project is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. The Contractor and subcontractors must furnish the records specified in California Labor Code Section 1776 directly to the Labor Commissioner, in the following manner: monthly, in a format prescribed by the Labor Commissioner.

13. **Bid Proposal Submittal.** All Bids must be submitted in sealed envelopes addressed to the Santa Clara Valley Water District. Attention: Construction Programs and state the Project name and Project number on the outside of the sealed envelope. Each Bid must be submitted on the prescribed Bid Forms. All information on Bid Forms must be completed in ink.

- A. **Bid Submittal Delivery.** Bidders are allowed to submit a bid proposal by third party carrier or by hand delivery.

THIRD PARTY CARRIER such as: FEDEX, UPS, DHL, CA Overnight, Golden State Overnight, etc., and must address the submittal in accordance with instructions stated in this paragraph 12. Any Proposal received after 2 p.m. will not be considered. Late Bids will be returned unopened.

HAND DELIVERY shall only be between the hours of 1:00 p.m. - 2:00 pm. on the bid due date, at the Winfield Warehouse located at 5905 Winfield Boulevard, San Jose, CA 95123. Upon entrance to the gate, turn left towards the warehouse building. Bid submittal shall be delivered at a drop off box, marked "Bid/Submittal Drop Box," located in front of the warehouse entrance door. Bidder's must take a picture using its cellphone showing the "Official Bid Clock" timer as proof of delivery. Bidders must observe all Public Health Officers orders and wear proper face covering when dropping off your Bid.

Any Proposal received after 2 p.m. will not be considered. Late Bids will be returned unopened.

NO BIDS WILL BE ACCEPTED VIA USPS (US MAIL). USPS (US Mail) does not deliver to 5905 Winfield Boulevard.

Address the outside delivery envelope as follows:
Santa Clara Valley Water District
Attention: Construction Contracts & Support Unit
C0663 – Anderson Dam Tunnel Project
Project No. 91864005
5905 Winfield Boulevard
San Jose, CA 95123-2428

- 14. Bid Opening.** For the duration of the COVID-19 pandemic, to ensure the safety of the public and District employees and requisite social distancing requirements by Order of the County of Santa Clara Public Health Officer, the opening of bids shall be made available to the public only by video teleconference, live-stream, on the date stated in this Notice to Bidders, paragraph #1. Notice, above, at **2:30 p.m.** The results will be posted on the District's website at <https://www.valleywater.org/construction> no later than close of business the following day.
- A. Join Zoom Meeting.** Any person interested in attending the live-stream bid opening, may do so by accessing the link below, or join via phone by calling the toll-free number listed below:

Join Zoom Meeting: <https://valleywater.zoom.us/j/3796054075>

Meeting ID: 379 605 4075

One tap mobile:

+16699009128, 3796054075# US (San Jose)

+13462487799, 3796054075# US (Houston)

Dial by your location:

- +1 669 900 9128 US (San Jose)
- +1 346 248 7799 US (Houston)
- +1 253 215 8782 US (Tacoma)
- +1 646 558 8656 US (New York)
- +1 301 715 8592 US (Germantown)
- +1 312 626 6799 US (Chicago)

Meeting ID: 379 605 4075


Find your local number: <https://valleywater.zoom.us/j/91011234567>

15. **Errors or Discrepancies in the Bids.** The District Board of Directors reserves the right to reject any and all Bid Proposals and to waive minor defects or irregularities in any submitted Bid Form(s).
16. **Bidder's Security.** Each Proposal must be accompanied by cash, a certified check, cashier's check, or an original Bidder's bond in the sum of not less than 10 percent of the total aggregate of the Proposal including all additive and supplemental Bid items, if any. Said checks or bond must be made payable to the Santa Clara Valley Water District.
17. **Contract Retention**
 - The Contract Retention for this Project is established at five (5) percent of the Contract Price.
 - The Contract Retention for this Project is established at ten (10) percent of the Contract Price. The Board of Directors has made a finding that the Project is substantially complex and therefore requires retention higher than five percent.
18. **Substitution of Securities.** The Contractor may, at the Contractor's request and expense substitute securities equivalent to the amount withheld by District to ensure the performance of the contract, in accordance with Public Contract Code Section 22300.
19. **Small Business Preference. [NOT USED].**
20. **Rights of Way.** It is anticipated that easement acquisition from the County of Santa Clara to construct the Coyote Creek modifications portion of the Project will be finalized before April 2021. The construction contract will not be awarded by Valley Water until all required Rights of Way are secured.
21. **Permits.** It is anticipated that all permits necessary for construction of the Project will be finalized before April 2021. The construction contract will not be awarded by Valley Water until all required Permits are obtained.
22. **Equal Opportunity.** The District is an equal opportunity employer and all Contractors of District projects are to have and follow a policy of equal opportunity including adherence

to all state and federal laws and regulations, including the Federal Equal Opportunity Clause.

By order of the Board of Directors of the Santa Clara Valley Water District, San Jose, California,
on Tuesday, January 26, 2021.

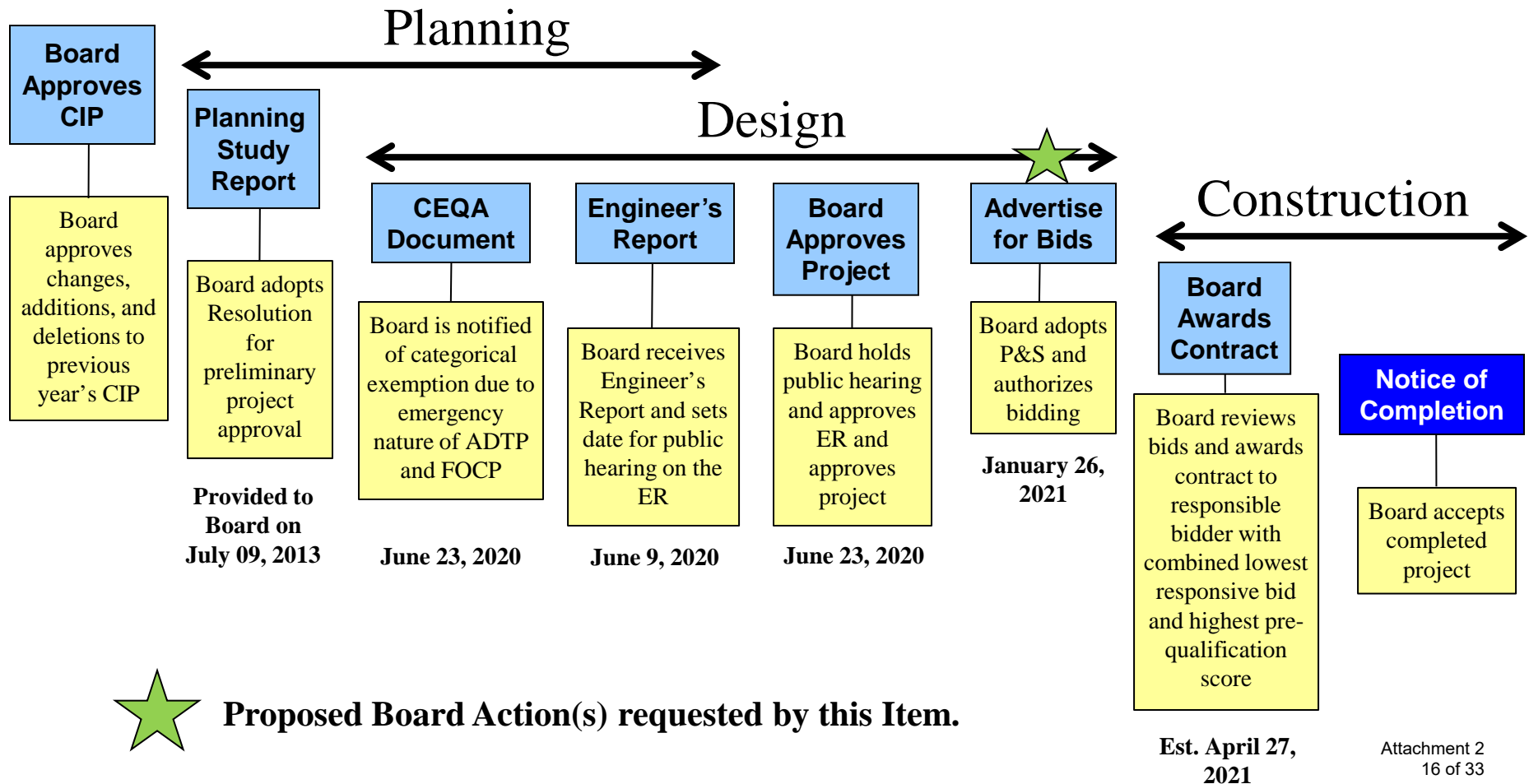
ATTEST: MICHELE L. KING, CMC



Clerk, Board of Directors

Project Delivery Process

Anderson Dam Tunnel Project, Contract No. C0663, Project No. 91864005



THIS PAGE INTENTIONALLY LEFT BLANK



Santa Clara Valley Water District

File No.: 21-0081

Agenda Date: 1/26/2021
Item No.: *3.3.

SUPPLEMENTAL BOARD AGENDA MEMORANDUM

SUBJECT:

Adopt Plans and Specifications and Authorize Advertisement for Bids for the Anderson Dam Tunnel Project (Project), Project No. 91864005, Contract No. C0663 (Morgan Hill) (District 1).

REASON FOR SUPPLEMENTAL MEMORANDUM:

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

RECOMMENDATION:

- A. Adopt the plans and specifications and authorize advertisement for bids for the construction of the Anderson Dam Tunnel Project, per the Notice to Bidders exclusively to the list of Valley Water pre-qualified bidders; and
- B. Authorize the Designated Engineer to issue addenda, as necessary, during bidding.

SUMMARY:

This Supplemental Board Agenda Memorandum updates the item to include the confidentiality requirements imposed by the Federal Energy Regulatory Commission (FERC) when Valley Water distributes the plans and specifications for the Project. See Supplemental Attachment 1, Notice to Bidders and Supplemental Attachment 2, Non-Disclosure Agreement.

All prequalified Contractors and parties to whom they provide the Contract Documents, will be required to first complete a Non-Disclosure Agreement (NDA/PNDA) in order to access these documents.

The Notice to Bidders has been updated to inform interested parties that an NDA will be required prior to the plans and specifications being provided. A form of the NDA is provided as Supplemental Attachment 2.

These attachments are being submitted for the Board's consideration pursuant to the recommended action.

FINANCIAL IMPACT:

No change.

CEQA:

No change.

ATTACHMENTS:

*Supplemental Attachment 1: Notice to Bidders

*Supplemental Attachment 2: Non-Disclosure Agreement

UNCLASSIFIED MANAGER:

Christopher Hakes, 408-630-3796

ANDERSON DAM TUNNEL PROJECT**Project No. 91864005****Contract No. C0663****1. Notice. Due to the County of Santa Clara Public Health Officer's Order, the Santa Clara Valley Water District offices remain closed to the public until further notice.**

Notice is hereby given that sealed Bids will be received by the Construction Program of the Santa Clara Valley Water District (District), delivered either by a third party carrier such as FED EX, UPS, DHL, Overnight, Golden State Overnight, etc. or by hand delivery, at the District's Winfield Warehouse Building located at 5905 Winfield Boulevard, San Jose, California 95123-2428 only between the hours of 1:00 p.m. to 2:00 p.m. on **Wednesday, March 10, 2021**, for furnishing all material and performing all work necessary for construction of Anderson Dam Tunnel Project, within the Cities of Morgan Hill, California, and San Jose, California, and within Unincorporated Santa Clara County, California.

NO BIDS WILL BE ACCEPTED VIA USPS (US MAIL).

Additional information and Instructions to Bidders are posted on the District's Construction Administration webpage: <https://www.valleywater.org/construction>.

2. California State Department of Industrial Relations Contractor and Subcontractor Registration Requirements.

California Labor Code Section 1771.1 requires:

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the California Labor Code.

An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

- A. The subcontractor is registered prior to the bid opening.
- B. Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee.
- C. The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code within 24 hours after the bid opening.

3. Summary of Work

- A. Project Description.** The project scope, in accordance with the Contract Documents, includes the following:
- Full compliance with federal, state, and local laws, orders, ordinances, and various agencies permit's terms and conditions, as required to construct the project;
 - Furnish a qualified biologist, certified and licensed arborist, and licensed geologist as required for the project;
 - Compliance with NPDES Construction General Permit, including SWPPP preparation, and installation of Best Management Practices (BMPs);
 - Installation of a temporary soundwall to reduce construction noise to the surrounding businesses and residences;
 - Proper excavation, handling, and placement in the on-site disposal area of naturally occurring asbestos containing materials;
 - Control of water, including the design, implementation, and maintenance of dewatering facilities;
 - Mobilization, including, but not limited to the installation of fully operational temporary trailers/office facilities;
 - Demobilization, including, but not limited to the removal and/or legal disposal of all temporary facilities;
 - Implement and maintain public safety measures, including, but not limited to installation of temporary fencing at the perimeter of the work areas;
 - Clearing and grubbing within the project limits, including demolition, the removal of trees, vegetation, concrete, and other miscellaneous items;
 - Surveying, grade control, and construction staking;
 - The Installation and monitoring of portal and tunnel instrumentation;
 - Establishment of site access roads, staging areas, and disposal areas;
 - Excavation and reinforcement of the downstream tunnel portal;
 - Dredging and preparation of the upstream portal;
 - Excavation and initial support of the 18.5-foot tunnel, 24-foot tunnel, and the micro-tunnel boring machine (MTBM) launch chamber;
 - Driving of the 8-foot MTBM tunnel lake-tap from the launch chamber to Anderson Reservoir;

- Excavation and initial support of the High-Level Outlet Works (HLOW) drop shaft;
- Installation of the final reinforced concrete lining in the MTBM launch chamber and the 24-foot tunnel;
- Installation of steel pipe in the diversion tunnel and HLOW drop shaft;
- Construction of the diversion outlet structure;
- Construction of the upstream trash rack structure below water;
- Installation of steel pipe, displacement couplers, two 132-inch butterfly valves, two 132-inch fixed cone valves, and other mechanical equipment at the diversion outlet structure;
- Installation of electrical components, instrumentation and controls;
- Testing of diversion system;
- Construction of the Coyote Creek channel improvements including the outlet discharge channel, the northern channel, and the reinforced concrete weirs in the northern and southern channels;
- Installation of landscape and landscape maintenance. Landscape maintenance includes maintenance during the landscape installation and maintenance during the one-year establishment period following the landscape installation;
- Provide all the necessary traffic control, traffic control signage, devices, etc. as required for temporary road work, including closures;
- Furnishing and Installation of permanent fencing and gates;
- Utility coordination and installation including, but not limited to raw water line facilities overhead and underground electrical facilities;
- Non-native plant control;
- Revegetation (hydroseeding);
- Other miscellaneous construction work and items necessary to satisfactorily complete the project work.

B. Sole Source Products. None.

4. Basis of Award.

Valley Water Board of Directors adopted Resolution No. 20-70 Approving Best Value Contractor Selection for the Anderson Dam Tunnel Project on August 25, 2020. A

“value” will be established for each bid submitted, determined by evaluation of objective criteria based on price (cost), and qualification (competency, capability, capacity to complete a project of similar size, scope, complexity, recently performed similar projects, references to verify past performance, history of regulatory compliance, bonding capacity, and ability to meet insurance requirements).

The “value” is established by a number, which is calculated by dividing each bidder’s price (P) by its qualification (Q) score. When the calculated individual numbers (for each bid) are arranged in ascending order, from lowest to highest, the lowest number becomes or is ranked as the “Best Value” bid, followed by the next highest number and so on. The formula as detailed in the Prequalification Application, Revision 2, Appendix D Calculating a Bidder’s Best Value Score, will be used to calculate the qualifications score to weigh quality at 40% and price at 60%.

5. **Contract Time.** Time limit for the completion of the Work is **1,050** calendar days. See Contract Documents, Special Provisions, Article 12.03. Contract Time(s) for Milestones and Contract Times.
6. **Liquidated Damages.** See Standard Provisions, Liquidated Damages, Article 5.08 and Special Provisions, Liquidated Damages, Article 12.05 of the Contract Documents for requirements regarding Liquidated Damages.
7. **Estimated Cost.** The estimated cost of the Project is between \$175 million and \$225 million. This estimate is intended to serve merely as an indication of the magnitude of the Work. Neither the Bidder(s) nor the Contractor will be entitled to pursue a claim or be compensated due to variance in the stated estimated cost range.
 - A. **Additive/Deductive Bid Items. [NOT USED].**
 - B. **Supplemental Bid Items.** These Bid Items may or may not be required. Supplemental Bid items include development of staging areas and access roads, excavation, grading, soil nail installation, instrumentation installation to remediate two existing landslides located along the southwestern reservoir rim and excavation, grading, reinforced concrete, soil nail installation, and other miscellaneous work to strengthen the existing sloping intake located on the left abutment upstream of Anderson Dam. The Supplemental Bid Items may be deleted entirely or in part, by deductive change order(s), at the sole discretion of the District.
8. **Contractor’s License Requirement.** The Bidder must possess a current **Class A** Contractor’s license issued by the California Department of Consumer Affairs, Contractor’s State License Board when the Bid is submitted. Regardless of whether a subcontractor must be identified at the time of Bid, each subcontractor must also be properly licensed to perform its scope of Work.

9. **Pre-Bid Conference and Site Visit.** A Pre-Bid conference/site visit will be conducted by the District on **Wednesday, February 17, 2021**. The Pre-Bid conference/site visit will convene at 10:00 a.m. (by District time), at the parking lot at the toe of Anderson Dam at 2499 Cochrane Road, Morgan Hill, CA 95027 (APN 729-48-001). Attendance at the Pre-Bid conference/site visit by subcontractors is not required.

Attendance by the Bidder at the Pre-Bid conference/site visit is:

- Mandatory
 Optional

The objective of the Pre-Bid conference/site visit is to familiarize prospective Bidders with the site; no additional site visits will be allowed. Please confirm your intent to attend the Pre-Bid conference/site visit 24 hours in advance by sending an email to scvwdplanroom@valleywater.org.

Additional information regarding the Pre-Bid conference/site showing will be sent to all prospective Bidders who confirm their intention to attend.

In response to the COVID-19 pandemic, the District will require that all participants adhere to the orders of Social Distancing. All persons attending the Pre-Bid conference/site visit are required to adhere to the orders of Social Distancing and are also required to bring and wear the appropriate Personal Protection Equipment (PPE), i.e., protective face covering, in order to be allowed entrance onto the site and to remain on the site.

Reasonable efforts will be made to accommodate persons with disabilities wishing to attend the Pre-Bid conference/site visit. Please request accommodations when confirming attendance.

10. **Availability of Bid Documents**

Due to the County of Santa Clara Public Health Officer's Order, District offices will remain closed to the public until further notice.

The Project Plans and Specifications are considered by the Federal Energy Regulatory Commission as including highly sensitive, confidential information pertaining to critical infrastructure. Therefore, all prequalified Contractors must complete and execute the Non-Disclosure Agreement (NDA) before access to the Contract Documents will be provided. Contractors must also require any party to whom they provide access to the Contract Documents (such as subcontractors in all tiers and suppliers) to first complete and execute a Personal Non-Disclosure Agreement (PNDA) and provide Valley Water with a copy of the signed Agreement.

A copy of the NDA / PNDA form can be obtained at the Valley Water website: <https://www.valleywater.org/construction>. The completed form must be submitted by email at scvwdplanroom@valleywater.org.

The Contract Documents are only available in electronic (PDF) format. The electronic version is free and will be transferred via file transfer appliance (FTA) site.

11. **Inquiries.** The Bidder must submit all requests for clarification, or interpretation of the Bid Documents in accordance with the requirements stated in Instructions to Bidders, paragraph #7. Questions During Bidding. Written questions must be directed to the Contracts Administrator at scvwdplanroom@valleywater.org and submitted at least nine (9) calendar days before the deadline for receipt of Bids.

The District may issue written Addenda as appropriate for clarification or other purposes during the bidding period. Addendum notification(s) will be sent to each planholder at the email address provided by the contractor for the planholders list and addenda will be posted on the District's website at <https://www.valleywater.org/construction>.

- A. **Project Manager.** The District's project manager for this Project is Mr. Bal Ganjoo.
- B. **Process Questions.** For questions regarding the bid process, please contact the District Plan Room by email at scvwdplanroom@valleywater.org.

12. **Prevailing Wage Requirements**

- A. Workers employed on this Project must be paid at rates at least equal to the prevailing wage rates as determined by the State of California Department of Industrial Relations pursuant to Section 1770 *et seq.* of the Labor Code. Said wage rates are incorporated herein by reference and are available on the State of California Department of Industrial Relations website at: <http://www.dir.ca.gov/>. See Standard Provisions, Prevailing Wages Article 4.04. through Apprentices Article 4.06. for related requirements.

Due to the County of Santa Clara Public Health Officer's Order, District offices will remain closed to the public until further notice. The wage rates are therefore not currently available for review at District offices.

- B. This Project is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. The Contractor and subcontractors must furnish the records specified in California Labor Code Section 1776 directly to the Labor Commissioner, in the following manner: monthly, in a format prescribed by the Labor Commissioner.

13. **Bid Proposal Submittal.** All Bids must be submitted in sealed envelopes addressed to the Santa Clara Valley Water District. Attention: Construction Programs and state the Project name and Project number on the outside of the sealed envelope. Each Bid must be submitted on the prescribed Bid Forms. All information on Bid Forms must be completed in ink.

- A. **Bid Submittal Delivery.** Bidders are allowed to submit a bid proposal by third party carrier or by hand delivery.

THIRD PARTY CARRIER such as: FEDEX, UPS, DHL, CA Overnight, Golden State Overnight, etc., and must address the submittal in accordance with instructions stated in this paragraph 12. Any Proposal received after 2 p.m. will not be considered. Late Bids will be returned unopened.

HAND DELIVERY shall only be between the hours of 1:00 p.m. - 2:00 pm. on the bid due date, at the Winfield Warehouse located at 5905 Winfield Boulevard, San Jose, CA 95123. Upon entrance to the gate, turn left towards the warehouse building. Bid submittal shall be delivered at a drop off box, marked "Bid/Submittal Drop Box," located in front of the warehouse entrance door. Bidder's must take a picture using its cellphone showing the "Official Bid Clock" timer as proof of delivery. Bidders must observe all Public Health Officers orders and wear proper face covering when dropping off your Bid.

Any Proposal received after 2 p.m. will not be considered. Late Bids will be returned unopened.

NO BIDS WILL BE ACCEPTED VIA USPS (US MAIL). USPS (US Mail) does not deliver to 5905 Winfield Boulevard.

Address the outside delivery envelope as follows:
Santa Clara Valley Water District
Attention: Construction Contracts & Support Unit
C0663 – Anderson Dam Tunnel Project
Project No. 91864005
5905 Winfield Boulevard
San Jose, CA 95123-2428

- 14. Bid Opening.** For the duration of the COVID-19 pandemic, to ensure the safety of the public and District employees and requisite social distancing requirements by Order of the County of Santa Clara Public Health Officer, the opening of bids shall be made available to the public only by video teleconference, live-stream, on the date stated in this Notice to Bidders, paragraph #1. Notice, above, at **2:30 p.m.** The results will be posted on the District's website at <https://www.valleywater.org/construction> no later than close of business the following day.

- A. Join Zoom Meeting.** Any person interested in attending the live-stream bid opening, may do so by accessing the link below, or join via phone by calling the toll-free number listed below:

Join Zoom Meeting: <https://valleywater.zoom.us/j/3796054075>

Meeting ID: 379 605 4075

One tap mobile:

+16699009128, 3796054075# US (San Jose)

+13462487799, 3796054075# US (Houston)

Dial by your location:

- +1 669 900 9128 US (San Jose)
- +1 346 248 7799 US (Houston)
- +1 253 215 8782 US (Tacoma)
- +1 646 558 8656 US (New York)
- +1 301 715 8592 US (Germantown)
- +1 312 626 6799 US (Chicago)

Meeting ID: 379 605 4075

Find your local number: <https://valleywater.zoom.us/j/91011111111>

15. **Errors or Discrepancies in the Bids.** The District Board of Directors reserves the right to reject any and all Bid Proposals and to waive minor defects or irregularities in any submitted Bid Form(s).
16. **Bidder's Security.** Each Proposal must be accompanied by cash, a certified check, cashier's check, or an original Bidder's bond in the sum of not less than 10 percent of the total aggregate of the Proposal including all additive and supplemental Bid items, if any. Said checks or bond must be made payable to the Santa Clara Valley Water District.
17. **Contract Retention**
 - The Contract Retention for this Project is established at five (5) percent of the Contract Price.
 - The Contract Retention for this Project is established at ten (10) percent of the Contract Price. The Board of Directors has made a finding that the Project is substantially complex and therefore requires retention higher than five percent.
18. **Substitution of Securities.** The Contractor may, at the Contractor's request and expense substitute securities equivalent to the amount withheld by District to ensure the performance of the contract, in accordance with Public Contract Code Section 22300.
19. **Small Business Preference. [NOT USED].**
20. **Rights of Way.** It is anticipated that easement acquisition from the County of Santa Clara to construct the Coyote Creek modifications portion of the Project will be finalized before April 2021. The construction contract will not be awarded by Valley Water until all required Rights of Way are secured.
21. **Permits.** It is anticipated that all permits necessary for construction of the Project will be finalized before April 2021. The construction contract will not be awarded by Valley Water until all required Permits are obtained.
22. **Equal Opportunity.** The District is an equal opportunity employer and all Contractors of District projects are to have and follow a policy of equal opportunity including adherence

Attachment 2
27 of 33

to all state and federal laws and regulations, including the Federal Equal Opportunity Clause.

By order of the Board of Directors of the Santa Clara Valley Water District, San Jose, California,
on Tuesday, January 26, 2021.

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors



SANTA CLARA VALLEY WATER DISTRICT NON-DISCLOSURE AGREEMENT

FC 1650 (10-13-20)
Page 1 of 4

This Agreement is between the Santa Clara Valley Water Valley Water (hereinafter "Valley Water"), and ("Receiving Party") identified as:

(Full exact legal name -- whether corporation, LLC, partnership, individual natural person.)

(Street Address, City, State, Zip, Country)

Now, in consideration of the mutual covenants herein contained, Valley Water and Receiving Party agree as follows:

1. **Purpose.** This Agreement is to protect Valley Water from the misuse or disclosure of Valley Water confidential or proprietary information that is disclosed in connection with Receiving Party performing work for the Valley Water.
2. **Confidential Information:** Valley Water confidential information includes the following:
 - A. **Information Technology Data and Information**, including but not limited to, proprietary, internally-developed Valley Water computer models and algorithms, rule curves, and programs, non-public network and system information, District software code, licensed computer software and other information technology programs, apps, or customized hardware or software, licensed or purchased third-party data and information maintained on Valley Water servers or computers.
 - B. **Employee Personnel Information**, including but not limited to, employees' personnel files (including but not limited to performance reviews and/or disciplinary information), spouse and family information or other emergency contact person information, home addresses, Social Security Numbers, telephone numbers, personal email addresses, driver's license information, tax withholding information, resumes, job application, etc.
 - C. **Critical Infrastructure or Sensitive Security Information**, such as detailed designs, specifications, vulnerability assessments, and location information concerning dams, water treatment or purification plants, pipelines, etc. This includes information that is not customarily in the public domain and relates to the security of critical infrastructure or protected systems and includes information regarding systems, facilities, or operational security, or that is proprietary, business sensitive, or which might be used to plan or carry out a terrorist attack. Sensitive security information includes information about security, protocols, operations, facilities or other assets or capital projects whose disclosure would be detrimental to the security of Valley Water's employees or patrons, or would invade an individual's privacy, or reveal trade secrets or privileged or confidential information.
 - D. **Utility Usage Records** and non-public financial information of any District customer or client.
 - E. **Information Designated or Communicated as Confidential**, meaning all information that Valley Water protects against unrestricted disclosure to others and which: (i) if in written or other tangible form, is clearly designated as "Confidential" or "Proprietary"; and (ii) if disclosed orally, is designated to be "Confidential" at the time of its disclosure or which under the circumstances surrounding disclosure ought to be treated as confidential. By way of illustration, but not limitation, confidential information may include equipment, products, inventions, concepts, designs, drawings, schematics, plans, production specifications, source code, libraries, agents, applets, script, Javascript, object classes, software architecture, object code, flowcharts, source listings, software-related documentation, databases, structures, formulas, algorithms, techniques, processes, circuits, computer disks or tapes whether machine or user readable, market data, financial information, data regarding suppliers and customers, and confidential information received from third parties. Such confidential information shall include all copies, reproductions, photographs, images, records, and extracts thereof, as well as all notes and summaries prepared by the Receiving Party from Information of the Disclosing Party which is Confidential Information.

Attachment 2
30 of 33

F. **Other.** To the extent not already listed or described above, Valley Water also designates the following information as confidential information protected by this agreement: _____.

The information described above is hereinafter referred to as "Confidential Information."

3. **Exclusions/Not Confidential Information.** This Agreement does not apply to any information that: (a) was in Receiving Party's possession or was known to Receiving Party without an obligation to keep it confidential, before such information was disclosed to Receiving Party by Valley Water; (b) is or becomes public knowledge through a source other than Receiving Party and through no fault of Receiving Party; or (c) is disclosed by Receiving Party with Valley Water's prior written approval.
4. **Restrictions on Use of Confidential Information.** Receiving Party shall not directly or indirectly disclose, display, provide, transfer or otherwise make available any Confidential Information to any third party. In addition, Receiving Party shall not directly or indirectly disclose, display, provide, transfer or otherwise make available any Confidential Information to any other person, including to its own employees, consultants and/or independent contractors or subcontractors, unless: (a) such employee, consultant or contractor has a need to know such Confidential Information in order to perform work for Valley Water; and (b) such employee, consultant or contractor has signed the attached Personal Agreement to be Bound By Valley Water NDA (Attachment 1 hereto). Once any employee, subconsultant or subcontractor has signed Attachment 1, Receiving Party shall promptly provide Valley Water with an executed copy of such document. Except as specified above, Receiving Party may not disclose any Confidential Information to any person or business entity. Receiving Party shall not make copies of Confidential Information or any portion thereof, including electronic copies. Receiving Party acknowledges that Confidential Information may be utilized only in accordance with providing services to Valley Water.
5. **Safeguarding of Confidential Information.** Receiving party shall take all necessary measures to ensure that any Confidential Information it receives is maintained as confidential and safeguarded from unauthorized copying or distribution. Receiving Party shall encrypt or password-protect all Confidential Information that is electronic data, and store hard copies in a locked secure location. Receiving Party agrees that it shall treat all Confidential Information with at least the same degree of care as it accords its own confidential information, but not less than a reasonable degree of care.
6. **Confidential Information Property of Valley Water.** All Confidential Information delivered pursuant to this Agreement shall be and remain the property of Valley Water. Nothing herein shall be construed as granting or conferring any rights by license or otherwise, express or implied, regarding any idea made, conceived or acquired prior to or after the Effective Date, nor as granting any right with respect to the use or marketing of any product or service. The Parties shall use the Confidential Information only for the Business Relationship.
7. **Violation of Agreement.** Receiving Party acknowledges that Valley Water, because of the unique nature of the Confidential Information, would suffer irreparable harm in the event that Receiving Party breaches its obligation under this Agreement in that monetary damages would be inadequate to compensate Valley Water for such breach. Receiving Party agrees that in such circumstances, Valley Water shall be entitled, in addition to monetary relief, to injunctive relief as may be necessary to restrain any continuing or further breach by Receiving Party, without showing or approving any actual damages sustained by Valley Water. In the event either Party is required to enforce this Agreement through legal action, the prevailing party will be entitled to recover from the other Party all costs incurred thereby, including without limitation, reasonable attorney's fees.
8. **Indemnification.** Receiving Party agrees to indemnify Valley Water against any and all losses, damages, claims or expenses incurred or suffered by Valley Water as a result of Receiving Party's breach of this Agreement.
9. **Return or Destruction of Confidential Information.** Receiving Party shall promptly, upon request, return to Valley Water, or, at Valley Water's option, destroy, any documents or media containing or reflecting Confidential Information, and all copies thereof. Receiving Party agrees to erase, delete or destroy any documents, magnetic media, or other computer storage, including system backups that contain any



SANTA CLARA VALLEY WATER DISTRICT NON-DISCLOSURE AGREEMENT

FC 1650 (10-13-20)
Page 3 of 4

Confidential Information copies or derived from the Confidential Information. Receiving party shall provide written verification to Valley Water of such destruction. The obligation to return or, upon request, destroy Confidential Information shall survive the completion or abandonment of the business relationship and remain binding for a period of ten (10) years* after such completion or abandonment.

10. **Notice of Disclosure.** Receiving Party shall notify Valley Water within 24-hours of any unauthorized disclosure, loss of Confidential Information and shall further take all reasonable steps to retrieve and prevent further unauthorized disclosure of such proprietary information. Such disclosure of a loss shall in no way limit Valley Water's remedies under this Agreement including, but not limited to, immediate injunctive relief. Notwithstanding the foregoing, nothing herein shall restrict the right of Receiving Party to disclose such Confidential Information that is disclosed pursuant to a judicial order, but only to the extent so ordered, provided, however, that Receiving Party receiving such order shall notify Valley Water of such order in sufficient time to permit Valley Water to intervene in response to such order and provided that the confidential or proprietary markings remain on the information disclosed.

11. General

11.1 **Entire Agreement.** This Agreement sets forth the entire understanding and agreement between the parties hereto as to the subject matter of this Agreement and supersedes any previous communications, negotiations, warranties, representations, and prior non-disclosure agreements, either oral or written, with respect to obligations of confidentiality of the subject matter hereof, and no addition or modification of this Agreement shall be binding on either party hereto unless reduced to writing and duly executed by each of the parties hereto.

11.2 **Applicable Law/Disputes.** This Agreement is governed by the laws of the State of California. In any dispute arising out of this Agreement, the parties hereby consent to personal and exclusive jurisdiction and venue in the State and Federal Courts in Santa Clara County, California.

11.3 **Survival of Receiving Party's Obligations.** All obligations of Receiving Party under this Agreement shall survive the return of the Confidential Information and termination of this Agreement.

11.4 **Authority.** The undersigned individuals represent that they have the authority to enter into and bind the parties to this Agreement.

RECEIVING PARTY:

SANTA CLARA VALLEY WATER DISTRICT:

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Printed)

Name: _____
(Printed)

Title: _____

Title: _____

Date: _____

Date: _____

*Changed from District standard NDA of 1 year for this project



PERSONAL AGREEMENT TO BE BOUND BY VALLEY WATER NDA
(Attachment One to the Santa Clara Valley Water District Non-Disclosure Agreement)

FC 1650 (10-13-20)
Page 4 of 4

I acknowledge that I have read and understood, and agree to be bound by, the attached Santa Clara Valley Water Valley Water Non-Disclosure Agreement (“NDA”) entered into between the Santa Clara Valley Water District (“Valley Water”) and _____ (“Receiving Party”) (“NDA”).

I acknowledge that Valley Water may make available to me from time to time certain information that is highly confidential to Valley Water, as defined in the attached NDA (“Confidential Information”). I acknowledge that such information is sensitive and agree that I will not disclose this Confidential Information to any person, firm, corporation, association, or partnership without the express written permission of Valley Water, including other employees, consultants or independent contractors or subcontractors of Receiving Party that do not have a need to know such information.

I will at all times hold all of Valley Water’s Confidential Information in trust and in the strictest confidence. This obligation shall continue after any and all business engagement(s) working with Valley Water has ended. I will prevent the impermissible release of Valley Water’s Confidential Information. I will neither copy, retain nor incorporate any Confidential Information into any database or any medium other than as may be required for Valley Water’s exclusive benefit. I will not duplicate or disclose or otherwise reveal such Confidential Information in any manner inconsistent with the NDA.

I will not perform any illegal acts with respect to the Confidential Information, and I will not share the password or account access provided exclusively to me. When leaving a workstation unattended, or out of sight, I will save my work and log off or lock the workstation to prevent unauthorized access. I will make no attempt to circumvent access codes or information protection schemes or uncover security loopholes or attempt to break authentication procedures or encryption protocols. I will make no attempts to increase the level of access to which I have been authorized. I will not attempt to use or obtain access codes in an unauthorized manner or from another user. I will not allow non-employees to access Valley Water computer systems.

I acknowledge that my faithful compliance with this NDA is necessary to protect Valley Water and that any action on my part that is inconsistent with this NDA will cause Valley Water irreparable and continuing harm. If I violate this NDA, I understand and agree that Valley Water may take action against me personally, including but not limited to, instituting a legal proceeding and seeking any court relief.

PLEASE COMPLETE THE FOLLOWING SECTION (PLEASE PRINT):

| | |
|---|----------|
| Full Name: | |
| Receiving Person’s Name: | |
| Receiving Person’s Employer, Agent or Contractor: | |
| Phone No.: | Fax No.: |
| Email Address: | |
| What District units/department(s) do you work with? | |
| Signature: | Date: |



Santa Clara Valley Water District

File No.: 21-0170

Agenda Date: 3/11/2021
Item No.: 4.4.

COMMITTEE AGENDA MEMORANDUM

Stream Planning and Operations Committee

SUBJECT:

Receive Updates on Discussions with the FAHCE Adaptive Management Team.

RECOMMENDATION:

Receive Updates on Discussions with the FAHCE Adaptive Management Team (AMT).

SUMMARY:

The FAHCE Adaptive Management Team (AMT) was formed in October 2020 and has since convened two meetings. At the first meeting held on October 29, 2020, the team discussed the draft AMT charter, containing rules and procedures for AMT member engagement.

At the second meeting on February 10, 2021, staff presented an overview and solicited input from AMT members regarding the draft adaptive management program and associated monitoring program. In addition, staff provided updates on the pilot flow project in Guadalupe and Stevens Creeks, the Anderson Dam Seismic Retrofit Project and discussed future meeting schedules. The next AMT meeting is scheduled for May 2021.

ATTACHMENTS:

None.

UNCLASSIFIED MANAGER:

Vincent Gin, 408-630-2633.



Santa Clara Valley Water District

File No.: 21-0161

Agenda Date: 3/11/2021
Item No.: 4.5.

COMMITTEE AGENDA MEMORANDUM

Stream Planning and Operations Committee

SUBJECT:

Review Stream Planning and Operations Committee (SPOC) Work Plan, Outcomes of Board Action of Committee Requests, and the Next Meeting Agenda.

RECOMMENDATION:

- A. Review 2021 SPOC work plan, outcomes of Board action of Committee requests, and next meeting agenda; and
- B. Schedule Committee meetings as appropriate.

SUMMARY:

This item allows the SPOC to review its 2021 Work Plan, outcomes of Board action of Committee requests, next meeting agenda, and identify tasks and schedule meetings as appropriate.

ATTACHMENTS:

- Attachment 1: 2021 SPOC Work Plan
- Attachment 2: May 13, 2021 Draft Agenda

UNCLASSIFIED MANAGER:

Michele King, 408-630-2711

2021 Stream Planning and Operations Committee Work Plan

The annual work plan establishes a framework for committee discussion and action during the annual meeting schedule. The committee work plan is a dynamic document, subject to change as external and internal issues impacting the District occur and are recommended for committee discussion. Subsequently, an annual committee accomplishments report is developed based on the work plan and presented to the District Board of Directors.

| ITEM | WORK PLAN ITEM BOARD POLICY | MEETING DATE | INTENDED OUTCOME(S) (Action of Information Only) | ACCOMPLISHED DATE AND OUTCOME |
|------|--|--|---|--|
| 1 | Election of Chair and Vice Chair for 2021 | January | <ul style="list-style-type: none"> Committee Elects Chair and Vice Chair for 2020. (Action) | Completed 1/14/21 – Keegan elected Chair LeZotte elected Vice Chair |
| 2 | Review of Draft Committee Work Plan | January | <ul style="list-style-type: none"> Review draft 2021 Committee Work plan | Completed 1/14/21 – Approved workplan as presented |
| 3 | Review of Final Committee Work Plan, the Outcomes of Board Action of Committee Requests, and the Committee Next Meeting Agenda | March May July September November | <ul style="list-style-type: none"> Receive and review the 2020 Board-approved Committee work plan. (Action) Submit requests to the Board, as appropriate. | |
| 4 | Receive updates on FAHCE progress and deliverables | January March May July September November | <ul style="list-style-type: none"> Receive updates on FAHCE activities and progress. | Update provided 1/14/21 |
| 5 | Discuss District and Non-District Projects and Other Activities that May Affect the FAHCE Settlement Agreement and Implementation | January March May July September November | <ul style="list-style-type: none"> Receive information on activities affecting the FAHCE Settlement Agreement and Implementation, as needed. Provide input on these activities to ensure their consistency with the intent of the FAHCE Settlement Agreement. (Action) | Information provided 1/14/21 |

| | | | | |
|----|---|--------------------------------------|--|--------------------------|
| 6 | Receive update on Anderson Dam Seismic Retrofit Project and Incorporation of FAHCE Conservation Measures for Coyote Creek | January March July November | <ul style="list-style-type: none"> Receive updates on the incorporation of FAHCE Conservation Measures for the Coyote Creek Watershed by the Anderson Dam Seismic Retrofit Project. (Information) | Updated provided 1/14/21 |
| 7 | Receive FAHCE Draft EIR | July | <ul style="list-style-type: none"> Receive the FAHCE Draft EIR, when completed. (Information) <i>Draft EIR provided to SPOC members in June when made available to the public</i> | |
| 8 | Discuss Prioritization of FAHCE Phase 1 Non-Flow Measures in the Guadalupe River and Stevens Creek Watersheds | July | <ul style="list-style-type: none"> Receive information on prioritization of the Phase 1 non-flow measures in the Guadalupe River and Stevens Creek Watersheds. Provide input on prioritization of Phase 1 non-flow measures for consideration of the Initialing Parties. (Action) | |
| 9 | Receive updates on consultant contracts for FAHCE | May July | <ul style="list-style-type: none"> Receive updates on FAHCE contracts requiring Board Approval. | |
| 10 | Receive Updates on Discussions with the FAHCE Adaptive Management Team | March September | <ul style="list-style-type: none"> Receive updates on key discussions and decisions made by the FAHCE Adaptive Management Team. (Information) | |
| 11 | Field Tour | September | <ul style="list-style-type: none"> Attend an annual field tour of a FAHCE or FAHCE related site; invite public | |



Santa Clara Valley Water District Stream Planning and Operations Committee Meet

Teleconference Zoom Meeting

REGULAR MEETING AGENDA

Thursday, May 13, 2021
12:00 PM

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

FAHCE AD HOC COMMITTEE

Barbara Keegan - District 2
Linda J. LeZotte - District 4
Tony Estremera - District 6

During the COVID-19 restrictions, all public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body, will be available to the public through the legislative body agenda web page at the same time that the public records are distributed or made available to the legislative body, or through a link in the Zoom Chat Section during the respective meeting. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to participate in the legislative body's meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

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

**Santa Clara Valley Water District
Stream Planning and Operations Committee**

**REGULAR MEETING
AGENDA**

Thursday, May 13, 2021

12:00 PM

Teleconference Zoom Meeting

IMPORTANT NOTICES

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the Committee, staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

Members of the public wishing to address the Committee during a video conferenced meeting on an item not listed on the agenda, or any item listed on the agenda, should use the "Raise Hand" or "Chat" tools located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in the order requests are received and granted speaking access to address the Committee.

Santa Clara Valley Water District (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 Committee meetings to please contact the Clerk of the Board's office at (408) 630-2711, at least 3 business days before the scheduled meeting to ensure that Valley Water may assist you.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has not been prepared with a view to informing an investment decision in any of Valley Water's bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water's bonds, notes or other obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures and Valley Water's Investor Relations website, maintained on the World Wide Web at <https://emma.msrb.org/> and <https://www.valleywater.org/how-we-operate/financebudget/investor-relations>, respectively.

Under the Brown Act, members of the public are not required to provide identifying information in order to attend public meetings. Through the link below, the Zoom webinar program requests entry of a name and email address, and Valley Water is unable to modify this requirement. Members of the public not wishing to provide such identifying information are encouraged to enter "Anonymous" or some other reference under name and to enter a fictional email address (e.g., attendee@valleywater.org) in lieu of their actual address. Inputting such values will not impact your ability to access the meeting through Zoom.

Join Zoom Meeting

<https://valleywater.zoom.us/j/98460637852>

Meeting ID: 984 6063 7852

One tap mobile

+16699009128,,98460637852# US (San Jose)

Dial by your location

+1 669 900 9128 US (San Jose)

Meeting ID: 984 6063 7852

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 Committee on any item not listed on the agenda should access the "Raise Hand" or "Chat" tools located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Committee Chair in order requests are received and granted speaking access to address the Committee. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If 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 Committee may take action on any item of business appearing on the posted agenda.

3. APPROVAL OF MINUTES:

3.1. Approval of Minutes.

21-0163

Recommendation: Approve the January 14, 2021 Stream Planning and Operations Committee (SPOC) minutes.

Manager: Michele King 408-630-2711

Attachments: Attachment 1: January 14, 2021 SPOC Minutes.

4. INFORMATION AND ACTION ITEMS:

- 4.1. Receive Updates on FAHCE Progress and Deliverables. **21-0165**
 Recommendation: Receive updates on FAHCE progress and deliverables.
 Manager: First Last, 408-630-XXXX
- 4.2. Discuss District and Non-District Projects and Other Activities that May **21-0167**
 Affect the FAHCE Settlement Agreement and Implementation.
 Recommendation: Discuss District and Non-District Projects and Other Activities
 that May Affect the FAHCE Settlement Agreement and
 Implementation.
 Manager: First Last, 408-630-XXXX
- 4.3. Receive Updates on Consultant Contracts for FAHCE. **21-0169**
 Recommendation: Receive Updates on Consultant Contracts for FAHCE.
 Manager: First Last, 408-630-XXXX
- 4.4. Review Stream Planning and Operations Committee (SPOC) Work Plan, **21-0171**
 Outcomes of Board Action of Committee Requests, and the Next Meeting
 Agenda.
 Recommendation: A. Review 2021 SPOC work plan, outcomes of Board action of
 Committee requests, and next meeting agenda; and
 B. Schedule Committee meetings as appropriate.
 Manager: Michele King, 408-630-2711
 Attachments: Attachment 1: 2021 SPOC 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 to Regular Meeting at 12:00 p.m., on July 8, 2021, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.