



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
MEETING
OCTOBER 6, 2021

**THIS MEETING WILL BE CONDUCTED UNDER PROCEDURES IN ACCORDANCE
WITH GOVERNMENT CODE SECTION 54593**

- **THE PUBLIC MAY OBSERVE THIS MEETING THROUGH THE WEBCAST BY
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WEBPAGE AT**

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BOARD OF DIRECTORS MEETING AGENDA

WEDNESDAY
OCTOBER 6, 2021
9:30 A.M.

Chairperson, Cindy Chavez

1. **CALL TO ORDER - ROLL CALL**

PLEDGE OF ALLEGIANCE

PUBLIC MEETING PROCEDURE

The Board Chair shall call the meeting to order and the Clerk of the Boards shall take roll of the Board members.

This meeting will be webcast. To see the webcast, please visit www.baaqmd.gov/bodagendas at the time of the meeting. Closed captioning may contain errors and omissions and are not certified for their content or form.

***Public Comment on Agenda Items** The public may comment on each item on the agenda as the item is taken up. Members of the public who wish to speak on matters on the agenda for the meeting, will have three minutes each to address the Board. No speaker who has already spoken on that item will be entitled to speak to that item again.*

RESOLUTION

Staff/Phone (415) 749-

2. Assembly Bill 361 (Rivas) and Air District Remote Teleconferencing Update

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Board of Directors will consider approving a resolution of Air District Board and Committee meetings remote teleconferencing through October 2021.

END OF RESOLUTION

CONSENT CALENDAR (ITEMS 3-16)

3. Minutes of the Board of Directors Regular Meeting of September 15, 2021

Clerk of the Boards/5073

The Board of Directors will consider approving the draft minutes of the Board of Directors Regular Meeting of September 15, 2021.

4. Board Communications Received from September 15, 2021, through October 5, 2021
J. Broadbent/5052
jbroadbent@baaqmd.gov

A copy of communications directed to the Board of Directors received by the Air District from September 15, 2021, through October 5, 2021, if any, will be distributed to the Board Members by way of email.

5. Air District Personnel on Out-of-State Business Travel
J. Broadbent/5052
jbroadbent@baaqmd.gov

In accordance with Section (b) of the Air District Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the attached memorandum lists Air District personnel who have traveled on out-of-state business in the preceding months.

6. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of August 2021
J. Broadbent/5052
jbroadbent@baaqmd.gov

In accordance with Resolution No. 2012-08, the Board of Directors will receive a list of all Notices of Violations issued, and all settlements for amounts in excess of \$10,000 during the month of August 2021.

7. Authorization to Execute Contract Amendment for Environmental Audit, Inc.
J. Broadbent/5052
jbroadbent@baaqmd.gov

Recommend the Board of Directors authorize the Executive Officer/APCO to execute contract amendment for Environmental Audit, Inc. in an amount not to exceed \$145,000.

8. Authorization to Execute Contract with Kadesh & Associates, LLC
J. Broadbent/5052
jbroadbent@baaqmd.gov

Recommend the Board of Directors authorize the Executive Officer/APCO to execute a contract with Kadesh & Associates, LLC for federal legislative advocacy services, in an amount not to exceed \$120,000.

9. Authorization to Attend United Nations Climate Change Conference (COP26)
J. Broadbent/5052
jbroadbent@baaqmd.gov

Recommend the Board of Directors authorize Secretary Bauters and Director Hurt to attend United Nations Climate Change Conference (COP26).

10. Authorization for Selection and Award to Bidders for Heavy-Duty Air Filtration Units/Air Scrubbers and Replacement Filters
J. Broadbent/5052
jbroadbent@baamqd.gov

Recommend the Board of Directors authorize the Executive Officer/APCO to select and award to bidders for Heavy-Duty Air Filtration Units/Air Scrubbers and Replacement Filters in an amount not to exceed \$3.6 million.

11. Set a Public Hearing for November 3, 2021, to Consider Adoption of Proposed Amendments to Refinery Rules Definitions
D. Breen/5041
dbreen@baaqmd.gov

The Board of Directors will consider setting a Public Hearing for November 3, 2021, to consider adoption of proposed amendments to Refinery Rules Definitions.

12. Advisory Council Meeting
BOARD LIAISON: C. Chavez
J. Broadbent/5052
jbroadbent@baaqmd.gov

- 12.1 **ACTION REQUESTED:** Receive Committee Chair Summary Report of September 13, 2021

For the full Committee agenda packet and materials, click on the link below:
<https://www.baaqmd.gov/about-the-air-district/advisory-council/agendasreports>

- 12.2 Report of the Advisory Council Meeting of September 13, 2021

13. Administration Committee Meeting
CO-CHAIRS: C. Chavez and C. Groom
J. Broadbent/5052
jbroadbent@baaqmd.gov

- 13.1 **ACTION REQUESTED:** Receive Committee Chair Summary Report of September 15, 2021

For the full Committee agenda packet and materials, click on the link below:
www.baaqmd.gov/bodagendas

- 13.2 Report of the Administration Committee Meeting of September 15, 2021

14. Technology Implementation Office Steering Committee Meeting
BOARD LIAISONS: C. Chavez and R. Rennie
J. Broadbent/5052
jbroadbent@baaqmd.gov

- 14.1 **ACTION REQUESTED:** Receive Committee Chair Summary Report of September 17, 2021

For the full Committee agenda packet and materials, click on the link below:
www.baaqmd.gov/bodagendas

- 14.2 Report of the Technology Implementation Office Steering Committee Meeting of September 17, 2021
15. Richmond Area Community Emissions Reduction Plan Steering Committee Meeting
CO-CHAIRS: Alfredo Angulo and Y'Anad Burrell V. Eady/4646
veady@baaqmd.gov

- 15.1 **ACTION REQUESTED:** Receive Committee Chair Summary Reports of September 20, 2021

For the full Committee agenda packet and materials, click on the link below:
<https://www.baaqmd.gov/community-health/community-health-protection-program>

- 15.2 Report of the Richmond Area Community Emissions Reduction Plan Steering Committee Meeting of September 20, 2021

The Committee recommends Board of Directors approval of the following:

A) ACTION REQUESTED: Charter Development and Adoption Process

- 1) *Final revisions and adopted the charter to govern the Community Steering Committee through the development of the Community Emission Reduction Plan.*

16. Mobile Source and Climate Impacts Committee Meeting
CO-CHAIRS: D. Canepa and K. Rice J. Broadbent/5052
jbroadbent@baaqmd.gov

- 16.1 **ACTION REQUESTED:** Receive Committee Chair Summary Report of September 23, 2021

For the full Committee agenda packet and materials, click on the link below:
www.baaqmd.gov/bodagendas

- 16.2 Report of the Mobile Source and Climate Impacts Committee Meeting of September 23, 2021

The Committee recommends Board of Directors approval of the following:

A) ACTION REQUESTED: Projects and Contracts with Proposed Grant Awards Over \$100,000

- 1) *Approve recommended projects with proposed grant awards over \$100,000, as shown in Attachment 1; and*
- 2) *Authorize the Executive Officer/APCO to enter into all necessary agreements with applicants for the recommended projects.*

END OF CONSENT CALENDAR

PRESENTATIONS

17. **ACTION REQUESTED:** Measures to Address Lead from General Aviation Fuel

G. Nudd/4786
gnudd@baaqmd.gov

Sylvia Gallegos
Deputy County Executive, Santa Clara County

Staff will discuss the health impacts of lead in general aviation fuel and ask for the Board's authorization to take several measures in response to these health risks. Staff from Santa Clara County will also provide information about their actions to address these risks from the Reid Hillview airport in San Jose.

18. Climate Protection Update

G. Nudd/4786
gnudd@baaqmd.gov

Staff will provide the Board of Directors with an update of Air District Climate Protection Activities.

END OF PRESENTATIONS

CLOSED SESSION

19. **CONFERENCE WITH LEGAL COUNSEL**

A. EXISTING LITIGATION (Government Code Section 54956.9 (a))

Pursuant to Government Code Section 54945.9(a), a need exists to meet in closed session with legal counsel to consider the following cases:

Chevron U.S.A. Inc. v. Bay Area Air Quality Management District, Contra Costa Superior Court, Case No. MSN21-1739; and

Martinez Refining Co. LLC v. Bay Area Air Quality Management District, Contra Costa Superior Court, Case No. MSN21-1568.

OPEN SESSION

PUBLIC COMMENT ON NON-AGENDA MATTERS

20. **Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3**

Members of the public who wish to speak on matters not on the agenda for the meeting, will have three minutes each to address the Board.

BOARD MEMBERS' COMMENTS

21. *Any member of the Board, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)*

OTHER BUSINESS

22. Report of the Executive Officer/APCO

23. Chairperson's Report

24. Time and Place of Next Meeting:

Wednesday, October 20, 2021, at 9:00 a.m., via webcast, pursuant to procedures in accordance with Government Code Section 54593.

25. Adjournment

The Board meeting shall be adjourned by the Board Chair.

CONTACT:

MANAGER, EXECUTIVE OPERATIONS
375 BEALE STREET, SAN FRANCISCO, CA 94105
vjohnson@baaqmd.gov

(415) 749-4941
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the Air District's offices at 375 Beale Street, Suite 600, San Francisco, CA 94105, at the time such writing is made available to all, or a majority of all, members of that body.

Accessibility and Non-Discrimination Policy

The Bay Area Air Quality Management District (Air District) does not discriminate on the basis of race, national origin, ethnic group identification, ancestry, religion, age, sex, sexual orientation, gender identity, gender expression, color, genetic information, medical condition, or mental or physical disability, or any other attribute or belief protected by law.

It is the Air District's policy to provide fair and equal access to the benefits of a program or activity administered by Air District. The Air District will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by the Air District. Members of the public who believe they or others were unlawfully denied full and equal access to an Air District program or activity may file a discrimination complaint under this policy. This non-discrimination policy also applies to other people or entities affiliated with Air District, including contractors or grantees that the Air District utilizes to provide benefits and services to members of the public.

Auxiliary aids and services including, for example, qualified interpreters and/or listening devices, to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs and services will be provided by the Air District in a timely manner and in such a way as to protect the privacy and independence of the individual. Please contact the Non-Discrimination Coordinator identified below at least three days in advance of a meeting so that arrangements can be made accordingly.

If you believe discrimination has occurred with respect to an Air District program or activity, you may contact the Non-Discrimination Coordinator identified below or visit our website at www.baaqmd.gov/accessibility to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the Air District's Non-Discrimination Coordinator, Terri Levels, at (415) 749-4667 or by email at tlevels@baaqmd.gov.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

375 BEALE STREET, SAN FRANCISCO, CA 94105

FOR QUESTIONS PLEASE CALL (415) 749-4941

EXECUTIVE OFFICE:

MONTHLY CALENDAR OF AIR DISTRICT MEETINGS

OCTOBER 2021

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	6	9:30 a.m.	Webcast only pursuant to Government Code Section 54593
Board of Directors Legislative Committee	Wednesday	6	1:00 p.m.	Webcast only pursuant to Government Code Section 54593
Board of Directors Community Equity, Health and Justice Committee	Thursday	7	9:30 a.m.	Webcast only pursuant to Government Code Section 54593
Board of Directors Stationary Source and Climate Impacts Committee	Monday	18	9:00 a.m.	Webcast only pursuant to Government Code Section 54593
Board of Directors Special Meeting	Wednesday	20	9:00 a.m.	Webcast only pursuant to Government Code Section 54593
Board of Directors Administration Committee	Wednesday	20	11:00 a.m.	Webcast only pursuant to Government Code Section 54593
Board of Directors Legislative Committee - CANCELLED	Wednesday	20	1:00 p.m.	Webcast only pursuant to Government Code Section 54593
Advisory Council Meeting	Monday	25	8:30 a.m.	Webcast only pursuant to Government Code Section 54593
Board of Directors Mobile Source and Climate Impacts Committee	Thursday	28	9:30 a.m.	Webcast only pursuant to Government Code Section 54593

MV – 9/29/2021 – 12:28 P.M.

G/Board/Executive Office/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Assembly Bill (AB) 361 (Rivas) and Air District Remote Teleconferencing Update

RECOMMENDED ACTION

The Board of Directors will consider approving Resolution No. 2021-14 of Air District Board and Committee meetings remote teleconferencing through October 2021.

BACKGROUND

AB 361 (R. Rivas) – Open meetings: state and local agencies: teleconferences.

Would until January 1, 2024, authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act, when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

AB 361 was signed into law by Governor Newsom on September 16, 2021. Because it contained an urgency clause, it went into effect immediately.

Subsequent to that, on September 20, 2021, Governor Newsom signed an Executive Order N-15-21 suspending the application of AB 361 until October 1, 2021. The new Order made clear that, until September 30, 2021, local agencies may conduct open and public remote meetings relying on the authority provided under prior Executive Order issued in response to the COVID-19 pandemic. However, starting October 1, 2021, remote meetings must transition from the authority of the Governor's Executive Orders to that of State law. On and after October 1, 2021, all meetings of special district boards and other local agencies:

- Must be conducted under standard Brown Act provisions (i.e., meeting in-person or teleconferencing and adhering to the requirements of subdivision (b) of California Government Code section 54953, because all Executive Orders related to the Brown Act are expired after that date), or
- Must be conducted under the substantive and procedural requirements of AB 361 to conduct a remote teleconference meeting without adhering to the requirements of paragraph (3) of subdivision (b) of 54953.

DISCUSSION

In 1953, the Ralph M. Brown Act, known simply as the “Brown Act” ever since, guaranteed the public's right to attend and participate in meetings of local legislative bodies. To meet this objective, the Brown Act drew up requirements regarding public notices of meetings, the posting of agendas, and physical access to those meetings.

In 1988, AB 3191 (Frazee) updated the Brown Act by authorizing local legislative bodies to use video teleconferencing in connection with any meeting or proceeding authorized by law, for the benefit of the public. However, AB 3191 also required that the public had to have physical access to each remote meeting location. Subsequently, in 1998, SB 138 (Kopp) expanded the allowable uses of teleconferencing even further.

When the COVID-19 pandemic started, local agency boards struggled to conduct their meetings in compliance with the Brown Act’s public accessibility requirements while still abiding by stay-at-home orders. As a result, Governor Newsom signed several executive orders to grant local agencies the flexibility to meet remotely during the COVID-19 pandemic. The Governor’s executive orders allowed public agencies to meet remotely and did not require physical public access to those meeting locations. Those executive orders will expire on September 30, 2021. The State of Emergency Declaration of March 4, 2020, continues to remain in effect.

AB 361 provides additional flexibility for local agencies looking to meet remotely during a proclaimed state of emergency, however, the legislative body is required to consider and vote on this flexibility on a monthly basis. Excerpts of the bill amending Section 54593 of the Government Code provide the following guidance:

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The following guidance on exercising this flexibility is also contained in the amended Section 54593 of the Government Code:

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Jack P. Broadbent

- Attachment 2A: State of Emergency Proclamation (Dated March 4, 2020)
- Attachment 2B: Executive Order N-29-20 (Dated March 13, 2020)
- Attachment 2C: AB 361 (R. Rivas) – Chaptered Bill Text
- Attachment 2D: Executive Order N-15-21 (Dated September 20, 2021)
- Attachment 2E: Draft Resolution of the Board of Directors of The Bay Area Air Quality Management District Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom on March 20, 2020, and Authorizing Remote Teleconference Meetings of the Legislative Bodies of the Bay Area Air Quality Management District for the Period October 6, 2021 to November 5, 2021 Pursuant To Brown Act Provisions

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

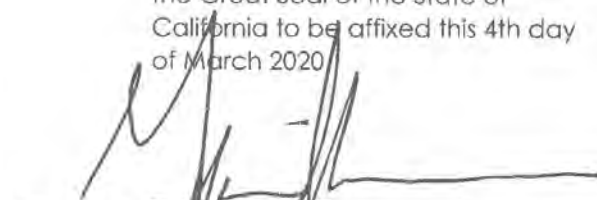
7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.
14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-29-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

WHEREAS the threat of COVID-19 has resulted in serious and ongoing economic harms, in particular to some of the most vulnerable Californians; and

WHEREAS time bound eligibility redeterminations are required for Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries to continue their benefits, in accordance with processes established by the Department of Social Services, the Department of Health Care Services, and the Federal Government; and

WHEREAS social distancing recommendations or Orders as well as a statewide imperative for critical employees to focus on health needs may prevent Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries from obtaining in-person eligibility redeterminations; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. As to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(a) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of this Order. This Order shall be construed to be consistent with applicable federal laws, including but not limited to Code of Federal Regulations, Title 42, section 435.912, subdivision (e), as interpreted by the Centers for Medicare and Medicaid Services (in guidance issued on January 30, 2018) to permit the extension of

otherwise-applicable Medicaid time limits in emergency situations.

2. Through June 17, 2020, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall not be counted for purposes of the 48-month time limit set forth in Welfare and Institutions Code Section 11454. Any waiver of this time limit shall not be applied if it will exceed the federal time limits set forth in Code of Federal Regulations, Title 45, section 264.1.
3. Paragraph 11 of Executive Order N-25-20 (March 12, 2020) is withdrawn and superseded by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow

members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.

All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

**Assembly Bill No. 361****CHAPTER 165**

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:
89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-15-21

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS on June 11, 2021, I issued Executive Order N-08-21 to roll back certain provisions of my COVID-19-related Executive Orders and to clarify that other provisions remained necessary to help California respond to, recover from, and mitigate the impacts of the COVID-19 pandemic; and

WHEREAS Paragraph 42 of Executive Order N-08-21 waived and set forth certain requirements related to public meetings of local legislative and state bodies, and specified that it would be valid through September 30; and

WHEREAS on September 16, 2021, I signed into law Assembly Bill 361 (AB 361), which pertains to the same subject matter as Paragraph 42 of Executive Order N-08-21, which took effect immediately pursuant to an urgency clause, and which may, in some instances, have different substantive provisions than the provisions contained in Paragraph 42 of Executive Order N-08-21; and

WHEREAS it is necessary to provide clarity around the applicable procedures governing meetings of local legislative and state bodies until Paragraph 42 of Executive Order N-08-21 expires to further mitigate the impacts of the COVID-19 pandemic as the state continues to reopen and to ensure that critical governmental functions are not interrupted.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. The provisions governing teleconference meetings in Education Code section 89305.6, Government Code section 11133, and subdivision (e) of Government Code section 54953 are suspended through September 30, 2021, except that any local legislative body that meets to take a majority vote pursuant to subparagraph (B) of paragraph (1) of subdivision (e) of Government Code section 54953 shall conduct the meeting at which such vote is taken as required by paragraph (2) of subdivision (e) of Government Code section 54953. Except as otherwise specified in this paragraph, the requirements related to public meetings of local legislative and state bodies specified in Paragraph 42 of Executive Order N-08-21 shall continue to govern such meetings through September 30, 2021.
2. This Order shall expire at 11:59 p.m. on October 1, 2021.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 20th day of September 2021.

A handwritten signature in black ink, appearing to read "Gavin Newsom", written over a horizontal line.

GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, Ph.D.
Secretary of State

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2021-14

A Resolution of the Board of Directors of The Bay Area Air Quality Management District Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom on March 20, 2020, and Authorizing Remote Teleconference Meetings of the Legislative Bodies of the Bay Area Air Quality Management District for the Period October 6, 2021 to November 5, 2021 Pursuant to Brown Act Provisions.

WHEREAS, the Bay Area Air Quality Management District (District) is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

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

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

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

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

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the District, specifically, Governor Newsom proclaimed a state of emergency in California starting on March 4, 2020 to prevent, mitigate, and respond to the spread of COVID-19; and

WHEREAS, social distancing has been ordered by state and local public health authorities due to the imminent health risks of in person contacts and meetings during the COVID-19 emergency; and

WHEREAS, the Board of Directors does hereby find that the COVID-19 public health emergency, and its imminent health risks to attendees of public meetings have caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

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

WHEREAS, the District is publicizing in its meeting agendas zoom links for members of the public to participate remotely in meetings of the District's legislative bodies.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Proclamation of Local Emergency. The Board hereby proclaims that a local emergency now exists throughout the Bay Area Air Quality Management District due to COVID-19, and observes that social distancing has been ordered by the public health authorities due to the imminent health risks of in person contacts and meetings during the COVID-19 pandemic.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.

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

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) November 5, 2021, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

The foregoing resolution was duly regularly introduced, passed, and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the motion of _____, seconded by _____, on the _____ day of _____ 2021 by the following vote of the Board:

AYES:

NOES:

ABSENT:

ABSTAIN:

Cindy Chavez
Chair of the Board of Directors

ATTEST:

John J. Bauters
Secretary of the Board of Directors

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Minutes of the Board of Directors Regular Meeting of September 15, 2021

RECOMMENDED ACTION

Approve the attached draft minutes of Board of Directors Special Meeting of September 15, 2021.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Special Meeting of September 15, 2021.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

Attachment 3A: Draft Minutes of the Board of Directors Special Meeting of September 15, 2021

AGENDA: 3A – ATTACHMENT

Draft Minutes - Board of Directors Special Meeting of September 15, 2021

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
(415) 749-5073

Board of Directors Special Meeting
Wednesday, September 15, 2021

DRAFT MINUTES

Note: Audio recordings of the meeting are available on the website of the Bay Area Air Quality Management District at www.baaqmd.gov/bodagendas

This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the Board of Directors participated by teleconference.

CALL TO ORDER

1. **Opening Comments:** Board of Directors (Board) Chairperson, Cindy Chavez, called the meeting to order at 9:00 a.m.

Roll Call:

Present: Chairperson Cindy Chavez; Vice Chairperson Karen Mitchoff; and Directors Margaret Abe-Koga, Teresa Barrett, David Canepa, Rich Constantine, Pauline Russo Cutter, John Gioia, Carole Groom, Erin Hannigan, David Haubert, David Hudson, Davina Hurt, Tyrone Jue, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Shamann Walton, and Lori Wilson.

Absent: Secretary John Bauters; and Directors Lynda Hopkins, Myrna Melgar, and Nate Miley.

CONSENT CALENDAR (ITEMS 2 – 4)

2. Minutes of the Board of Directors Regular Meeting of September 1, 2021
3. Authorization To Execute Contract Amendments for Production System Software
4. Community Equity, Health and Justice Committee Meeting
 - 4.1 Receive Committee Chair Summary Report of September 2, 2021
 - 4.2 Report of the Community Equity, Health and Justice Committee Meeting of September 2, 2021

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Cutter made a motion, seconded by Director Wagenknecht, to **approve** Consent Calendar Items 2 through 4, inclusive; and the motion **carried** by the following vote of the Board:

- AYES: Abe-Koga, Barrett, Chavez, Constantine, Cutter, Gioia, Groom, Hannigan, Haubert, Hudson, Hurt, Jue, Mitchoff, Rennie, Rice, Ross, Wagenknecht, Walton.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Bauters, Canepa, Hopkins, Melgar, Miley, Wilson.

PRESENTATIONS

5. **Targeting Emissions Reductions from Single Occupancy Driving, Flex Your Commute and Expanded Broadband Internet**

Lisa Fasano, External Affairs Officer, gave the staff presentation *Targeting Emissions Reductions from Single Occupancy Driving, Flex Your Commute and Expanded Broadband Internet*, including: outcome; outline; requested actions; Plan Bay Area 2050; Flex Your Commute; broadband internet expansion; and requested actions.

Public Comments

No requests received.

NOTED PRESENT: Director Canepa was noted present at 9:20 a.m., and Director Wilson was noted present at 9:32 a.m.

Board Comments

The Board and staff discussed the need for more last mile connections (gaps from public transit to final destinations); the need to educate and include elderly residents who may not drive or know how to use smartphones; the difference between types of broadband mediums; whether air districts are an appropriate entity to advocate for the build out of infrastructure enabling equitable access to high-speed internet, versus other entities; the fact that most of the people who have the ability to work remotely already have optimal access to broadband connections, leaving those in disadvantaged communities as the people who would most benefit from the expansion of high speed broadband internet; whether the Air District plans to seek funding to reduce single occupancy car trips to reduce transportation emissions and greenhouse gasses, and how much; whether the Air District has been in touch with Sunne Wright McPeak, the President and Chief Executive Officer of the California Emerging Technology Fund; the need for legislation that will allow cities and counties to modify their contracts with cable providers, which could identify geographic gaps in broadband coverage; the suggestion of providing Americans with Disabilities Act enhancements to school districts located in disadvantaged communities and modifying commuter benefits to help attain the Air District’s objectives relating to this item; the benefits of undergrounding broadband infrastructure; how expanding high speed broadband internet will affect autonomous vehicle technology; whether there will be time for an Air District committee to review the Air District’s formal written comments to request party status before Air District staff submits them to the CPUC; the concern that the Air District’s messaging could be misconstrued to mean that the Air District is only seeking a decrease in driving, rather than equity for access to high speed broadband internet for all communities; and how much money the Air District has spent on this effort thus far.

Board Action

Director Hurt made a motion, seconded by Director Wilson, to **authorize** the Executive Officer/Air Pollution Control Officer (APCO) to transfer \$250,000 to the Flex Your Commute program account from the General Fund to build out an employer focused messaging and partnership program; **authorize** the Executive Officer/APCO to sign a motion requesting party status with the California Public Utilities Commission (CPUC) to enable the Air District to submit formal written comments to the (CPUC) in its deliberative process to ensure investment in the broadband infrastructure and equitable build out of the “middle mile: connectivity; and **authorize** the Executive Officer/APCO to invest in the same advocacy firm that the California State Association of Counties uses, in an amount not to exceed \$50,000 for the next year of advocacy regarding this issue; and the motion **carried** by the following vote of the Board:

- AYES: Abe-Koga, Barrett, Canepa, Chavez, Constantine, Cutter, Gioia, Groom, Hannigan, Haubert, Hudson, Hurt, Jue, Mitchoff, Rennie, Rice, Ross, Wagenknecht, Walton, Wilson.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Bauters, Hopkins, Melgar, Miley.

6. Update on the Clean Air Filtration Program

A. Accept \$2 million in California Attorney General’s Office Automobile Emissions Research and Technology Fund Grant

Jack P. Broadbent, Executive Officer/APCO, introduced Dr. Idania Zamora, Planning & Climate Protection Assistant Manager, who gave the staff presentation *Accept \$2 million in California Attorney General's Office Automobile Emissions Research and Technology Fund Grant*, including: outcome; outline; requested action; Community Health Protection Program (Assembly Bill (AB) 617); community clean air incentives roadmap; Contra Costa County’s Asthma Mitigation Project; Bay Area Healthy Homes Initiative; initiative partners and clients; initiative actions and benefits; and feedback requested/prompt.

Public Comments

No requests received.

Board Comments

The Board and staff discussed whether the Air District can identify the number of households within Alameda and Contra Costa Counties that could benefit from the Bay Area Healthy Homes Initiative; the request for clarification of costs of this initiative and number of people served; whether a cost-effectiveness analysis will be conducted and results published after this initiative has been completed; the desire to see the Bay Area Healthy Homes Initiative expanded to other parts of the Bay Area; the need to consider indoor air quality as well; the request to hear from Alameda and Contra Costa County staff members who are working on this initiative; whether there are reporting (to the Attorney General’s Office) requirements for accepting this this funding; and how much money the Air District is leveraging from various programs to execute these initiatives.

Board Action

Director Constantine made a motion, seconded by Director Canepa, to **adopt** a resolution to:

- **Authorize** the Executive Officer/APCO to accept, obligate, and expend an amount not to exceed \$2 million from the California Attorney General’s Office Automobile Emissions Research and Technology Fund Grant for the Bay Area Healthy Homes Initiative;
- **Authorize** the Executive Officer/APCO to enter into all agreements necessary to accept, obligate, and expend this funding;
- **Assess** categories of people who are vulnerable to asthma;
- **Calculate** the cost per retrofit, including all contributions of all sources;
- **Develop** a strategy for scaling this initiative, irrespective of the costs, to be presented to the Board;
- **Discuss** with the Chair of the appropriate Board committee how often the committee will review the development of this initiative prior to the follow up Board presentation; and
- **Invite** partner organizations to present during the follow up presentation to the Board.

The motion **carried** by the following vote of the Board:

- AYES: Abe-Koga, Barrett, Canepa, Chavez, Constantine, Cutter, Gioia, Groom, Hannigan, Haubert, Hudson, Hurt, Jue, Mitchoff, Rennie, Rice, Ross, Wagenknecht, Walton, Wilson.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Bauters, Hopkins, Melgar, Miley.

B. Move \$1 million in Reserves from the Pandemic Contingency to the Wildfire Mitigation Designation

Tracy Lee, Compliance & Enforcement Manager, gave the staff presentation *Move \$1 Million in Reserves from the Pandemic Contingency to the Wildfire Mitigation Designation*, including: outcome; outline; requested action; community clean air incentives roadmap; Wildfire Air Quality Response Program; program initiatives; Clean Air Filtration Program funding and locations; next steps – 2022 Wildfire Program outlook; reserves designations; and requested action.

Public Comments

No requests received.

Board Comments

The Board and staff discussed whether all nine Bay Area counties will be allocated an equal amount of funds for the Clean Air Filtration Program; the status of the nine Bay Area counties' partnership status in the Clean Air Filtration Program; whether \$25,000 is enough funding for the pilot program and partnership with the American Red Cross; whether the Air District can identify the number of Bay Area households that could benefit from the Home Air Filtration Program, and what would be the cost of upscaling that program; whether there will be overlapping of homes served by the Home Air Filtration Program and the Bay Area Healthy Homes Initiative; the level of effectiveness of the Air District's partnership with the American Red Cross, specifically regarding the staging of large portable air filtration units during wildfire events; the desire to see these investments benefitting black and brown communities; and whether the staffing of the Air District's Wildfire Air Quality Response Program should be sustained long-term or permanently.

Board Action

Director Hudson made a motion, seconded by Vice Chair Mitchoff, to **adopt** a resolution to:

- **Authorize** the Executive Officer/APCO to allocate an additional \$1 million to the Wildfire Mitigation Reserves Designation and reduce the Pandemic Reserves Designation by \$1 million;
- **Assess** the need for the Air District's Wildfire Air Quality Response and how to sustain it;
- **Provide** a report to the Board distinguishing the different targeted communities for the two separate funding sources (Home Air Filtration Program and the Bay Area Healthy Homes Initiative);
- **Calculate** the long-term cost per unit (per household) and how much each contributing agency spends on each unit;
- **Assess** the capacity of all program partners and identify how to seek new partners when capacity becomes limited; and
- **Assess** the equity of the Wildfire Air Quality Response Program.

The motion **carried** by the following vote of the Board:

AYES: Abe-Koga, Barrett, Canepa, Chavez, Constantine, Cutter, Gioia, Groom, Hannigan, Haubert, Hudson, Hurt, Jue, Mitchoff, Rennie, Rice, Ross, Wagenknecht, Walton.
NOES: None.
ABSTAIN: None.
ABSENT: Bauters, Hopkins, Melgar, Miley, Wilson.

PUBLIC COMMENT ON NON-AGENDA MATTERS

7. **Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3**

Public comments were given by Brian Hubinger, Chevron.

BOARD MEMBERS' COMMENTS

8. Board Members' Comments

None.

OTHER BUSINESS

9. Report of the Executive Officer/APCO

Mr. Broadbent reported that there have been six days during which the national Ozone standard was exceeded in 2021 thus far. He added that the Bay Area has been experiencing high levels of ozone and wildfire particulate matter at the same time, but favorable meteorological conditions have helped reduce that potential impact.

10. Chairperson's Report

Chair Chavez thanked Air District staff and Board members for agreeing to meet today, which had not originally been anticipated. She added that there will be two Board meetings in October and possibly in November as well, so that Board members may participate in trainings series led by Directors Hurt and Jue and the Air District's Office of Diversity, Equity & Inclusion to better understand structural racism and social inequities.

11. Time and Place of Next Meeting

Wednesday, October 6, 2021, at 9:30 a.m., via webcast, pursuant to procedures *in accordance with Government Code Section 54593*.

12. Adjournment

The meeting adjourned at 10:59 p.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Board Communications Received from September 15, 2021, through October 5, 2021

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from September 15, 2021, through October 5, 2021, if any, will be distributed to the Board Members by way of email.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marjorie Villanueva
Reviewed by: Vanessa Johnson

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Air District Personnel on Out-of-State Business Travel

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In accordance with Section 5.4 (b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified of Air District personnel who have traveled on out-of-state business.

The report covers the out-of-state business travel for the month of August 2021. The monthly out-of-state business travel report is presented in the months following travel completion.

DISCUSSION

There were no out-of-state business travel activities that occurred in the month of August 2021.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Stephanie Osaze

Reviewed by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Notices of Violations Issued and Settlements in Excess of \$10,000 in the month of
August 2021

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

In accordance with Resolution No. 2012-08, attached to this Memorandum is a listing of all Notices of Violation issued, and all settlements for amounts in excess of \$10,000 during the calendar month prior to this report.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The amounts of civil penalties collected are included in the Air District's general fund budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Adan Schwartz

Attachment 6A: Notices of Violations for the Month of August 2021

NOTICES OF VIOLATIONS ISSUED

The following Notice(s) of Violations were issued in August 2021:

Alameda						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Arco Facility #07026	Z9633	Oakland	A59695A	8/26/2021	2-1-307	Failure to submit source test results within 30 days.
Bay Ship & Yacht Co.	A9684	Alameda	A59818A	8/24/2021	2-1-307	No monthly records on a daily basis; exceeded solvent use limit of 500 gal/yr.
Bay Ship & Yacht Co.	A9684	Alameda	A59818B	8/24/2021	8-43-501	No monthly records on a daily basis; exceeded solvent use limit of 500 gal/yr.
Berkeley Marine Center	B2692	Berkeley	A59692A	8/3/2021	2-1-307	Failure to perform required source test.
Bigge Crane And Rigging Co.	Z9616	San Leandro	A59728A	8/31/2021	2-1-307	Failure to meet permit condition #20666.
City of Berkeley/Engr Div/Public Works	A3590	Berkeley	A58845A	8/9/2021	2-1-307	Non-continuous operation of flare.
City of Berkeley/Engr Div/Public Works	A3590	Berkeley	A58845B	8/9/2021	8-34-304	Non-continuous operation of flare.
D.W. Nicholson Co.	Z9590	Hayward	A59651A	8/25/2021	2-1-307	Failure to conduct required source test. (Overdue / Late)
Digital 720 2nd LLC	B5126	Oakland	A58846A	8/26/2021	2-1-302	Diesel fire pump > 50 bhp with no P/O.
Final Finish, Inc.	B6088	Fremont	A60490A	8/24/2021	2-1-302	Permit to operate expired 6/1/2019.
Livermore Auto Group Inc.	Z9614	Livermore	A59652A	8/31/2021	2-1-307	Failure to meet permit condition #100054.

Lone Tree Cemetery Association	Z9496	Hayward	A59648A	8/3/2021	8-7-302.1	Operating uncertified phase II equipment.
Metropolitan Golf Links	Z9562	Oakland	A59647A	8/3/2021	8-7-301.1	Operating uncertified phase I & II equipment.
Metropolitan Golf Links	Z9562	Oakland	A59647B	8/3/2021	8-7-302.1	Operating uncertified phase I & II equipment
PW Stephens	Z7757	Hayward	A60268A	8/10/2021	11-2-303.6	Containment requirement.
Rafael Flores	U8720	Hayward	A59124A	8/27/2021	11-2-401.5	ASB121562 - late notifier.
Stonebrae Country Club	Z9589	Hayward	A59650A	8/25/2021	2-1-307	Failure to conduct required source tests. (overdue / late)
United Parcel Service	Z9617	Oakland	A59696A	8/26/2021	8-7-301.5	Vapor adaptor is loose, can be removed by hand
Vincent Roofing Co Inc.	Z9600	Hayward	A59649A	8/23/2021	8-7-302.3	Torn/compromised vapor recovery hose line.
Vulcan Materials, Western Division	A0705	Pleasanton	A60412A	8/16/2021	1-301	Odors discharged caused a nuisance to nearby public.
Vulcan Materials, Western Division	A0705	Pleasanton	A60412B	8/16/2021	1-440	Vulcan staff denied inspector access to site.

Contra Costa						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Alhambra Petroleum, Inc.	Z9452	Martinez	A61258A	8/23/2021	8-7-301.5	87 grade vapor adaptor not maintained to proper torque.
Chevron Products Company	A0010	Richmond	A59978A	8/9/2021	2-1-307	RCA 07M44SRU2 operating with WESP a-121 shutdown, P/C 24136 part 83 & 88.

Chevron Products Company	A0010	Richmond	A59982A	8/9/2021	2-1-307	RCA 07N87SRU2 operating with WESP a-121 shutdown, P/C 24136 part 83 & 88.
Chevron Products Company	A0010	Richmond	A59985A	8/9/2021	2-1-307	RCA 07P44SRU1 operating with WESP shutdown, P/C 24136 Part 83, 88.
Chevron Products Company	A0010	Richmond	A59988A	8/9/2021	2-1-307	RCA 07Q07SRU2 operating with WESP shutdown, P/C 24136 Part 83, 88.
Chevron Products Company	A0010	Richmond	A59551A	8/10/2021	1-301	Complaints confirmed to flaring event August 10, 2021.
Chevron Products Company	A0010	Richmond	A59983A	8/9/2021	2-1-307	RCA 07P32SRU2 operating with WESP a-121 shutdown, P/C 24136 part 83 & 88.
Chevron Products Company	A0010	Richmond	A59251A	8/9/2021	2-1-307	RCA 07M38SRU2 operating with WESP a-121 shutdown, P/C 24136 part 83 & 88.
Chevron Products Company	A0010	Richmond	A59984A	8/9/2021	2-1-307	RCA 07P33SRU1 operating with WESP a-120 shutdown, P/C 24136 part 83 & 88.
Chevron Products Company	A0010	Richmond	A59991A	8/9/2021	2-1-307	RCA 07Q71SRU1 operating with WESP shutdown, P/C 24136 Part 83 & 88.
Chevron Products Company	A0010	Richmond	A59250A	8/9/2021	2-1-307	RCA 07M36SRU2 operating with WESP a-121 shutdown, P/C 24136 part 83 & 88.
Chevron Products Company	A0010	Richmond	A59987A	8/9/2021	2-1-307	RCA 07P54SRU2 operating with WESP shutdown,

						P/C 24136 Part 83, 88.
Chevron Products Company	A0010	Richmond	A59989A	8/9/2021	2-1-307	RCA 07Q26SRU1 operating with WESP shutdown, P/C 24136 Part 83, 88.
Chevron Products Company	A0010	Richmond	A59992A	8/9/2021	2-1-307	RCA 07R07SRU2 operating with WESP shutdown, P/C 24136 Part 83 & 88.
Chevron Products Company	A0010	Richmond	A59979A	8/9/2021	2-1-307	RCA 07M79SRU2 operating with WESP a-121 shutdown, P/C 24136 part 83 & 88.
Chevron Products Company	A0010	Richmond	A59990A	8/9/2021	2-1-307	RCA 07Q29SRU1 operating with WESP shutdown, P/C 24136 Part 83 & 88.
Chevron Products Company	A0010	Richmond	A59980A	8/9/2021	2-1-307	RCA 07M95SRU2 operating with WESP a-121 shutdown, P/C 24136 part 83 & 88.
Chevron Products Company	A0010	Richmond	A59981A	8/9/2021	2-1-307	RCA 07N70SRU2 operating with WESP a-121 shutdown, P/C 24136 part 83 & 88.
Chevron Products Company	A0010	Richmond	A59986A	8/9/2021	2-1-307	RCA 07P45SRU2 operating with WESP shutdown, P/C 24136 Part 83, 88.
City of Pittsburg City Hall	B3964	Pittsburg	A61259A	8/25/2021	8-7-407	Failure to conduct and pass ST-38 source test.
Joe Serrano	Z9612	Richmond	A59125A	8/31/2021	11-2-401.3	Late Notifier.
Kwik Serv	Z9630	Walnut Creek	A60233A	8/19/2021	2-1-307	Exceeded 12-Month gasoline throughput limit 600,000

						Gal/YR [Cond # 7878].
Martinez Refining Company LLC	A0011	Martinez	A59345A	8/11/2021	6-1-302	RCA 07P51Opacity >20% 3 min/1 hr & >30% / 6 min block average.
Martinez Refining Company LLC	A0011	Martinez	A59345B	8/11/2021	10	RCA 07P51Opacity >20% 3 min/1 hr & >30% / 6 min block average.
Martinez Refining Company LLC	A0011	Martinez	A59346A	8/3/2021	6-1-302	RCA 07T36Opacity >20% 3 min/1 hr & >30% / 6 min block average.
Martinez Refining Company LLC	A0011	Martinez	A59346B	8/3/2021	10	RCA 07T36Opacity >20% 3 min/1 hr & >30% / 6 min block average.
Martinez Refining Company LLC	A0011	Martinez	A59348A	8/3/2021	6-1-302	RCA 07T38Opacity >20% 3 min/1 hr & >30% / 6 min block average.
Martinez Refining Company LLC	A0011	Martinez	A59348B	8/3/2021	10	RCA 07T38Opacity >20% 3 min/1 hr & >30% / 6 min block average.
Martinez Refining Company LLC	A0011	Martinez	A59347A	8/3/2021	6-1-302	RCA 07T37Opacity >20% 3 min/1 hr & >30% / 6 min block average.
Martinez Refining Company LLC	A0011	Martinez	A59347B	8/3/2021	10	RCA 07T37Opacity >20% 3 min/1 hr & >30% / 6 min block average.
Martinez Refining Company LLC	A0011	Martinez	A59350A	8/3/2021	6-1-302	RCA 07T58Opacity >20% 3 min/1 hr.
Martinez Refining Company LLC	A0011	Martinez	A59349A	8/3/2021	6-1-302	RCA 07T44Opacity >20% 3 min/1 hr.
Mr. & Mrs. Demolition	Z9583	Richmond	A60303A	8/24/2021	11-2-303.3	Failure to remove RACM prior to demo.
West Contra Costa County Landfill	A1840	Richmond	A59550A	8/24/2021	8-34-301.2	Component leak < 50,000 ppm.

Marin						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Novato Sanitary District	A1275	Novato	A59866A	8/2/2021	2-1-307	Episode # 08A99.
Redwood Landfill Inc.	A1179	Novato	A59867A	8/10/2021	2-1-307	Permit condition #25635.4.

Napa						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
City of Calistoga	B8864	Calistoga	A60709A	8/23/2021	2-1-302	Emergency standby generator without permit to construct or operate.
Huneus Vintners LLC	E2998	Saint Helena	A60707A	8/9/2021	2-1-302	Permit to operate expired 04/01/21.
St Helena High School Maintenance & Operations	E3763	Saint Helena	A60706A	8/5/2021	2-1-302	Permit expired in 2018.

San Francisco						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Kilroy Realty LP	E1222	San Francisco	A59371A	8/31/2021	CCR	Failure to notify by next business day and submit ADMP within 14 days.
St Luke's Hospital A/P,CPMC-STL Campus	A9313	San Francisco	A60267A	8/4/2021	2-1-302	Expired permit to operate.

San Mateo						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment

Belmont Shell	Z9576	Belmont	A59715A	8/16/2021	8-7-302.3	Failure to maintain Phase II system in proper operating condition ST# 22001 #22002 #22003.
Browning-Ferris Industries of CA Inc.	A2266	Half Moon Bay	A59370A	8/10/2021	2-1-307	Failure to submit Source Test results within 30 days.
City of Pacifica	Z9566	Pacifica	A59716A	8/18/2021	8-7-301.1	Operating with uncertified phase I components.
City of Menlo Park	A3499	Menlo Park	A59184A	8/10/2021	2-1-307	Landfill gas flare not operating continuously.
Granite Rock	A0068	Redwood City	A59183A	8/10/2021	2-1-307	Failed source test NTV 2442 NST 6130A on 12/21/20.
JSD Construction	Z9567	Belmont	A60133A	8/20/2021	11-2-401.5	Inaccurate start date; failure to revise.
NST Investments LLC	Z9544	San Bruno	A59694A	8/17/2021	2-1-307	Failure to meet source test conditions.
San Mateo County Youth Services Center	B6930	San Mateo	A59369A	8/10/2021	9-7-307.2	Exceeded NOx emissions limit.
San Mateo County Youth Services Center	B6930	San Mateo	A59367A	8/9/2021	2-1-307	Failure to collect annual NOx & CO measurements.
San Mateo County Youth Services Center	B6930	San Mateo	A59368A	8/10/2021	2-1-307	Failure to collect annual NOx and CO measurements.
San Mateo Medical Center	A3887	San Mateo	A59374A	8/30/2021	10	9-8-502.3 Failure to provide quarterly demonstrations of compliance records.
San Mateo Medical Center	A3887	San Mateo	A59372A	8/30/2021	10	9-8-502.3 Failure to provide quarterly demonstrations of compliance records.
San Mateo Medical Center	A3887	San Mateo	A59373A	8/30/2021	10	9-8-502.3 Failure to provide quarterly demonstrations of compliance records.

Santa Clara						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
International Disposal Corp of CA.	A9013	Milpitas	A55724A	8/17/2021	1-301	4 Confirmed complaints to bio solids stockpile.
International Disposal Corp of CA.	A9013	Milpitas	A55723A	8/4/2021	8-34-303	Total 7 surface leaks: ew763, ew651, ew719, ew748, ew742, ss-17-1, ss-17-2.
International Disposal Corp of CA.	A9013	Milpitas	A55723B	8/4/2021	10	CCR Title 17 Sec. 95465 (a)(1).
Palo Alto Unified School District	Z9608	Palo Alto	A59717A	8/31/2021	8-7-301.1	Operating with uncertified Phase I adapters not permitted per CARB ED VR-104
San Jose State University (Cogen Plant)	A7265	San Jose	A60488A	8/13/2021	9-9-504	Facility has no conducted source test for S#1/2 as per district regulation 9-9-504.

Sonoma						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Straus Family Creamery	Z9524	Rohnert Park	A59220A	8/6/2021	9-7-404	No registration for two 4MM BTU/Hr Boilers.

District Wide						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
7-Eleven Inc.	Z8587	Irving	A59693A	8/12/2021	2-1-307	No throughput records available. Uncertified dust caps. Failed to conduct source test.

7-Eleven Inc.	Z8587	Irving	A59693B	8/12/2021	8-7-503.1	No throughput records available. Uncertified dust caps. Failed to conduct source test.
7-Eleven Inc.	Z8587	Irving	A59693C	8/12/2021	8-7-301.5	No throughput records available. Uncertified dust caps. Failed to conduct source test.
7-Eleven Inc.	Z8587	Irving	A61254A	8/5/2021	8-7-302.3	Failure to conduct and submit source test. Failure to maintain phase II system properly.
7-Eleven Inc.	Z8587	Irving	A61254B	8/5/2021	2-1-307	Failure to conduct and submit source test. Failure to maintain phase II system properly.
Belmont Village Senior Living	Z9585	Houston	A60489A	8/24/2021	2-1-302	Operating PERP generator unit to provide primary power to building with no Permit to Operate.
BP West Coast Products LLC	Z4251	Artesia	A61257A	8/16/2021	8-7-302.3	Dispensers 1-3, 5, 6, 11 & 12 dispensing out of certified fuel flow rate range.
Demolition Services and Grading	W6489	Manteca	A60132A	8/5/2021	11-2-401.3	Expired J#; working without J#.
Valley Convenience Stores Inc.	Z9570	Exeter	A61253A	8/4/2021	2-1-307	Failure to conduct start-up source testing per A/C.

SETTLEMENTS FOR \$10,000 OR MORE REACHED

There were 0 settlement(s) for \$10,000 or more completed in August 2021.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Authorization to Execute Contract Amendment for Environmental Audit, Inc.

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Executive Officer/APCO to execute contract amendment for Environmental Audit, Inc. in an amount not to exceed \$145,000.

BACKGROUND

In carrying out our mission to improve air quality and protect public health in the San Francisco Bay Area, the Bay Area Air Quality Management District (Air District) develops new rules and amend existing rules to further reduce the emissions of air pollutants. In the development of these new rules and amendments, CEQA requires that the Air District conduct analysis of the anticipated environmental impacts of the proposed rulemaking. To assist Air District staff in analyzing these environmental impacts, the Air District entered into a master services contract with an environmental consultant, Environmental Audit on August 6, 2019, for services not to exceed \$95,000 in cost—Contract No. 2019.171. On April 1, 2020, this contract was extended until June 30, 2021, and the contract was extended again on August 9, 2021, until June 30, 2022.

DISCUSSION

During the contract period, Environmental Audit has worked on preparing environmental analyses for two significant and simultaneous rule making efforts: new Proposed Rule 13-5: Hydrogen Plants and proposed amendments to Rules 2-1: General Permitting, and 2-5: New Source Review of Toxic Air Contaminants. The combined efforts for both of these rulemaking efforts resulting in an unexpected increase in the environmental analyses performed by Environmental Audit, the cost of which in turn is expected to exceed the value of the contract. As a result, additional funds are needed to cover cost of the CEQA environmental analyses that are required by statute.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. Funds are in the approved budget for Fiscal Year Ending 2022.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Victor Douglas
Reviewed by: Elizabeth Yura

Attachment 7A: Master Services Contract – Contract No. 2019.171
Attachment 7B: Contract Amendment No. 1 – Contract No. 2019.171
Attachment 7C: Contract Amendment No. 2 – Contract No. 2019.171
Attachment 7D: Proposed Draft Contract Amendment No. 3 – Contract No. 2019.171

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

MASTER SERVICES CONTRACT

CONTRACT NO. 2019.171

1. **PARTIES** – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and **Environmental Audit, Inc.** (“CONTRACTOR”) whose address is 1000 Ortega Way, Suite A, Placentia, CA 92870.

2. **RECITALS**
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for Services as defined herein. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the Services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.

3. **DEFINITIONS**
 - A. “Purchase Order” shall mean the written or electronic document used by DISTRICT to track payments to CONTRACTOR under this Contract.
 - B. “Services” shall mean the services to be provided by CONTRACTOR hereunder as generally described in the General Description of Services, attached hereto as Attachment A and made a part hereof by this reference, and as specifically described in Task Orders issued pursuant to this Contract.
 - C. “Task Order” shall mean a written request by DISTRICT for specific services to be performed by CONTRACTOR.

4. **PERFORMANCE REQUIREMENTS**
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraph D above.

5. TERM – The term of this Contract is from the date of execution by the PARTIES until June 30, 2020, unless further extended by amendment of this Contract in writing, or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.
6. TERMINATION
- A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 13 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all services under this Contract, except such services as are specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining services performed but not billed, including any services specified in the termination notice, on or before ten (10) business days following the termination date.
- B. Either party may terminate this Contract for breach by the other party.
- i) Failure to perform any agreement or obligation contained in this Contract or failure to complete the services in a satisfactory manner shall constitute a breach of the Contract.
- ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
- iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.
- iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 13.
- v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.
7. INSURANCE
- A. CONTRACTOR shall maintain the following insurance:
- i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.
- ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.
- iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If CONTRACTOR is a sole proprietor, CONTRACTOR

may meet this insurance requirement with personal automobile liability insurance carrying a business use endorsement or by demonstrating to the satisfaction of DISTRICT that business use is covered under the CONTRACTOR's personal automobile liability insurance. A CONTRACTOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental agency.

- B. All insurance shall be placed with insurers acceptable to DISTRICT.
- C. Prior to commencement of work under this Contract, CONTRACTOR shall furnish properly-executed certificates of insurance for all required insurance. Upon request by DISTRICT, CONTRACTOR shall provide a complete copy of any required insurance policy. CONTRACTOR shall notify DISTRICT in writing thirty (30) days prior to cancellation or modification of any required insurance policy. Any such modifications are subject to pre-approval by DISTRICT.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, DISTRICT reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or to terminate this Contract for breach.

8. INDEMNIFICATION

- A. CONTRACTOR shall indemnify and hold DISTRICT, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of CONTRACTOR, its officers, agents, or employees.
- B. DISTRICT shall indemnify and hold CONTRACTOR, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fee, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, agents, or employees.

9. AGREEMENT TO PROVIDE SERVICES

- A. CONTRACTOR hereby agrees to provide to DISTRICT, as DISTRICT may from time to time designate, such services as DISTRICT may order by Task Order, all in accordance with and subject to the terms, covenants and conditions of this Contract. DISTRICT agrees to pay for these services ordered by DISTRICT in accordance with and subject to the terms, covenants and conditions of this Contract.
- B. All Task Orders issued by DISTRICT to CONTRACTOR for services during the term of this Contract are subject to the provisions of this Contract as though fully set forth in such Task Order. In the event that the provisions of this Contract conflict with any Task Order issued by DISTRICT to CONTRACTOR, the provisions of this Contract shall govern. No other terms and conditions, including, but not limited to, those contained in CONTRACTOR's standard printed terms and conditions, on CONTRACTOR's order acknowledgment, invoices or otherwise, shall have any application to or effect upon or be deemed to constitute an amendment to or to be incorporated into this Contract, any Task Order, or any transactions occurring pursuant hereto or thereto, unless this Contract shall be specifically amended to adopt such other terms and conditions in writing by the parties.

- C. Notwithstanding any other provision of this Contract to the contrary, DISTRICT shall have no obligation to order or purchase any services hereunder and the placement of any Task Order shall be in the sole discretion of DISTRICT. Without limiting the generality of the foregoing, the actual quantity of services to be purchased hereunder shall be determined by DISTRICT in its sole discretion and shall not exceed \$95,000. This Contract is not exclusive. CONTRACTOR expressly acknowledges and agrees that DISTRICT may purchase at its sole discretion, services that are identical or similar to the services described in this Contract from any third party.
10. TASK ORDERS – Each Task Order will specify the following items, as relevant: specific services requested, schedule for services, location where services are to be performed (with contact person), and cost or estimated cost of services. Each Task Order issued under this Contract shall be made part of, and be incorporated into this Contract, and shall reference this Contract on the face of each Task Order. Should any Task Order not conform to or satisfy the terms of this Contract, CONTRACTOR shall have five (5) business days after receipt to reject the Task Order. By not rejecting the Task Order within five (5) business days, CONTRACTOR will have accepted the Task Order. Acceptance by CONTRACTOR is limited to the provisions of this Contract and the Task Order. No additional or different provisions proposed by CONTRACTOR or DISTRICT shall apply. In addition, the parties agree that this Contract and accepted Task Orders constitute a contract for services and satisfy all statutory and legal formalities of a contract.
11. PRICING, INVOICES, AND PAYMENT
- A. DISTRICT shall pay CONTRACTOR for all services ordered and provided in compliance with the terms and conditions of this Contract and with Task Orders issued under this Contract.
- B. CONTRACTOR shall submit original invoices to DISTRICT in form and substance and format reasonably acceptable to DISTRICT. Each invoice, including supporting documentation, must be prepared in duplicate on CONTRACTOR's letterhead; must list DISTRICT's contract number, Purchase Order Number, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and must be submitted to: Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105, Attn: Contracts Manager.
- C. Except as specifically set forth in Attachment A or in Task Orders under this Contract, DISTRICT shall not be responsible for any additional costs or expenses of any nature incurred by CONTRACTOR in connection with the provision of the services, including without limitation travel expenses, clerical or administrative personnel, long distance telephone charges, etc.
- D. CONTRACTOR represents, warrants and covenants that the prices, charges and fees for services set forth in this Contract (on the whole) are at least as favorable as the prices, charges and fees CONTRACTOR charges (on the whole) to other of its customers or clients for the same or substantially similar services provided under the same or substantially similar circumstances, terms, and conditions. If CONTRACTOR agrees or contracts with other clients or customers similarly situated during the Term of this Contract, and offers or agrees to financial terms more favorable than those set forth herein (on the whole), CONTRACTOR hereby agrees that it will reduce the prices, charges and/or fees charged to DISTRICT in respect of the services hereunder to the most favorable rates received by those other clients or customers.
12. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.

- A. Upon receipt of a notice of breach of contract, the party may submit a demand for mediation to resolve whether or not a breach occurred. The party must state the basis of the dispute and deliver the demand within ten (10) business days of the date of receipt of the notice of breach.
- B. The mediation shall take place at DISTRICT's office at 375 Beale Street, Suite 600, San Francisco, or at such other place as may be mutually agreed upon by the parties and the mediator.
- C. The parties shall make good faith efforts to hold the mediation within thirty (30) days after receipt of the demand for mediation.
- D. Each party shall bear its own mediation costs.
- E. In the event the parties are unable to resolve the dispute, either party may file an action in a court of competent jurisdiction to enforce the Contract.
- F. Maximum recovery under this section shall be limited to the total value of all Task Orders issued under this Contract. The mediation costs shall not reduce the maximum amount recoverable under this section.

13. NOTICES – All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by e-mail, facsimile, or regular first class mail. In the case of e-mail and facsimile communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. E-mail and facsimile communications shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. PST. Otherwise, receipt of e-mail and facsimile communications shall be deemed to have occurred on the following business day. In the case of regular mail notice, notice shall be deemed to have been delivered on the mailing date and received five (5) business days after the date of mailing.

DISTRICT: Bay Area Air Quality Management District
 375 Beale Street, Suite 600
 San Francisco, CA 94105
 Attn: Victor Douglas

CONTRACTOR: Environmental Audit, Inc.
 1000 Ortega Way, Suite A
 Placentia, CA 92870
 Attn: Debbie Bright Stevens

14. ADDITIONAL PROVISIONS – All attachment(s) to this Contract are expressly incorporated herein by this reference and made a part hereof as though fully set forth.

15. EMPLOYEES OF CONTRACTOR

- A. CONTRACTOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay, and pay for legal holidays.
- B. CONTRACTOR, its officers, employees, agents, or representatives shall not be considered employees or agents of DISTRICT, nor shall CONTRACTOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by DISTRICT to its employees.

- C. DISTRICT reserves the right to review the credentials to perform the services for any of CONTRACTOR's employees assigned herein and to disapprove CONTRACTOR's assignments. CONTRACTOR warrants that it will not employ any subcontractor(s) without prior written approval from DISTRICT.
16. CONFIDENTIALITY – In order to carry out the purposes of this Contract, CONTRACTOR may require access to certain of DISTRICT's confidential information (including trade secrets, inventions, confidential know-how, confidential business information, and other information that DISTRICT considers confidential) (collectively, "Confidential Information"). It is expressly understood and agreed that DISTRICT may designate in a conspicuous manner Confidential Information that CONTRACTOR obtains from DISTRICT, and CONTRACTOR agrees to:
- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees of CONTRACTOR requiring access in fulfillment of the services provided under this Contract.
 - B. Ensure that CONTRACTOR's officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this section.
 - C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
 - D. Notify DISTRICT promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this section. Take at CONTRACTOR's expense, but at DISTRICT's option and in any event under DISTRICT's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of CONTRACTOR.
 - E. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information during the term of this Contract and following expiration or termination of the Contract.
 - F. Prevent access to such materials by a person or entity not authorized under this Contract.
 - G. Establish specific procedures in order to fulfill the obligations of this section.
17. INTELLECTUAL PROPERTY RIGHTS – Title and full ownership rights to all intellectual property developed under this Contract shall at all times remain with DISTRICT, unless otherwise agreed to in writing.
18. PUBLICATION
- A. DISTRICT shall approve in writing any report or other document prepared by CONTRACTOR in connection with performance under this Contract prior to dissemination or publication of such report or document to a third party. DISTRICT may waive in writing its requirement for prior approval.
 - B. Until approved by DISTRICT, any report or other document prepared by CONTRACTOR shall include on each page a conspicuous header, footer, or watermark stating "DRAFT – Not

Reviewed or Approved by BAAQMD," unless DISTRICT has waived its requirement for prior approval pursuant to paragraph A of this section.

- C. Information, data, documents, or reports developed by CONTRACTOR for DISTRICT, pursuant to this Contract, shall be part of DISTRICT's public record, unless otherwise indicated.
 - D. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and shall require compliance with the above.
19. NON-DISCRIMINATION – in the performance of this Contract, CONTRACTOR shall not discriminate in its recruitment, hiring, promotion, demotion, and termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. CONTRACTOR shall also require each subcontractor performing services in connection with this Contract to comply with this section and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.
20. PROPERTY AND SECURITY – Without limiting CONTRACTOR'S obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT's premises.
21. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.
22. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Contract, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.
23. ATTORNEYS' FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
24. FORCE MAJEURE – Neither DISTRICT nor CONTRACTOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other

party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.

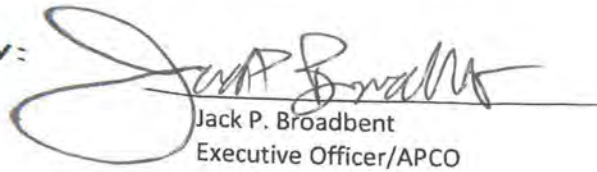
25. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
26. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
27. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
28. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.
29. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to CONTRACTOR providing services to DISTRICT and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.
30. SURVIVAL OF TERMS – The provisions of sections 8 (Indemnification), 16 (Confidentiality), 17 (Intellectual Property Rights), and 18 (Publication) shall survive the expiration or termination of this Contract.

IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

ENVIRONMENTAL AUDIT, INC.

By:


Jack P. Broadbent
Executive Officer/APCO

By:


Debbie Bright Stevens
Senior Vice President

Date:

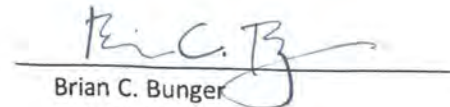
8/6/19

Date:

7/30/19

Approved as to form:
District Counsel

By:


Brian C. Bunker
District Counsel

Attachment A
General Description of Services

CONTRACTOR will prepare California Environmental Quality Act ("CEQA") analysis and appropriate CEQA documents for DISTRICT air quality plans and regulatory projects as specified by DISTRICT staff. Regulatory projects may include proposed new rules and rule amendments scheduled for adoption by the DISTRICT Board of Directors. Rule development projects are to be determined by DISTRICT staff. DISTRICT staff will provide information about affected facilities and known potential environmental impacts of each proposed plan, rule or rule amendment.

CONTRACTOR will consider information provided by the DISTRICT, and any other relevant information, to provide a thorough CEQA review of plans, rules and rule amendments. The DISTRICT will review and, if necessary, revise the CEQA schedule to ensure work progresses in accordance with DISTRICT priorities. CEQA analysis for each task typically will not be completed until the DISTRICT has conducted a public workshop for each plan or rule development project and has developed a draft plan or rule that is not expected to change substantially before its presentation for adoption by the DISTRICT Board of Directors. Generally, a CEQA analysis will be completed by CONTRACTOR within two months of the time when all necessary information is received.

CONTRACTOR is responsible for ensuring that the CEQA analysis and document complies with the requirements of CEQA.

CONTRACTOR's tasks will generally include the following:

- Prepare Administrative Draft CEQA analysis and document for DISTRICT review, comment and editing;
- Review comments on Administrative Draft CEQA document;
- Prepare Draft CEQA analysis and document;
- Prepare responses to public comments on Draft CEQA document for DISTRICT review and comment;
- Prepare draft Final CEQA analysis and document for DISTRICT review, comment and editing;
- Review comments on draft Final CEQA document;
- Prepare Final CEQA analysis and document;
- Prepare draft Mitigation Monitoring Report for DISTRICT review, comment and editing, if required;
- Review comments on draft Mitigation Monitoring Report; and
- Prepare Final Mitigation Monitoring Report, if required.
- Assist District with circulation of documents, as requested.
- Attend and/or assist with workshops and hearings scheduled by the DISTRICT on the rules, the Draft CEQA document, and/or the Final CEQA document, as requested by DISTRICT;
- Work closely with DISTRICT staff throughout the CEQA analysis and document preparation process.

AMENDMENT NO. 1 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2019.171

This amendment to the above-entitled contract ("Contract Amendment") is dated, for reference purposes only, April 1, 2020.

RECITALS:

1. The Bay Area Air Quality Management District ("DISTRICT") and **Environmental Audit, Inc.** ("CONTRACTOR") (hereinafter referred to as the "PARTIES") entered into the above-entitled contract for California Environmental Quality Act analysis and documentation for DISTRICT air quality plans and regulatory projects (the "Contract"), which Contract was executed on behalf of CONTRACTOR on July 30, 2019, and on behalf of DISTRICT on August 6, 2019.
2. The PARTIES seek to extend the term of the Contract because the DISTRICT seeks to have CONTRACTOR continue to provide the services prescribed in the Contract, and CONTRACTOR desires to provide those services, up to the new term end date.
3. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Section 5, "Term." The term of the Contract shall be extended so that the termination date of the Contract is now June 30, 2021.
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the PARTIES have caused this Contract Amendment to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

ENVIRONMENTAL AUDIT, INC.

By: Jeffrey McKay
Digitally signed by Jeffrey McKay
Date: 2020.04.09 14:15:11 -07'00'
Jack P. Broadbent
Executive Officer/APCO

By: Debbie Bright Stevens
Debbie Bright Stevens
Senior Vice President

Date: _____

Date: April 6, 2020

Approved as to form:
District Counsel

By: Brian C. Bunger
Digitally signed by Brian C. Bunger
Date: 2020.04.08 15:06:11 -07'00'
Brian C. Bunger
District Counsel

AMENDMENT NO. 2 TO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

CONTRACT NO. 2019.171

This amendment to the above-entitled contract ("Contract Amendment") is dated, for reference purposes only, July 29, 2021.

RECITALS:

1. The Bay Area Air Quality Management District ("DISTRICT") and **Environmental Audit, Inc.** ("CONTRACTOR") (hereinafter referred to as the "PARTIES") entered into the above-entitled contract for California Environmental Quality Act analysis and documentation for DISTRICT air quality plans and regulatory projects (the "Contract"), which Contract was executed on behalf of CONTRACTOR on July 30, 2019, and on behalf of DISTRICT on August 6, 2019.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated April 1, 2020, for reference purposes only, to extend the term of the Contract.
3. The PARTIES inadvertently failed to extend the termination date of the Contract, however, it was and is the intent of the PARTIES to continue the Contract beyond the June 30, 2021 termination date. CONTRACTOR has since continued to provide services to DISTRICT, and the PARTIES have maintained and continued their relationship, in accordance with all the terms and conditions of the Contract.
4. The PARTIES seek to extend the term of the Contract because the DISTRICT seeks to have CONTRACTOR continue to provide the services prescribed in the Contract, and CONTRACTOR desires to provide those services, up to the new term end date.
5. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Section 5, "Term." The term of the Contract shall be extended so that the termination date of the Contract is now June 30, 2022.
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

AMENDMENT NO. 3 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2019.171

This amendment to the above-entitled contract ("Contract Amendment") is dated, for reference purposes only, September 20, 2021.

RECITALS:

1. The Bay Area Air Quality Management District ("DISTRICT") and **Environmental Audit, Inc.** ("CONTRACTOR") (hereinafter referred to as the "PARTIES") entered into the above-entitled contract for California Environmental Quality Act analysis and documentation for DISTRICT air quality plans and regulatory projects (the "Contract"), which Contract was executed on behalf of CONTRACTOR on July 30, 2019, and on behalf of DISTRICT on August 6, 2019.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated April 1, 2020, for reference purposes only, to extend the term of the Contract.
3. The PARTIES entered into Amendment No. 2 to the Contract, dated July 29, 2021, for reference purposes only, to extend the term of the Contract.
4. The PARTIES seek to amend the total cost of the Contract because the DISTRICT seeks to have CONTRACTOR continue to provide the services prescribed in the Contract, and CONTRACTOR desires to provide those services.
5. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, "Agreement to Provide Services," of the Contract to replace "\$95,000" with "\$145,000."
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the PARTIES have caused this Contract Amendment to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

ENVIRONMENTAL AUDIT, INC.

By: _____
Jack P. Broadbent
Executive Officer/APCO

By: _____
Debbie Bright Stevens
Senior Vice President

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Adan Schwartz
Acting District Counsel

DRAFT

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Authorization to Execute Contract with Kadesh & Associates, LLC

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Executive Officer/APCO to execute a contract with the following vendor in the amount listed below:

Vendor	Amount	Service Description
Kadesh & Associates	\$120,000	Federal legislative advocacy services.

BACKGROUND

The Air District recently went through the Request for Proposals (RFP) process and selected Kadesh & Associates to enter into a contract with for federal legislative advocacy, pending the Board of Directors approval. The scoring of their proposal is listed below:

	Total	Proposal	Expertise	Skill	Approach	Cost	References
Supplier	100 pts	100 pts	25 pts	25 pts	20 pts	20 pts	10 pts
Kadesh & Associates	91.67	91.67	23.67	23	18.33	17	9.667

The proposed retainer is \$10,000 per month. This amount is equivalent to the current contract for services and is within the budgeted amount for the Legislative Office.

DISCUSSION

Continuing the Air District's legislative advocacy at the federal level could yield significant benefits for the Air District and for the residents in the Bay Area Region. While it is a politically divisive environment at the federal level, there are many benefits in promoting the work of the Air District, and in requesting legislative and fiscal support for programs that benefit our residents. California has the largest federal delegation and is incredibly fortunate to have important members on all the key Congressional committees, such as Energy & Commerce; Transportation and Infrastructure; Ways and Means; and, of course, significantly, the Speaker of the House.

Participating in the federal legislative process will provide opportunities to benefit more from upcoming federal legislative efforts, including in the annual federal budget process, the Infrastructure Bill, and the Reconciliation Bill. The Air District also has expertise that can be shared at the national level. To name a few examples, the Air District has been early adopters of programs related to wildfire smoke response, clean technology, and community scale programs.

The proposed Contractor, Kadesh & Associates, has extensive experience in appropriations, transportation, energy, and environmental issues, and has been successful in working effectively with the Executive Branch, government agencies, and regulatory bodies in advancing their clients' priorities. Kadesh & Associates specializes in representing California agencies, and its staff includes recent high-level staff members from prominent California legislators. The Air District has also worked with Kadesh & Associates for the past 18 months and has been very satisfied with our advocacy results to date.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. Funding for this contract is included in the Fiscal Year Ending 2022 Budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Jack P. Broadbent

Attachment 8A: Kadesh & Associates Professional Services Contract – Draft Contract
2021.180

AGENDA 8A - ATTACHMENT

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

PROFESSIONAL SERVICES CONTRACT

CONTRACT NO. 2021.180

1. PARTIES – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and **Kadesh & Associates, LLC** (“CONTRACTOR”) whose address is 230 Second Street SE, Washington, DC 20003.
2. RECITALS
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for services described in the Scope of Work, attached hereto as Attachment A and made a part hereof by this reference. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.
3. PERFORMANCE REQUIREMENTS
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraphs A-E above.
4. TERM – The term of this Contract is from October 1, 2021 to September 30, 2022, unless further extended by amendment of this Contract in writing, or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.
5. TERMINATION

AGENDA 8A - ATTACHMENT

- A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 10 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all work under this Contract, except such work as is specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining work performed but not billed, including any work specified in the termination notice, on or before ten (10) business days following the termination date.
 - B. Either party may terminate this Contract for breach by the other party.
 - i) Failure to perform any agreement or obligation contained in this Contract or failure to perform the services in a satisfactory manner shall constitute a breach of the Contract.
 - ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
 - iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.
 - iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 10.
 - v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.
6. INSURANCE
- A. CONTRACTOR shall maintain the following insurance:
 - i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.
 - ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.
 - iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If CONTRACTOR is a sole proprietor, CONTRACTOR may meet this insurance requirement with personal automobile liability insurance carrying a business use endorsement or by demonstrating to the satisfaction of DISTRICT that business use is covered under the CONTRACTOR's personal automobile liability insurance. A CONTRACTOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental

AGENDA 8A - ATTACHMENT

- agency.
- iv) Professional liability insurance with limits not less than one million dollars (\$1,000,000) each claim.
- B. All insurance shall be placed with insurers acceptable to DISTRICT.
 - C. Prior to commencement of work under this Contract, CONTRACTOR shall furnish properly-executed certificates of insurance for all required insurance. Upon request by DISTRICT, CONTRACTOR shall provide a complete copy of any required insurance policy. CONTRACTOR shall notify DISTRICT in writing thirty (30) days prior to cancellation or modification of any required insurance policy. Any such modifications are subject to pre-approval by DISTRICT.
 - D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, DISTRICT reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or to terminate this Contract for breach.
7. INDEMNIFICATION
- A. CONTRACTOR shall indemnify and hold DISTRICT, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of CONTRACTOR, its officers, agents, or employees.
 - B. DISTRICT shall indemnify and hold CONTRACTOR, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fee, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, agents, or employees.
8. PAYMENT
- A. DISTRICT shall pay CONTRACTOR for services in accordance with the terms set forth in the Cost Schedule, which is attached hereto as Attachment B and incorporated herein by this reference.
 - B. CONTRACTOR shall submit invoice(s) to DISTRICT for services performed. Each invoice shall specify the total cost of the services for which the invoice is submitted, shall reference tasks shown in the Scope of Work, the hours associated with same, or percentage completion thereof, and the amount of charge claimed, and, as appropriate, shall list any charges for equipment, material, supplies, travel, and subcontractors' services.
 - C. DISTRICT's payment of invoices shall be subject to the following limitations and requirements:
 - i) Each invoice, including supporting documentation, shall be prepared in duplicate on CONTRACTOR's letterhead; shall list DISTRICT's contract number, the period covered by the invoice, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and shall be submitted to: Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105, Attn: Alan Abbs.
 - ii) DISTRICT shall not pay interest, fees, handling charges, or the cost of money on the Contract.

AGENDA 8A - ATTACHMENT

- iii) DISTRICT shall pay CONTRACTOR within thirty (30) calendar days after approval by DISTRICT of an itemized invoice.
 - D. The total amount for which DISTRICT may be held liable for the performance of services specified in this Contract shall not exceed \$120,000.
9. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.
- A. Upon receipt of a notice of breach of contract, the party may submit a demand for mediation to resolve whether or not a breach occurred. The party must state the basis of the dispute and deliver the demand within ten (10) business days of the date of receipt of the notice of breach.
 - B. The mediation shall take place at DISTRICT’s office at 375 Beale Street, Suite 600, San Francisco, or at such other place as may be mutually agreed upon by the parties and the mediator.
 - C. The parties shall make good faith efforts to hold the mediation within thirty (30) days after receipt of the demand for mediation.
 - D. Each party shall bear its own mediation costs.
 - E. In the event the parties are unable to resolve the dispute, either party may file an action in a court of competent jurisdiction to enforce the Contract.
 - F. Maximum recovery under this section shall be limited to \$120,000. The mediation costs shall not reduce the maximum amount recoverable under this section.
10. NOTICES – All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by e-mail, facsimile, or regular first class mail. In the case of e-mail and facsimile communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. E-mail and facsimile communications shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. PST. Otherwise, receipt of e-mail and facsimile communications shall be deemed to have occurred on the following business day. In the case of regular mail notice, notice shall be deemed to have been delivered on the mailing date and received five (5) business days after the date of mailing.

DISTRICT: Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Attn: Alan Abbs

CONTRACTOR: Kadesh & Associates, LLC
230 Second Street SE
Washington, DC, 20003
Attn: Mark Kadesh

11. ADDITIONAL PROVISIONS – All attachment(s) to this Contract are expressly incorporated herein by this reference and made a part hereof as though fully set forth.

AGENDA 8A - ATTACHMENT

12. EMPLOYEES OF CONTRACTOR

- A. CONTRACTOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay, and pay for legal holidays.
- B. CONTRACTOR, its officers, employees, agents, or representatives shall not be considered employees or agents of DISTRICT, nor shall CONTRACTOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by DISTRICT to its employees.
- C. DISTRICT reserves the right to review the credentials to perform the work of any of CONTRACTOR's employees assigned herein and to disapprove CONTRACTOR's assignments. CONTRACTOR warrants that it will not employ any subcontractor(s) without prior written approval from DISTRICT.

13. CONFIDENTIALITY – In order to carry out the purposes of this Contract, CONTRACTOR may require access to certain of DISTRICT's confidential information (including trade secrets, inventions, confidential know-how, confidential business information, and other information that DISTRICT considers confidential) (collectively, "Confidential Information"). It is expressly understood and agreed that DISTRICT may designate in a conspicuous manner Confidential Information that CONTRACTOR obtains from DISTRICT, and CONTRACTOR agrees to:

- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees of CONTRACTOR requiring access in fulfillment of the services provided under this Contract.
- B. Ensure that CONTRACTOR's officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this section.
- C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
- D. Notify DISTRICT promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this section. Take at CONTRACTOR's expense, but at DISTRICT's option and in any event under DISTRICT's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of CONTRACTOR.
- E. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information during the term of this Contract and following expiration or termination of the Contract.
- F. Prevent access to such materials by a person or entity not authorized under this Contract.
- G. Establish specific procedures in order to fulfill the obligations of this section.

14. INTELLECTUAL PROPERTY RIGHTS – Title and full ownership rights to all intellectual property developed under this Contract shall at all times remain with DISTRICT, unless otherwise agreed

AGENDA 8A - ATTACHMENT

to in writing.

15. PUBLICATION

- A. DISTRICT shall approve in writing any report or other document prepared by CONTRACTOR in connection with performance under this Contract prior to dissemination or publication of such report or document to a third party. DISTRICT may waive in writing its requirement for prior approval.
- B. Until approved by DISTRICT, any report or other document prepared by CONTRACTOR shall include on each page a conspicuous header, footer, or watermark stating "DRAFT – Not Reviewed or Approved by BAAQMD," unless DISTRICT has waived its requirement for prior approval pursuant to paragraph A of this section.
- C. Information, data, documents, or reports developed by CONTRACTOR for DISTRICT, pursuant to this Contract, shall be part of DISTRICT's public record, unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information, provided DISTRICT approves use of such information in advance. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.

"This report was prepared as a result of work sponsored, paid for, in whole or in part, by the Bay Area Air Quality Management District (District). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of the District. The District, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report."

- D. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and shall require compliance with the above.
16. NON-DISCRIMINATION – In the performance of this Contract, CONTRACTOR shall not discriminate in its recruitment, hiring, promotion, demotion, and termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. CONTRACTOR shall also require each subcontractor performing work in connection with this Contract to comply with this section and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.
17. PROPERTY AND SECURITY – Without limiting CONTRACTOR'S obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT'S premises.
18. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.

AGENDA 8A - ATTACHMENT

19. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Contract, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.
20. ATTORNEYS' FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
21. FORCE MAJEURE – Neither DISTRICT nor CONTRACTOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.
22. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
23. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
24. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
25. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.

AGENDA 8A - ATTACHMENT

26. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to CONTRACTOR providing services to DISTRICT and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.

27. SURVIVAL OF TERMS – The provisions of sections 7 (Indemnification), 13 (Confidentiality), 14 (Intellectual Property Rights), and 15 (Publication) shall survive the expiration or termination of this Contract.

IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

KADESH & ASSOCIATES, LLC

By: _____
Jack P. Broadbent
Executive Officer/APCO

By: _____
Mark Kadesh
President

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Adan Schwartz
Acting District Counsel

AGENDA 8A - ATTACHMENT

ATTACHMENT A

SCOPE OF WORK

CONTRACTOR shall assist with DISTRICT's federal advocacy efforts in Washington, D.C. Work will include the following:

1. Work with DISTRICT to develop and execute a results-oriented federal advocacy and funding agenda;
2. Align DISTRICT priorities with the priorities and interests of key members of Congress;
3. Ensure the entire California Congressional delegation has an understanding of DISTRICT needs and priorities, and develop champions among the Bay Area delegation;
4. Determine the best way to frame DISTRICT actions and proposals to achieve the most promising strategy for the DISTRICT's desired policy and funding goals;
5. Assist DISTRICT in obtaining federal funding to support DISTRICT efforts related to the reduction of, and exposure to ozone, particulate matter, toxic air contaminants, and other emissions;
6. Work with Congress, particularly California delegation, to secure funding for clean technology development and deployment to address mobile source emissions; and
7. Work with Congressional staff to expand and increase funding to the Environmental Protection Agency, United States Department of Energy, and other agencies to support DISTRICT goals and efforts regarding policy and funding.

AGENDA 8A - ATTACHMENT

ATTACHMENT B

COST SCHEDULE

DISTRICT shall pay CONTRACTOR a fixed monthly retainer fee of \$10,000 per month for the work outlined in Attachment A, Scope of Work. Payments will be made in accordance with Section 8, Payment, of this Contract.

Total cost of Contract not to exceed \$120,000.

DRAFT

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Authorization to Attend United Nations Climate Change Conference (COP26)

RECOMMENDED ACTION

Recommend the Board of Directors authorize Secretary Bauters and Director Hurt to travel to Glasgow, Scotland, to attend the United Nations (UN) Climate Change Conference (COP26), taking place Sunday, October 31, 2021 to Friday, November 12, 2021.

DISCUSSION

For the last three decades, the UN has brought together almost every country on earth for global climate summits – called COPs – which stands for “Conference of the Parties”. In that time, climate change has gone from being a fringe issue to a global priority. This year will be the 26th annual summit – giving it the name COP26. With the United Kingdom as President, COP26 takes place in Glasgow, and will run from October 31, 2021 to November 12, 2021.

More than 190 world leaders will arrive in Scotland to attend this conference. Joining them will be tens of thousands of negotiators, government representatives, businesses, and citizens for twelve days of talks. Participation from the California delegation includes members from the Air District, California Air Resources Board, state legislators, and other organizations.

COP26 provides a unique and diverse experience for members of the Air District to participate in some of the important and consequential discussions surrounding climate change. The attendance of Secretary Bauters and Director Hurt will be an asset to the Air District and State of California, as a global climate leader.

For all future international travel, staff will be developing a policy on selection of Board members, to ensure equity and transparency, in determining which Board members will represent the District abroad. This policy will be brought forth at a future Administration Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for travel expenses is included in program 104.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Erica Trask
Reviewed by: Jack P. Broadbent

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
 Memorandum

To: Chairperson Cindy Chavez and Members
 of the Board of Directors

From: Jack P. Broadbent
 Executive Officer/APCO

Date: October 1, 2021

Re: Authorization for Selection and Award to Bidders for Heavy-Duty Air Filtration
 Units/Air Scrubbers and Replacement Filters

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Executive Officer/APCO to select and award to the following thirteen bidders for sixteen heavy-duty portable air filtration units based on the results of the bid evaluation process for Request for Quotations (RFQ) No. 2021-010 for Heavy-Duty Air Filtration Units/Air Scrubbers and Replacement Filters:

Bidder	Brand Name	Model Number
<i>Category #1 (300 – 699 CFM)</i>		
Aeris Health Inc.	Aeris Health	AA-WH-31-110-US-EU-00
Alen Corporation	Alen	BreatheSmart 75i
Blaisdell	AeraMax Professional IV	9451201
Genesis Air	Genesis Air	2008 RGS
Helen of Troy	Honeywell	HPA300
Medify Air	Medify Air	MA-112
Murphy Enterprises of Alabama Inc.	Medify	MA-112
	Airpura	R600
Sigler	Opticlean	FN1AAF006000
US Air Purifiers LLC	Airpura	R600-EC / R700
	Airpura	R600
	Field Controls	Trio Plus / 602604400
<i>Category #2 (700 and greater CFM)</i>		
Genesis Air Inc	Genesis Air	2008 B
Sigler	Opticlean	FN1AAF015000
Smarter HEPA	Smart Health	Blast CMKQ101.3
US Air Purifiers LLC	Amaircare	AH610/24-A-1 KPG-00

BACKGROUND

In June 2021, the Bay Area Air Quality Management District (“Air District”) initiated an RFQ to obtain bulk-purchase pricing for both heavy-duty portable air filtration units / air scrubbers, and the replacement filters for these units. The Air District sought two distinct Categories of air filtration units / air scrubbers (and associated replacement filters) – Category #1 units with an air flow of between 300 to 699 cubic feet per minute (CFM), and Category #2 units with an airflow of over 700 CFM. The units selected from the Request for Quotations (“RFQ”) will support several Air District programs such as the Wildfire Preparedness Program and Assembly Bill 836 grant program that help reduce wildfire smoke and improve indoor air quality. Air District anticipates allocating up to \$3.6 million for the purchase of both Categories of heavy-duty portable air filtration units / air scrubbers and the associated replacement filters. Category #1 and Category #2 air filtration units / air scrubbers must meet the following specifications:

- use a true high-efficiency particulate air (HEPA) filter rated to remove 99.97% of particles measuring 0.3 micrometers or greater,
- have a carbon filter for odors and volatile organic compounds,
- certified by the California Air Resources Board (CARB) to ensure that ozone emissions are limited to no more than 0.050 parts per million (ppm),
- must be able to be plugged into a 110-volt wall outlet, and
- meet either one of the following CFM specifications when operated at the highest setting:
 - Category #1 – between 300 CFM – 699 CFM, or
 - Category #2 – equal to or greater than 700 CFM.

DISCUSSION

The RFQ for Heavy-Duty Air Filtration Units/ High Efficiency Air Scrubbers and Replacement Filters was open from June 26 to July 13, 2021. The RFQ was posted on the Air District website and on Bonfire and sent to all the manufacturers of CARB-certified air cleaning devices. A total of 32 bidders submitted proposals for 57 different units. Of the 57 units, 33 were found to be ineligible and were screened out as they did not meet the minimum requirements of the Air District and 24 were found to be eligible for consideration. A panel of three Air District staff performed a thorough evaluation of the eligible Category #1 units and Category #2 units and scored the bids in accordance with the evaluation criteria outlined in the RFQ. Additional details about the RFQ selection can be found in Attachment 1, *Request for Quotations (RFQ) No. 2021-010 for Heavy-Duty Air Filtration Units/Air Scrubbers and Replacement Filters Bid Evaluation and Recommendation of Award (Updated September 14, 2021)*.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for these purchases will be transferred from the Wildfire Budget Reserve to the Fiscal Year Ending 2021 Budget. Upcoming funds from Assembly Bill 836, *Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program*, will also be used for the purchase of air filtration units from this RFQ selection.

Respectfully submitted,

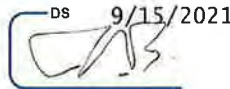
Jack P. Broadbent
Executive Officer/APCO



Prepared by: Geraldina Grunbaum
Reviewed by: Tracy Lee


Attachment 10A: Request for Quotations (RFQ) No. 2021-010 for Heavy-Duty Air Filtration Units/Air Scrubbers and Replacement Filters Bid Evaluation and Recommendation of Award (Updated September 14, 2021)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

September 15, 2021

TO: Jack P. Broadbent, Executive Officer/APCO  DS 9/15/2021

VIA: Rex Sanders, Chief Administrative Officer  DS 9/15/2021
 Maricela Martinez, Director of Executive and Admin. Resources  DS 9/15/2021

FROM: Tracy Lee, Compliance and Enforcement Manager  DS 9/15/2021

SUBJECT: Request for Quotations (RFQ) No. 2021-010 for Heavy-Duty Air Filtration Units/Air Scrubbers and Replacement Filters Bid Evaluation and Recommendation of Award (**Updated September 14, 2021**)

This document is an update to “RFQ No. 2010-010 for Heavy-Duty Air Filtration Units/Air Scrubbers and Replacement Filters Bid Evaluation and Recommendation of Award” dated August 16, 2021 and approved on August 18, 2021. This update is necessary to address an erroneous initial determination that one unit (the Fellowes AeraMax Professional IV 9451201) was not CARB certified and did not meet eligibility requirements of this RFQ. The bidder for this unit wrote the Air District stating that the unit is CARB certified and after further verification and consultation with CARB, it was determined that the unit was certified under “AeraMax,” and not “Fellowes.” Based on this new information, the unit was eligible and should have been included in the initial consideration and evaluation. The RFQ selection panel re-convened for the evaluation and determined that the unit is eligible for selection for an award on September 8, 2021.

RECOMMENDED ACTION

Based on the evaluation criteria set forth in the RFQ, staff recommends selecting and awarding RFQ No. 2021-010, in an amount not to exceed \$3.6 million, to thirteen bidders for sixteen heavy-duty portable air filtration units. Of the thirteen bidders, nine bidders were selected offering Category #1 heavy-duty portable air filtration units ranging from 300 – 699 cubic feet per minute (CFM) and four bidders were selected for the Category #2 heavy-duty portable air filtration units ranging from equal or greater than 700 CFM. Table 1 lists the bidders, brand names and model numbers of the air filtration units selected as part of the RFQ.

Table 1. Recommended Selected Bidders in Category #1 and Category #2 Heavy-duty Portable Air Filtration Units

Bidder	Brand Name	Model Number
<i>Category #1</i>		
Aeris Health Inc.	Aeris Health	AA-WH-31-110-US-EU-00
Alen Corporation	Alen	BreatheSmart 75i
Blaisdell	AeraMax Professional IV	9451201
Genesis Air	Genesis Air	2008 RGS
Helen of Troy	Honeywell	HPA300
Medify Air	Medify Air	MA-112
Murphy Enterprises of Alabama Inc.	Medify	MA-112
	Airpura	R600

 DS

Bidder	Brand Name	Model Number
Category #1		
Sigler	Opticlean	FN1AAF006000
US Air Purifiers LLC	Airpura	R600-EC / R700
	Airpura	R600
	Field Controls	Trio Plus / 602604400
Category #2		
Genesis Air Inc	Genesis Air	2008 B
Sigler	Opticlean	FN1AAF015000
Smarter HEPA	Smart Health	Blast CMKQ101.3
US Air Purifiers LLC	Amaircare	AH610/24-A-1 KPG-00

BACKGROUND

This RFQ solicits bulk-purchase pricing for heavy-duty portable air filtration units (high efficiency air scrubbers) and associated replacement filters for the Air District's Wildfire Air Quality Response Program. Units selected from the RFQ will be made available to the Wildfire Preparedness Program and the Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program (AB 836) to improve indoor air quality when wildfire smoke impacts the region.

Units selected were required to meet the following **minimum specifications**:

- use a true high-efficiency particulate air (HEPA) filter rated to remove 99.97% of particles measuring 0.3 micrometers or greater,
- have a carbon filter for odors and volatile organic compounds,
- certified by the California Air Resources Board (CARB) to ensure that ozone emissions are limited to no more than 0.050 parts per million (ppm),
- must be able to be plugged into a 110-volt wall outlet, and
- meet either one of the following CFM specifications when operated at the highest setting:
 - Category #1 – between 300 CFM – 699 CFM, or
 - Category #2 – equal to or greater than 700 CFM.

BID EVALUATION

The RFQ for Heavy-Duty Air Filtration Units/ High Efficiency Air Scrubbers and Replacement Filters was open from June 26 to July 13, 2021. The RFQ was posted on the Air District website and on Bonfire and sent to all the manufacturers of CARB-certified air cleaning devices. A total of 32 bidders submitted proposals for 57 different units. Of the 57 units, 33 were found to be ineligible and were screened out as they did not meet the minimum requirements of the Air District and 24 were found to be eligible for consideration. The "*Ineligible Bids*" and "*Eligible Bids*" sections below describes the basis for staff's determination for each unit. A panel of three Air District staff performed a thorough evaluation of the Category #1 units and Category #2 units and scored the bids in accordance with the evaluation criteria outlined in the RFQ.

Ineligible Bids

A total of 33 units proposed by 17 bidders were found to be ineligible for consideration for not meeting all minimum qualifications and/or for not submitting all required information in their applications. Of these 33 units, one unit was below the CFM requirement for either Category, 15 units were submitted by 12 bidders for consideration as Category #1 units

and 17 units were submitted by 12 bidders for consideration as Category #2 units. Table 2 list these units and the reasons for their ineligibility.

Table 2. Ineligible Bids Received for RFQ No. 2021-010

Bidder	Proposed Unit Details			Reason for Ineligibility
	Manufacturer	Brand Name	Model Number	
<u>No Category</u>				
Brondell	Brondell, Inc	Aurabeat AG+	ABG80-W	• Under CFM minimum
<u>Category #1 units</u>				
ACHR West	Soleus Air	Soleus Air	KJ760F-A02	• Did not submit all required information
American Air Filter Company	American Air Filter Company	AstroPure	AstroPure 500 IRC	• Did not submit all required information • Not CARB certified
DBS Associates, Inc.	Multi Manufacturing	Air By Design	MD-1000X-A	• Not CARB certified
Delos Living LLC	Healthway Home Products, Inc	Intellipure	KJ468F	• Does not have HEPA or carbon filter
Dust Free LP	Dust Free LP	Dust Free	DFSTA-HEPA 325	• Not CARB certified
i2M LLC	i2M LLC	TRI-KLEEN 500UV	2007-0504-S00	• Did not submit all required information
IQAir NA	IQAir	IQAir	CleanZone SL (302.1)	• Did not submit all required information
IQAir NA	IQAir	IQAir	HealthProPlus (1BB UA0DGU)	• Did not submit all required information
Lasko	Lasko	Bluedri	AS-550	• Did not submit all required information • Not CARB certified
Micron Disinfection, LLC	X-Power	X-Power	X-3780	• Not CARB certified
Murphy Enterprises of Alabama Inc.	Allerair	Allerair	Pro 6 Exec	• Not CARB certified
Murphy Enterprises of Alabama Inc.	Omniair	Omni CleanAir	OCA500	• Not CARB certified
Murphy Enterprises of Alabama Inc.	Omnitec Designs	Omniaire	600N	• Not CARB certified
Vaniman Manufacturing	Vaniman Manufacturing	Pure Breeze HEPA Air Purifier	PN10360A	• Did not submit all required information
YSSB INC.	RHT Industries LTD.	b-MOLA	BM300	• Does not have carbon filter
<u>Category #2 units</u>				
ACHR West	Soleus Air	Soleus Air	KJ760FW-A02	• Did not submit all required information

Bidder	Proposed Unit Details			Reason for Ineligibility
	Manufacturer	Brand Name	Model Number	
American Air Filter Company	American Air Filter Company	AstroPure	AstroPure 1000 IRC	<ul style="list-style-type: none"> • Did not submit all required information • Not CARB certified
Carico International	Carico International	Healthway	950P	<ul style="list-style-type: none"> • Does not have HEPA or carbon filter
DBS Associates, Inc.	Multi Manufacturing	Air By Design	ACE-U	<ul style="list-style-type: none"> • Not CARB certified
DBS Associates, Inc.	Multi Manufacturing	Air By Design	PRO-U	<ul style="list-style-type: none"> • Not CARB certified
Delos Living LLC	Healthway Home Products, Inc	Intellipure	950P-120-1	<ul style="list-style-type: none"> • Does not have HEPA or carbon filter
Dust Free LP	Dust Free LP	Dust Free	DFSTA-HEPA 800	<ul style="list-style-type: none"> • Not CARB certified
Dust Free LP	Dust Free LP	Dust Free	DFSTA-HEPA 1500	<ul style="list-style-type: none"> • Not CARB certified
IQAir NA	IQAir	IQAir	CleanZone 5100	<ul style="list-style-type: none"> • Did not submit all required information
Island Clean Air	Island Clean Air	Duster 3000	Duster 3000 Standard	<ul style="list-style-type: none"> • Did not submit all required information • Not CARB certified
MCT Pro Tools Inc.	Healthway	Intellipure	950P	<ul style="list-style-type: none"> • Did not submit all required information
Micron Disinfection, LLC	X-Power	X-Power	AP-2000	<ul style="list-style-type: none"> • No carbon filter
Murphy Enterprises of Alabama Inc.	Omniair	Omni CleanAir	OCA1200	<ul style="list-style-type: none"> • Not CARB certified
Murphy Enterprises of Alabama Inc.	Omnitec Designs	Omniaire	1000V	<ul style="list-style-type: none"> • Not CARB certified
Murphy Enterprises of Alabama Inc.	Omnitec Designs	Omniaire	2000V	<ul style="list-style-type: none"> • Not CARB certified
Murphy Enterprises of Alabama Inc.	Omnitec Designs	Omniaire	2200C	<ul style="list-style-type: none"> • Not CARB certified
Norkan, Inc.	Amaircare Corporation	NorAir 800 as known as Airwash Mutipro	800	<ul style="list-style-type: none"> • No carbon filter

Eligible Bids

A total of 24 units submitted by 16 bidders were determined to be eligible for consideration as these units met all minimum qualifications and the bidders submitted all required information in their applications. Of these, 18 units submitted by 15 bidders were Category #1 units, and 6 units submitted by 5 bidders were Category #2 units.

Category #1 Units

Category #1 units have a CFM intended for smaller-sized spaces, such as classrooms and community spaces, that would benefit from air filtration during wildfire emergencies. These units will be made available as part of the implementation of AB 836 and can be used in conjunction with existing HVAC systems as well as independently to ensure cleaner air during wildfire smoke events.

Table 3 shows the average scores awarded to the 18 eligible Category #1 bids submitted by the panel members in accordance with the evaluation criteria outlined in the RFQ, ranked by average total score received. Given current drought conditions in California and the on-going elevated chances for wildfires this year, it is anticipated that there will be particularly high demand for air filtration units across the state and ensuring inventory availability is essential. Therefore, staff proposes to select the twelve highest-ranked submitted bids, i.e., the nine top-ranking distinct units proposed by nine bidders.

Category #2 Units

Category #2 units have a higher CFM rating for larger spaces intended for wildfire emergencies, sheltering and evacuation centers and/or other indoor congregate facilities, including but not limited to schools, libraries, community centers, and assisted living facilities. Through Air District partnerships with various Bay Area County Offices of Emergency Services (OES), air filtration units will be distributed to public facilities that may be impacted by wildfire smoke.

Table 3 shows the average scores awarded to the eligible Category #2 bids submitted by the panel members in accordance with the evaluation criteria outlined in the RFQ, ranked by average total score received. It should be noted that while six separate bids were submitted, two of the bids from one bidder were for units that are identical (manufactured by Amaircare), except that they are different colors. Therefore, while the evaluation scored each of the six submittals based on the information contained in each bid, the number of distinct units evaluated was five rather than six units.

Given the range of size and style of indoor spaces that would be served by these devices, it is critical to provide each OES with a selection of units that can meet these various needs. In addition, given current drought conditions in California and the on-going elevated chances for wildfires this year, it is anticipated that there will be particularly high demand for air filtration units across the state and ensuring inventory availability is essential. Therefore, staff proposes to select the five highest-ranked submitted bids, i.e., the four top-ranking distinct units proposed by four bidders.

Table 3. Ranked Total Scores of Eligible Submittals for Units that Met Minimum Specifications

#	Bidder	Manufacturer	Brand Name	Model Number	Cost		Air flow on high (CFM) 38 pts	Product Specifications		Firm's Specialty Focus Area 2 pts	/100 points
					Per unit 30 pts	Replacement Filters 10 pts		Noise/portability 10 pts	Stackability 10 pts		
Category #1 units											
1	Genesis Air	Genesis Air	Genesis Air	2008 RGS	23.0	3.7	36.3	6.0	10.0	0.0	79.0
2	Medify Air	Medify Air	Medify Air	MA-112	28.3	8.0	29.3	6.3	0.0	0.0	72.0
3	Murphy Enterprises of Alabama Inc.	Medify	Medify	MA-112	28.0	8.0	29.3	6.3	0.0	0.0	71.7
4	Helen of Troy	Helen of Troy	Honeywell	HPA300	30.0	10.0	15.3	8.7	0.0	0.0	64.0
5	US Air Purifiers LLC	Airpura	Airpura	R600-EC / R700	27.0	4.7	25.0	6.7	0.0	0.0	63.3
6	Sigler	Carrier	Opticlean	FN1AAF006000	22.3	3.7	32.3	4.7	0.0	0.0	62.7
7	Alen Corporation	Alen Corporation	Alen	BreatheSmart 75i	27.0	8.7	17.0	9.7	0.0	0.0	62.3
8	US Air Purifiers LLC	Airpura	Airpura	R600	28.0	4.3	22.0	6.7	0.0	0.0	61.0
9	US Air Purifiers LLC	Field Controls	Field Controls	Trio Plus / 602604400	28.0	9.7	14.3	8.7	0.0	0.0	60.7
10	Blaisdell	Fellowes	AeraMax Professional 11V	9451201	24.3	5.0	22.3	7.0	0.0	1.7	60.3
11	Aeris Health Inc.	Aeris Health Inc.	Aeris Health	AA-WH-31-110-US-EU-00	26.7	8.0	18.3	7.0	0.0	0.0	60.0

#	Bidder	Manufacturer	Brand Name	Model Number	Cost		Air flow on high (CFM) 38 pts	Product Specifications		Firm's Specialty Focus Area 2 pts	/100 points
					Per unit 30 pts	Replacement Filters 10 pts		Noise/portability 10 pts	Stack-ability 10 pts		
12	Murphy Enterprises of Alabama Inc.	Airpura Industries	Airpura	R600	27.3	3.7	21.0	5.0	0.0	0.0	57.0
13	Lovell Government Services LLC	RGF Environmental	Microcon MAP 400	MS-400	18.0	2.7	20.0	8.7	0.0	0.0	49.3
14	Scientific Air Management LLC	Scientific Air Management LLC	Scientific Air S400	2.02E+09	14.0	7.0	20.0	7.0	0.0	0.0	48.0
15	Airgle Corporation	Airgle Corporation	Airgle	AG900	17.0	3.7	20.0	5.3	0.0	0.0	46.0
16	Novaerus US Inc.	Novaerus US Inc.	Novaerus	NV1050	9.0	3.0	28.7	2.0	0.0	0.0	42.7
17	Specialty A/C Products	Well Air	Novaerus	NV1050	7.7	2.0	29.0	0.7	0.0	0.7	40.0
18	RENSAIR	Rensair LLC	Rensair	Q01B	15.7	2.0	15.7	6.3	0.0	0.0	39.7
Category #2 units											
1	Smarter HEPA US Air Purifiers LLC	Smart Air (Beijing) Technology Co. Ltd / Xiamen Vork Health Industry Co., Ltd.	Smart Health	Blast CMKQ101.3	27.7	9.0	22.7	8.3	8.3	0.7	76.7
2	US Air Purifiers LLC	Amaircare	Amaircare	AH610/24-A-1 KPG-00	28.3	8.7	17.0	6.7	10.0	0.0	70.7
3	US Air Purifiers LLC	Amaircare	Amaircare	AH610/24-A-1 KPG-00	28.3	8.7	17.0	6.7	10.0	0.0	70.7

#	Bidder	Manufacturer	Brand Name	Model Number	Cost		Air flow on high (CFM) 38 pts	Product Specifications		Firm's Specialty Focus Area 2 pts	/100 points
					Per unit 30 pts	Replacement Filters 10 pts		Noise/portability 10 pts	Stack-ability 10 pts		
4	Genesis Air Inc	Genesis Air	Genesis Air	2008 B	14.7	5.7	36.7	2.3	8.3	0.0	67.7
5	Sigler	Carrier	Opticlean	FN1AAF015000	21.0	7.0	27.0	4.0	0.0	0.0	59.0
6	Lovell Government Services	RGF Environmental	Microcon MAP 800 - Air Purification System	MS-800	13.7	4.0	16.0	7.7	0.0	0.0	41.3

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Set a Public Hearing for November 3, 2021 to Consider Adoption of Proposed
Amendments to Refinery Rules Definitions

RECOMMENDED ACTION

Set a Public Hearing for November 3, 2021, to consider adoption of proposed amendments to several regulations containing terms related to petroleum refineries.

BACKGROUND

The Air District proposing administrative amendments to the following Regulations 3 Fees, 6 Particulate Matter, 8 Organic Compounds, 9 Inorganic Compounds, 11 Hazardous Pollutants and 12 Miscellaneous Standards of Performance. The purpose of these amendments is to ensure that rules currently applicable to petroleum refineries, continue to apply to the same facilities after operations are modified to produce the products from alternative feedstocks (including those that are not derived from petroleum).

In 2020 and 2021, two of the five petroleum refineries in the Bay Area have submitted permit applications to modify the facility operation to process alternative feedstocks with the intention of producing “renewable” products. These facilities use the term “renewable” to mean they will be producing fuel and other products by processing non-fossil fuel feedstocks. Petroleum refineries are subject to a variety of Air District rules and regulations. Some of these rules are exclusively applicable to petroleum refineries only and some of these rules are applicable to petroleum refineries as well as other facilities. Most of these rules determine that applicability by using the definition of petroleum refinery. There are also instances where a particular standard, requirement, or exemption is dependent on terms such as “fossil-derived,” “fossil-fuel,” “petroleum,” and “crude oil.”

The proposed amendments will ensure the facilities that produce fuels and other products from non-fossil fuel feedstocks remain subject to and in compliance with the same emission standards and rule requirements that were in effect when the feedstock was petroleum based. Without these proposed amendments to existing Air District Rules and Regulations, the facilities that change to non-petroleum operation may no longer be subject to the emission standards and other regulatory requirements that currently apply to them. The purpose of these amendments is to ensure that emissions are not allowed to increase as these facilities transition away from the processing of

crude oil. Such an outcome would be contrary to Air District gains in creating a healthier environment for all Bay Area residents, especially those in the petroleum refinery frontline communities.

DISCUSSION

Rule Development Process

Air District staff presented the proposed regulatory amendments during the Air District's Stationary Source and Climate Impacts Committee Meeting on July 19, 2021 and met with representatives of the five Bay Area refineries to review the proposed language changes. Pursuant to the California Environmental Quality Act (CEQA), the Air District has concluded that the proposed amendments are exempt under CEQA guidelines Section 15301, Class 1. The rule amendments would involve negligible or no expansion of an existing use. Actual emissions will not increase. Air District Staff will file a Notice of Exemption with the County Clerk after adoption by the Board of Directors. In addition, Section 40728.5 of the California Health and Safety Code requires an air district to assess the socioeconomic impacts of the adoption, amendment, or repeal of a rule if the rule is one that "will significantly affect air quality or emissions limitations." As noted above, there are no anticipated costs associated with these proposed amendments and so they would not have a significant economic impact to the affected industry. Applied Development Economics, Inc of Lafayette, California has completed an updated socioeconomic analysis with and updated economic profile of the industry affected by the rule.

Air District staff released the proposed amendments to Refinery Rules, Staff Report, and public hearing notice on September 20, 2021 for public review and comment. The materials are available on the Air District's website at [Refinery Rules Definitions \(baaqmd.gov\)](http://baaqmd.gov).

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

The impacted facilities are already subject to the emissions standards and other requirements detailed in the rules that are proposed to be amended, so no impacts to the Air District or to the regulated industry is anticipated.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Ed Giacometti
Reviewed by: Jeff Gove

REPORT OF ADVISORY COUNCIL MEETING

(Ex-Officio Member: Cindy Chavez)

The Advisory Council met on Monday, September 13, 2021, and approved the minutes of December 3, 2020. This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the Council participated by teleconference.

This was the first meeting for four new Council members (Cullenward, Hollis, Phartiyal, and Raheja); the other three members (Kleinman, Rudolph, and Solomon) had been reappointed from the previous Council configuration. Council members gave introductory remarks about their academic backgrounds, careers, and interest in wanting to serve on the Council.

The Council then received the staff presentation *Overview of the Ralph M. Brown Act*.

The Council then received the staff presentation *Introduction to the Air District*.

The Council then received the staff presentation *Bay Area Air Quality Overview*.

The Council then received the staff presentation *Overview of Air District Legal Authorities*.

The Council then received the staff presentation *Overview of Air District Programs*.

The next meeting of the Council will be held on Monday, October 25, 2021, at 8:30 a.m., via webcast, pursuant to procedures authorized in accordance with Government Code Section 54593. This concludes the Chair Report of the Advisory Council meeting.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Report of the Advisory Council Meeting of September 13, 2021

RECOMMENDED ACTION

The Advisory Council (Council) received only informational items and have no recommendations of approval by the Board of Directors (Board).

BACKGROUND

The Council met on Monday, September 13, 2021, and received the following report:

- A) Council Introductions;
 - 1) None, receive and file.
- B) Overview of the Ralph M. Brown Act;
 - 1) None, receive and file.
- C) Introduction of the Air District;
 - 1) None, receive and file.
- D) Bay Area Air Quality Overview;
 - 1) None, receive and file.
- E) Overview of Air District Legal Authorities
 - 1) None, receive and file.
- F) Overview of Air District Programs
 - 1) None, receive and file.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None;
- B) None;
- C) None;
- D) None;
- E) None; and
- F) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marjorie Villanueva
Reviewed by: Vanessa Johnson

Attachment 12.2A: 09/13/2021 – Advisory Council Meeting Agenda #3
Attachment 12.2B: 09/13/2021 – Advisory Council Meeting Agenda #4
Attachment 12.2C: 09/13/2021 – Advisory Council Meeting Agenda #5
Attachment 12.2D: 09/13/2021 – Advisory Council Meeting Agenda #6
Attachment 12.2E: 09/13/2021 – Advisory Council Meeting Agenda #7
Attachment 12.2F: 09/13/2021 – Advisory Council Meeting Agenda #8

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Members of the Advisory Council

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 9, 2021

Re: Council Introductions

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

The Advisory Councilmembers are invited to briefly introduce themselves to the membership.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sonam Shah-Paul

Reviewed by: Greg Nudd

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Members of the Advisory Council

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 9, 2021

Re: Overview of the Ralph M. Brown Act

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Staff will provide an overview on the Ralph M. Brown Act and the governance of public meetings.

DISCUSSION

The Advisory Council of the Air District is subject to the requirements of the Ralph M. Brown Act. Staff will review the Ralph M. Brown Act and the legal requirements for open meetings and public access, including applicable procedural requirements.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sonam Shah-Paul

Reviewed by: Adan Schwartz

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Members of the Advisory Council

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 9, 2021

Re: Introduction of the Air District

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Staff will provide an introduction of the Air District, including the Air District's mission and vision, administrative structure, and the role of the Advisory Council in Air District work.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sonam Shah-Paul

Reviewed by: Greg Nudd

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Members of the Advisory Council

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 9, 2021

Re: Bay Area Air Quality Overview

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Staff will highlight key air quality data and trends for the Bay Area, including:

- Emissions
- Ambient concentrations
- Exposure
- Health Impacts
- Climate Impacts

The presentation will also include an overview of tools and methods that the Air District uses to understand air quality,

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Ranyee Chiang and Henry Hilken

Reviewed by: Greg Nudd

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Members of the Advisory Council

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 9, 2021

Re: Overview of Air District Legal Authorities

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Staff will provide an overview on aspects of the Air District's legal authority.

DISCUSSION

Staff will discuss the legal framework in which the Air District operates, the legal authorities granted, and obligations imposed by that framework.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sonam Shah-Paul

Reviewed by: Adan Schwartz

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Members of the Advisory Council

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 9, 2021

Re: Overview of Air District Programs

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Staff will provide an overview of key Air District programs and initiatives.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sonam Shah-Paul
Reviewed by: Greg Nudd

COMMITTEE CHAIR SUMMARY REPORT OF THE ADMINISTRATION COMMITTEE

(Co-Chairs: Cindy Chavez and Carole Groom)

The Administration Committee met on Wednesday, September 15, 2021, and approved the minutes of May 19, 2021. This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the Committee participated by teleconference.

The Committee accepted the Hearing Board Quarterly Report for April 2021 to June 2021.

The Committee received and discussed the staff presentation *Management Audit Vendor Selection*.

Air District staff deferred the staff presentation *Review Air District Recruitment and Selection Plan*, requesting additional time to modify the presentation before it is presented to the Committee.

The Committee then received and discussed the staff presentation *Review Air District Advisory Council Recruitment and Selection Process Review*.

Finally, the Committee received and discussed the staff presentation *Update on the Employee Engagement and Culture Initiative*.

The next meeting of the Administration Committee will be held on Wednesday, October 20, 2021, at 11:00 a.m., via webcast, pursuant to procedures in accordance with Government Code Section 54593. This concludes the Chair Report of the Administration Committee.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Report of the Administration Committee Meeting of September 15, 2021

RECOMMENDED ACTIONS

The Administration Committee (Committee) recommends Board of Directors (Board) approval of the following:

- A) Hearing Board Quarterly Report: April 2021 – June 2021;
 - 1) None; receive and file.
- B) Management Audit Vendor Selection;
 - 1) None; receive and file.
- C) Review Air District Recruitment and Selection Plan;
 - 1) None; receive and file.
- D) Review Air District Advisory Council Recruitment and Selection Process; and
 - 1) None; receive and file.
- E) Update on the Employee Engagement and Culture Initiative;
 - 1) None; receive and file.

BACKGROUND

The Committee met on Wednesday, September 15, 2021, and received the following reports:

- A) Hearing Board Quarterly Report: April 2021 – June 2021;
- B) Management Audit Vendor Selection;
- C) Review Air District Recruitment and Selection Plan;
- D) Review Air District Advisory Council Recruitment and Selection Process; and
- E) Update on the Employee Engagement and Culture Initiative.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None;
- B) None;
- C) None;
- D) None; and
- E) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marjorie Villanueva
Reviewed by: Vanessa Johnson

Attachment 13.2A: 09/15/2021 – Administration Committee Meeting Agenda #3
Attachment 13.2B: 09/15/2021 – Administration Committee Meeting Agenda #4
Attachment 13.2C: 09/15/2021 – Administration Committee Meeting Agenda #5
Attachment 13.2D: 09/15/2021 – Administration Committee Meeting Agenda #6
Attachment 13.2E: 09/15/2021 – Administration Committee Meeting Agenda #7

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons Cindy Chavez and Carole Groom and Members
of the Administration Committee

From: Chairperson Valerie J. Armento, Esq., and
Members of the Hearing Board

Date: September 10, 2021

Re: Hearing Board Quarterly Report: April 2021 – June 2021

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

This report covers the second calendar quarter (April - June) of 2021.

- Held one hearing;
- Processed four orders; and
- Collected a total of \$1,519 in Hearing Board filing fees.

Below is a detail of Hearing Board activity during the same period:

Location: Alameda County, City of Fremont

Docket: 3725 – Appeal of Tesla, Inc., from Permit Conditions Contained in Authority to Construct for Permit Application 30523 – Appeal

Regulation(s): Regulation 2, Rule 2, Section 301 (Permits, New Source Review, Best Available Control Technology Requirement); Permit Condition 27327, Part 4

Synopsis: Tesla, Inc. filed an Appeal of an Authority to Construct permit issued by Respondent, the APCO of the Bay Area Air Quality Management District (BAAQMD), on October 13, 2020. The Authority to Construct permit was issued by the APCO in response to Tesla's application (Application No. 30523) to install two new aluminum melting furnaces. Specifically, Tesla appealed two emission limitations: oxides of nitrogen (“NOx”) and carbon monoxide (“CO”) – of a maximum 9 pounds per day, set forth in Part 4 of Condition 27327, specified in the Authority to Construct. The APCO included these 9 lb/day emission limits for NOx and CO to ensure that the furnaces’ emissions remain below the level at which they would trigger the “Best Available Control Technology” requirement in District Regulation 2-2-301. Regulation 2-2-301 requires that any new source that will have the potential to emit 10 pounds or more of certain specified

pollutants, including NO_x and CO, must implement the Best Available Control Technology, or “BACT,” to control emissions of those pollutants.

Tesla wanted to obtain its permit in a very short time frame and was willing to agree to keep emissions below 10 lb/day, so that these furnaces would not be subject to the BACT requirement in Regulation 2-2-301. If the sources will have the potential to emit 10 lb/day or more, then BACT would be triggered and Air District staff would need to undertake a detailed review of available control technologies, what type of control technologies and emissions limits have been achieved at other similar sources, and whether it would be technologically feasible and cost-effective to achieve an even more stringent level of control. This is an in-depth engineering analysis that necessarily takes a substantial amount of time to complete, and if District staff had to conduct such an analysis it would take longer to review the application and issue the permit. The APCO therefore understood that Tesla would agree to keep emissions below 10/lb/day so as to avoid triggering the BACT requirement and this more detailed and time-consuming level analysis. Tesla did not agree to this BACT Avoidance approach and it was not aware that the APCO was intending to include these 9 lb/day BACT avoidance limits until the Authority to Construct was issued. Further, Tesla did not receive the engineering analysis until October 21, 2020, eight days after the issuance of the Authority to Construct. Tesla contended that the APCO should have conducted the BACT analysis, and should have agreed that emissions control equipment and corresponding NO_x and CO emissions limits that Tesla proposed in Application 30523 reflect the Best Available Control Technology and should be approved.

The Parties agreed that instead of litigating their dispute, the best way forward was for the Hearing Board to remand the matter for the APCO to undertake further analysis, conducting the full BACT analysis Tesla requested, and render a revised decision on Application 30523. Based on this analysis, the APCO could determine whether the emissions control equipment and corresponding NO_x and CO emissions limits Tesla proposed in Application 30523 satisfied the BACT requirement and complied with District Regulation 2-2-301. The APCO would then be in a position to approve or deny Tesla’s application as compliant or non-compliant with District regulations. Should Tesla be dissatisfied with the APCO’s decision, Tesla would then be able to appeal that decision to the Hearing Board, and at that point, the Hearing Board would have a full and complete record on which to review any remaining questions about what is required by Regulation 2-2-301 for this particular project.

Status: Appeal filed on November 12, 2020; hearing scheduled for January 12, 2021; parties submitted Stipulation and Request for Entry of Stipulated Order for Remand on January 11, 2021; hearing held on January 12, 2021; Stipulated Order for Remand (ordering Air Pollution Control Officer to grant or deny Application 30523 by January 29, 2021) filed on January 12, 2021; parties submitted Stipulation and Request for Entry of Amendment of Stipulated Order for Remand on February 12, 2021; Order Extending Time (revising decision date to March 19, 2021) filed on February 19, 2021; parties submitted Stipulation and Request for Order Extending Time on March 19, 2021; Stipulated Order Extending Time (revising decision date further to April 19, 2021) filed on March 19, 2021; Order Extending Time Further (revising decision further to April 30, 2021) filed on April 20, 2021; Order Further Extending Time Based Upon Stipulation (revising decision further to May 14, 2021) filed on April 30, 2021; parties requested a withdrawal of the matter on May 14, 2021, which was granted by the Hearing Board Chair on May 17, 2021.

Appeal-related fees collected this quarter: \$0

Location: Alameda County; City of Oakland

Docket: 3729 – APCO vs. Vspetrousa, Inc., et al – Request for Order for Abatement

Regulation(s): Regulation 2, Rule 1, Section 302 (Permits, General Requirements, Permit to Operate)

Synopsis: Respondents own or operate a gasoline dispensing facility in Oakland California, for which a District permit to operate is required pursuant to District Regulation 2, Rule 1. District records indicate they have owned or operated the facility since at least October 27, 2015 and have not had a current or valid permit to operate the facility for the entire period of ownership. The District is informed and believes and thereon alleges that Respondents know they must hold a permit to operate a gasoline dispensing facility, but that despite knowledge, they had been operating it without one since at least October 2015. Complainant seeks an order that Respondents cease conducting these operations unless and until they obtain a District permit to do so.

Status: Accusation filed on March 10, 2021; Notice of Hearing (for April 20, 2021) file/issued on March 16, 2021; Complainant filed Request for Official Notice in Support of Accusation on April 12, 2021; Complainant submitted Exhibits C-1 through C-9 to the Clerk on April 14, 2021; hearing held on April 20, 2021; Conditional Order for Abatement filed on May 11, 2021.

Location: Santa Clara County; City of San Jose

Docket: 3730 – SFPP L.P. San Jose Terminal – Request for Emergency Variance

Regulation(s): Regulation 8, Rule 5, Section 305.5 (Organic Compounds, Storage of Organic Liquids, Requirements for Internal Floating Roof Tanks)

Synopsis: SFPP L.P. San Jose Terminal (Applicant) operates a bulk petroleum terminal with petroleum product storage and loading in San Jose, California. At that location, “Tank SJ12” is a multi-purpose internal floating roof tank in ethanol service. A visual inspection is conducted every three months; a seal gap inspection is conducted every five years; tank is inspected thoroughly when out of service, every ten years; at approximately 14:30 (Pacific) on April 27, 2021, the tank inspector observed a small puddle of liquid/slug on the internal floating roof tank through the fixed roof hatch during the quarterly visual seal inspection, and the puddle was confirmed to be product; the cause of failure was a defect on the roof near the ladder well; the operator attempted to conduct a temporary repair within 48 hours, as required by Air District Regulation 8-5; however, due to safety concerns, the facility deemed it impossible to complete the repair within 48 hours; the tank was about half full when the defect was identified; facility attempted temporary repair, and began emptying the tank in order for an out-of-service inspection and permanent repair; the product on the roof was cleaned as quickly as possible; the facility planned to repair the defect and conduct an investigation once the tank is taken out of service.

Status: Application filed on May 3, 2021; Air District Compliance and Enforcement Division recommendation that the emergency variance be denied filed on May 10, 2021; Hearing Board recommendation that the emergency variance be denied filed on May 11, 2021; Order Denying Emergency Variance filed on May 12, 2021.

Requested Period of Variance: April 29, 2021 to May 28, 2021

Estimated Excess Emissions: 13.16 lb (2 gallons) of volatile organic compounds (ethanol)/day

Variance-related fees collected this quarter: \$1,519.00 (filing fee)

Respectfully submitted,

/s/ Valerie J. Armento

Valerie J. Armento, Esq.
Chair, Hearing Board

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ADMINISTRATION COMMITTEE
MEETING OF 09/15/2021

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons Cindy Chavez and Carole Groom and Members
of the Administration Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 10, 2021

Re: Management Audit Vendor Selection

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On June 16, 2021, the Board of Directors approved a workplan to initiate a management audit and the scope of work to procure services for a management audit, acknowledging the following priorities: evaluate the Air District's current hiring process, analyze Air District divisions that are asking for the greatest numbers of new staffing positions, include a performance audit and risk evaluation. The vendor selection team for the auditor would include Board Members Carole Groom and Margaret Abe-Koga, as well as one community member appointed by the Community Equity, Health, and Justice Committee, another appointed by the Stationary Source and Climate Impacts Committee, and a subject matter expert in management audits.

DISCUSSION

On June 30, 2021, the Air District issued a Request for Qualifications for Management Audit Services which closed on July 21, 2021. During the open period, the Air District received six proposals from various vendors.

A vendor selection panel was assembled and includes Board Members Carole Groom and Margaret Abe-Koga, as well as one community member appointed by the Community Equity, Health, and Justice Committee, another appointed by the Stationary Source and Impacts Committee, and a subject matter expert in management audits. The Panel met in August 2021 and is nearly complete scoring the submitted proposals.

The Vendor Selection Panel is scheduled to meet in September 2021 to select finalists from the submitted proposals, develop interview questions, and interview the finalists. After the interviews are complete, the members of the Selection Panel will independently score each finalist, and the scores will be presented to the Administration Committee with a recommendation to execute a contract with the highest scoring vendor.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: John Chiladakis

ADMINISTRATION COMMITTEE
MEETING OF 09/15/2021

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons Cindy Chavez and Carole Groom and Members
of the Administration Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 10, 2021

Re: Review Air District Recruitment and Selection Plan

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On June 16, 2021, the Board of Directors approved 26 new positions for the Fiscal Year Ending (FYE) 2022 Budget. The Board of Directors encouraged recruitment of diverse candidates and requested Air District staff provide a recruitment plan to highlight these efforts.

DISCUSSION

The Air District's Human Resources Office, in coordination with hiring managers, oversees recruitment efforts for positions throughout the Agency. These efforts include outreach, education and processing of applications to maximize the opportunity to recruit and retain a highly diverse employee pool.

Current efforts include, utilizing broad job descriptions to attract candidates of diverse backgrounds, perspectives and experiences; offering a diversity tool kit for managers which includes trainings and information about implicit bias and diversity, equity and inclusion; recruiting a diversity of volunteers to sit on recruitment panels to assess candidates; proactively reaching out and encouraging underrepresented candidates to apply; utilizing community mailing lists to distribute job announcements; continuously developing and using an outreach list of diverse professional organizations, networks, and societies that we use for all position announcements; developing more Employee Resource Groups, which are crucial to an inclusive culture; developing partnerships with not-for-profit internship programs; we use best practices in screening applications blindly to help eliminate bias.

Additional efforts that will provide an opportunity for improvement include, creating a mandatory diversity hiring workshop for managers in October 2021; a Human Resources/Organizational Development consultant has been hired to review our recruitment processes and materials to assess areas of opportunities to improve upon; working with the Employees' Association to negotiate removing education barriers from job classifications, adding language that substitutes education for work experience; continuing to develop our outreach of open positions to the community and specifically to diverse candidates.

The Air District's efforts will be discussed as part of the presentation on this item and we welcome input from the committee members and public about ways to improve our efforts.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Terri Levels
Reviewed by: Rex Sanders

ADMINISTRATION COMMITTEE
MEETING OF 09/15/2021

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons Cindy Chavez and Carole Groom and Members
of the Administration Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 10, 2021

Re: Review Air District Advisory Council Recruitment and Selection Process

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Pursuant to Section 40262 of the California Health & Safety Code, the Air District is required to maintain an Advisory Council consisting of seven appointed members “skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution. Members shall be selected to include a diversity of perspectives, expertise and backgrounds.” The Council advises and consults with the Air District Board and the Air Pollution Control Officer on implementation of the Air District’s regulatory authority.

The Advisory Council recruitment was posted to the Air District website in late June 2020, as well as in recruitment sites. Air District staff notified community groups and sent out an eblast to over 1,000 stakeholders. In November 2020, the Board of Directors Ad Hoc Committee on Equity, Access, and Inclusion, together with the community, encouraged recruitment of more diverse candidates. Air District staff continued recruitment efforts throughout the winter and the recruitment closed in February 2021.

Candidates were initially screened by a panel of Air District staff that share subject matter expertise and have worked closely with the Advisory Council in the past. All qualified candidates were then screened by a panel of community members. The top 13 highest ranked candidates of this initial screening were then reviewed and interviewed by a panel comprised of community members and two Board members. The slate of candidates selected by the interview panel was brought before the Board of Directors in July 2021 and four candidates were approved to join the Advisory Council.

DISCUSSION

The extended opening and outreach ensured a more robust pool of applicants. The Air District received twenty-seven (27) applications. Staff were able to coordinate an internal and external review panel, as well as interviews, and the inclusion of Board members and community members in a review and interview process created a more inclusive process.

Staff recognizes; however, that some parts of the outreach and review process could be improved in future recruitment efforts.

In terms of applicants, while this pool was more diverse and representative of the Bay Area, the Air District received only two applicants who identified as Black or African American and one applicant who identified as Hispanic or Latino. In addition, only 37% of applicants identified as female.

Additionally, in the review of applicants, the external review panel and interview panel were composed of the same Board and community members. In the future, staff will work to ensure these panels are distinct to allow for more Board member and community participation in the recruitment process.

Staff recognizes that this more robust outreach, recruitment, and review process will require more Board member engagement earlier in the process and in future recruitments will begin coordinating with Board members sooner.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Terri Levels and Sonam Shah-Paul
Reviewed by: Greg Nudd and Veronica Eady

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons Cindy Chavez and Carole Groom and Members
of the Administrative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 10, 2021

Re: Update on the Employee Engagement and Culture Initiative

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In 2019 the Air District issued a Request for Proposal for services to support the development of strategic initiatives surrounding the Air District's organizational development and employee engagement. The intent of the project is to develop an in-depth understanding of the Air District's existing culture and aid the management team with the development of action plans that will strengthen the Air District's culture, performance, and accountability. To this end, the Air District engaged Illumyx, a culture analytics firm, to:

- Describe and diagnose the Air District's organizational culture to help better determine strengths and opportunities for improvement, especially with employee engagement
- Determine whether the Air District is heading in the direction it wants to go in regard to culture and identify any gaps
- Recommend and co-create specific strategy and action plans management can take to achieve its goals

DISCUSSION

Illumyx used a mixed-method research approach that combined qualitative and quantitative methods to get results that are wide-reaching and meaningful. The primary methods of data collection were interviews, focus groups, and employee surveys. The interviews and focus groups are exceptionally useful in exploring poorly understood and complex phenomenon like an organization's culture. Illumyx used these methods to uncover concerns and issues of participants and identify any unanticipated topics that need to be addressed in a survey of employees. These methods help Illumyx localize its surveys to the specific organizational culture and helps Illumyx strengthen various types of survey validity (e.g., construct validity, face validity, etc.) and reliability. The initial qualitative assessment consisted of:

- 3 kick-off sessions (Deputy Air Pollution Control Officers (DAPCOs), Directors and Officers, and all-staff) with snap polls of culture themes
- 21 interviews with DAPCOs, Directors, Managers, and Employee Association representatives
- 14 employee focus groups that included 90 employees

A convenience sampling strategy was employed for focus group participation. Stratified sampling was also utilized by placing participants in groups with a shared demographic trait such as Division, role, and hierarchical levels. Illumyx coded all captured focus group comments for topics and subtopics and then scored them for sentiment. The results of all these efforts led to the creation of a 106-question (including demographic questions) culture engagement survey, measuring the behaviors, beliefs, and attitudes of the Air District's workforce regarding organizational culture. Organizational culture guides the way individuals and groups behave within an organization—it includes the attitudes, behaviors, beliefs, experiences, vision, mission, purpose, and values reinforced within an organization. While culture is many things, it is fundamentally a socially learned process for creating, communicating, storing, and managing how things get done. Illumyx offered the culture survey to all Air District employees in the summer of 2020 and began statistical data analysis thereafter.

The Air District surpassed the participation goal and achieved a total survey response rate of 86%. Every Division achieved at least a 75% completion rate and five Divisions achieved 100%.

The Air District scored 38 on its Culture Score, employer net promoter score (eNPS), which reflects general employee approval across the organization. Based on Illumyx research, a Culture Score (eNPS) of 40 or higher places an organization into the Workplace of Choice category, which represents an employer that offers a workplace culture and environment that attracts and retains superior talent. Many organizations use Culture Score as a quick snapshot of employee engagement.

Culture Score (eNPS) is measured on a scale from -100 to 100. Scores below -20 indicate significant employee frustrations, while scores above 20 indicate greater employee loyalty and enthusiasm.

After the presentation and review of results, Illumyx worked with the Executive Leadership Team, the Human Resources and Diversity Equity & Inclusion leadership team, and the Cultural Advisory Team (CAT) to identify outcome measures, strategies, and actions. The agreed upon focus areas will form the pillars from which the Air District can develop action plans and strategies that cascade throughout the organization.

The CAT, a team of Air District employees from throughout the organization is focused on implementing and championing culture initiatives and will present their work to date as part of the presentation on this item.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Mark Tang and Sonam Shah-Paul
Reviewed by: Jack P. Broadbent

ADMINISTRATION COMMITTEE
MEETING OF 09/15/2021

**REPORT OF THE TECHNOLOGY IMPLEMENTATION OFFICE
STEERING COMMITTEE**

(Chair: Cindy Chavez)

The Technology Implementation Office Steering Committee met on Friday, September 17, 2021, and approved the minutes of May 28, 2021. This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the Committee participated by teleconference.

The Committee received and discussed the staff presentation *Climate Tech Finance: Potential Statewide Expansion*.

The Committee then received and discussed the staff presentation *Climate Tech Finance: Racial Equity Framework*.

The next meeting of the Technology Implementation Office Steering Committee will be held on Wednesday, December 9, 2021, at 1:00 p.m., via webcast, pursuant to procedures in accordance with Government Code Section 54593. This concludes the Chair Report of the Technology Implementation Office Steering Committee.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Report of the Technology Implementation Office Steering Committee Meeting of
September 17, 2021

RECOMMENDED ACTIONS

The Technology Implementation Office Steering Committee (Committee) recommends Board of Directors (Board) approval of the following:

- A) Statewide Expansion; and
 - 1) None; receive and file.
- B) Climate Tech Finance: Racial Equity Framework.
 - 1) None; receive and file.

BACKGROUND

The Committee met on Wednesday, September 15, 2021, and received the following reports:

- A) Statewide Expansion; and
- B) Climate Tech Finance: Racial Equity Framework.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None; and
- B) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marjorie Villanueva
Reviewed by: Vanessa Johnson

Attachment 14.2A: 09/17/2021 – Technology Implementation Office Steering Committee
Meeting Agenda #3

Attachment 14.2B: 09/17/2021 – Technology Implementation Office Steering Committee
Meeting Agenda #4

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Technology Implementation Office Steering Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 9, 2021

Re: Climate Tech Finance: Potential Statewide Expansion

RECOMMENDED ACTION

None; receive, and file.

BACKGROUND

In 2019, the Air District partnered with the California Infrastructure and Economic Development Bank (IBank) to launch Climate Tech Finance, the Air District's first loan program. The mission of Climate Tech Finance is to reduce greenhouse gases by increasing access to capital to accelerate climate technology commercialization.

The Climate Tech Finance program closed on \$7 million in loans for climate projects in the past year. The program established a roster of over a dozen climate-oriented banks and a growing pipeline of climate projects in need of near-term financing. The program has also seen increasing inbound interest from borrowers and lenders, fueled by imminent regulatory changes and banks' goalsetting around climate investments.

The American Rescue Plan Act of 2021 allocated \$10 billion to the State Small Business Credit Initiative (SSBCI), of which California is slated to receive \$895 million—roughly seven times larger than the previous SSBCI program in 2010. IBank is a primary beneficiary of these funds, which will directly benefit the Climate Tech Finance partnership. There is also an opportunity for IBank to apply for additional SSBCI funding allocated to programs benefiting Socially and Economically Disadvantaged Individuals (SEDI), including climate equity and climate justice programs.

DISCUSSION

The new SSBCI funds represent a significant opportunity to expand the Climate Tech Finance partnership by scaling up the program statewide. Staff have engaged in discussions with IBank on what this expansion could look like, focusing on the following key areas for growth:

- **Scale up technology and impact evaluations.** Administrative funding from SSBCI could facilitate the expansion of Climate Tech Finance technical services statewide. This could be done in collaboration with other air districts. Evaluations can prioritize projects supporting historically underserved communities. This would provide an opportunity to standardize reporting and program evaluation for a statewide funding program.
- **Expand the network of climate entrepreneurs.** Use existing Climate Tech Finance networks and regional Financial Development Corporations in California to scale up outreach to climate startups statewide. Identify projects with shared characteristics for more efficient lender matching.
- **Expand the network of climate lenders.** Increase the inventory of registered climate- and mission-oriented lenders. Take advantage of imminent regulatory changes and banks' goalsetting around climate investments and Community Reinvestment Act.
- **Introduce new financial products.** Based on lender feedback, larger loan guarantees (\$5 million and greater) would significantly increase program pipeline and activity. Partner with IBank and the Governor's Office on the design of the Climate Catalyst program and a potential venture capital fund focused on SEDI and climate equity and justice. Explore opportunities to attract private investment.

Staff are seeking feedback from the Steering Committee on these potential strategies to expand the Climate Tech Finance program statewide.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Derrick Tang

Reviewed by: Damian Breen, Jeff McKay, and Anthony Fournier

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Technology Implementation Office Steering Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 9, 2021

Re: Climate Tech Finance: Racial Equity Framework

RECOMMENDED ACTION

None; receive, and file.

BACKGROUND

Climate Tech Finance is the Air District's first loan program, with the aim of reducing greenhouse gases by increasing access to capital to accelerate climate technology commercialization. In partnership with the California Infrastructure and Economic Development Bank (IBank), the program offers loans and loan guarantees to support businesses that develop or adopt technologies that reduce greenhouse gases. In addition to financial support, the program offers technical evaluations of proposed climate projects and helps match entrepreneurs with potential lenders to support business scale-up.

DISCUSSION

Staff developed a draft racial equity tool (Attachment 1) based on a framework designed by the Government Alliance on Race & Equity (GARE). GARE is a national network of government working to achieve racial equity and advance opportunities for all. This framework has been utilized successfully by cities, counties, and agencies across the country for several years.

By applying the racial equity tool to Climate Tech Finance and other Air District incentive programs, five key themes have emerged as guiding principles for programs striving to achieve racial equity:

1. Collect (the right) data.
 - Collect demographic and socioeconomic data for all programs through applications and reporting.
 - Research the appropriate baseline data for the program, keeping in mind the specific communities impacted by a program (e.g., low-income Bay Area residents, commercial banks, entrepreneurs).
 - Measure and track by race: both funding (\$ spent on whom) and service (time/effort spent on whom) and compare to appropriate baselines. Maintain long-term, longitudinal data collection on demographics and outcomes of programs to understand how they, and any changes made to them, impact communities over time (either positively or negatively).

2. Emphasize technical assistance.

- Technical assistance is equally as important as funding when that service is necessary to help someone access our programs.
- Train staff to apply a racial equity lens to outreach and implementation.
- Explicitly allocate resources to provide technical assistance:
 - Help applicants navigate the variety of grant programs at Air District and other sources.
 - Make sure that communications can be translated and use wording that is easy to understand and avoid too much government terminology.

3. Invest in developing relationships with communities to increase participation.

- Go beyond “Inform”: Outreach is often one-way, yet word-of-mouth is a major driver for programs.
 - Dig deeper in areas where a program is less effective to determine root causes and what could lead to more success.
- Work toward “Empower”: Bring community into program design.
 - Requires explicit allocation of time and resources for developing authentic relationships with specific communities.

4. Explore potential changes to program policies and design.

- Strategies for Climate Tech Finance.
 - Conducted and maintaining customer discovery with entrepreneurs of color, community lenders, and related support organizations.
 - Incorporated in application materials an evaluation of how a project advances racial equity.
 - Collected and maintaining demographic and socioeconomic data from applicants on a voluntary basis, separate from the application process.
 - Offering technical assistance to help businesses prepare finances for bank review.
 - Based on stakeholder feedback, exploring potential program enhancements around local project finance for community health benefits.
- Relate proposed changes to root causes of racial inequity: policies that restrict communities from building wealth and accessing things that are expensive (newer technologies, infrastructure, labor).

5. Establish priorities to scale up work that advances racial equity.

- Government programs inherently provide more benefit to people who are comfortable working with government than to people who are not.
- Create structure to help racial equity work scale:
 - Apply racial equity tool to other programs and processes.
 - Expand trainings for all staff as the first step in a development process.
 - Incorporate racial equity objectives and metrics as core priorities in performance evaluations.
- Enforce priorities by allocating time for racial equity work as part of strategic planning and workload management.

Staff are seeking input from the Steering Committee on this racial equity framework and potential resources, including baseline demographic data, stakeholder connections, and other programs to model.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCC

Prepared by: Derrick Tang
Reviewed by: Damian Breen, Jeff McKay, and Anthony Fournier

Attachment 1: Draft Racial Equity Tool

ATTACHMENT 1 – Draft Racial Equity Tool

Racial Equity Tool

This racial equity tool is designed to integrate explicit consideration of racial equity in decisions, including policies, practices, programs, and budgets. It is both a product and a process. Use of this racial equity tool can help to develop strategies and actions that reduce racial inequities and improve success for all groups.

This racial equity tool:

- proactively seeks to eliminate racial inequities and advance equity;
- identifies clear goals, objectives and measurable outcomes;
- engages community in decision-making processes;
- identifies who will benefit or be burdened by a given decision, examines potential unintended consequences of a decision, and develops strategies to advance racial equity and mitigate unintended negative consequences; and,
- develops mechanisms for successful implementation and evaluation of impact.

Who should use this racial equity tool?

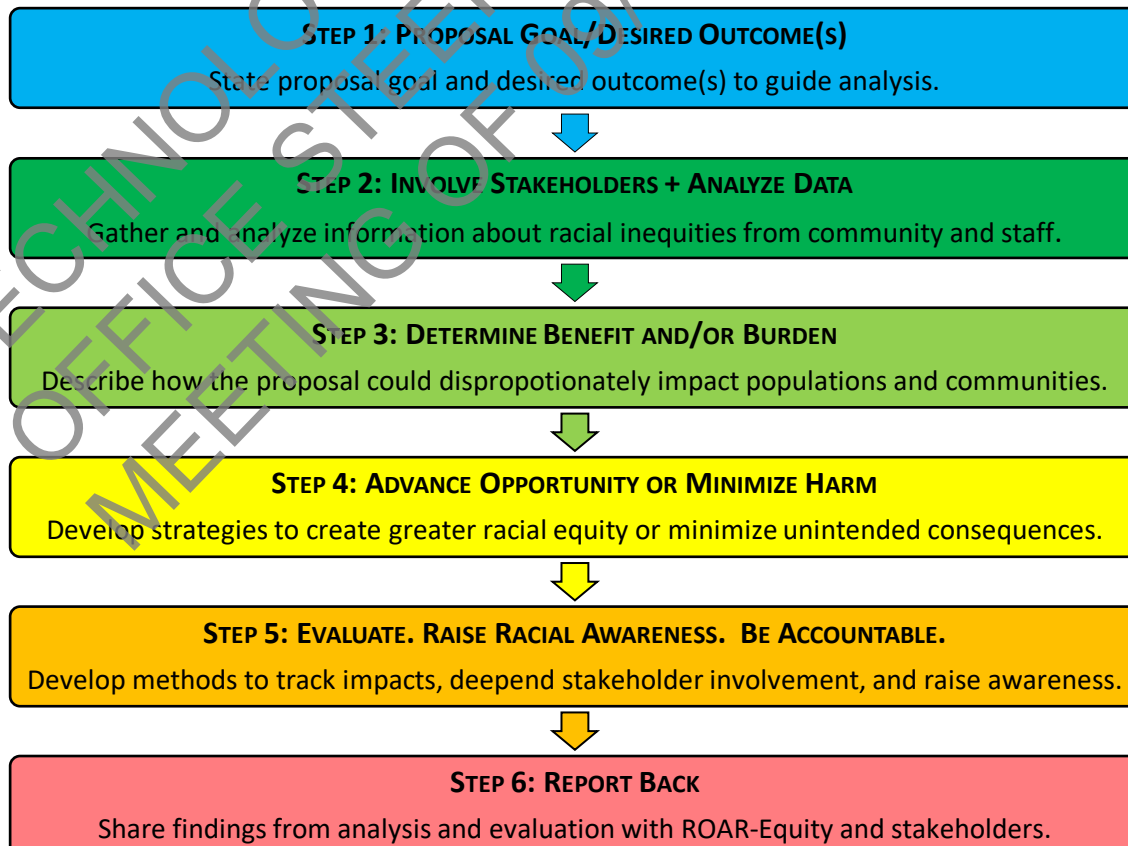
This tool should be used at multiple levels within the agency to increase effectiveness. For example, policy analysts can integrate racial equity into policy development and implementation, and budget analysts can integrate racial equity into budget proposals.

When should you use this racial equity tool?

This tool should be used early and often. Early use of this tool will ensure that decisions are aligned with organizational racial equity goals and outcomes. Using a racial equity tool more than once means that equity is incorporated throughout all phases, from development to implementation and evaluation.

Below are the steps to complete tool:

See Appendix A for a detailed description of steps.



Racial Equity Toolkit Assessment Worksheet

For detailed step by step instructions, examples of community strategies, glossary of common terms, and data sources, please refer to Appendix A-D at the end of this document.

Please answer all applicable questions to the best of your ability.

PREPARED BY		DATE	
PROPOSAL INFORMATION			
AGENCY		DEPARTMENT	
PROPOSAL TITLE			
TYPE	<input type="checkbox"/> Policy	<input type="checkbox"/> Initiative	<input type="checkbox"/> Program <input type="checkbox"/> Budget
DURATION	Start	End	Total
COST		FUND SOURCE	
BRIEF SUMMARY			
STAKEHOLDERS	ORGANIZATION	NAME	TITLE
Internal			
External			

Step 1: Proposal Goal/Desired Outcome(s)

1a. What is the overall goal of this proposal?

1b. What are the racial equity opportunity areas?

[Customize by agency]

- | | | |
|---|--|---|
| <input type="checkbox"/> Children and youth | <input type="checkbox"/> Food access and affordability | <input type="checkbox"/> Jobs |
| <input type="checkbox"/> Community engagement | <input type="checkbox"/> Government practices | <input type="checkbox"/> Public Access |
| <input type="checkbox"/> Contracting equity | <input type="checkbox"/> Health | <input type="checkbox"/> Parks and recreation |
| <input type="checkbox"/> Criminal justice | <input type="checkbox"/> Housing | <input type="checkbox"/> Planning development |
| <input type="checkbox"/> Economic development | <input type="checkbox"/> Land Use | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Education | <input type="checkbox"/> Human services | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Environment | | <input type="checkbox"/> Workforce equity |
| <input type="checkbox"/> Other (specify): | | |

Step 2: Involve Stakeholders and Analyze Data

2a. Which geographic areas are impacted by the proposal?¹

- | | |
|--|---|
| <input type="checkbox"/> All SF Bay Area | <input type="checkbox"/> San Mateo |
| <input type="checkbox"/> Alameda | <input checked="" type="checkbox"/> Santa Clara |
| <input type="checkbox"/> Contra Costa | <input type="checkbox"/> Solano |
| <input type="checkbox"/> Marin | <input checked="" type="checkbox"/> Sonoma |
| <input type="checkbox"/> Napa | <input type="checkbox"/> Other: |
| <input type="checkbox"/> San Francisco | |

SPECIFIC CITIES OR COMMUNITIES IMPACTED:

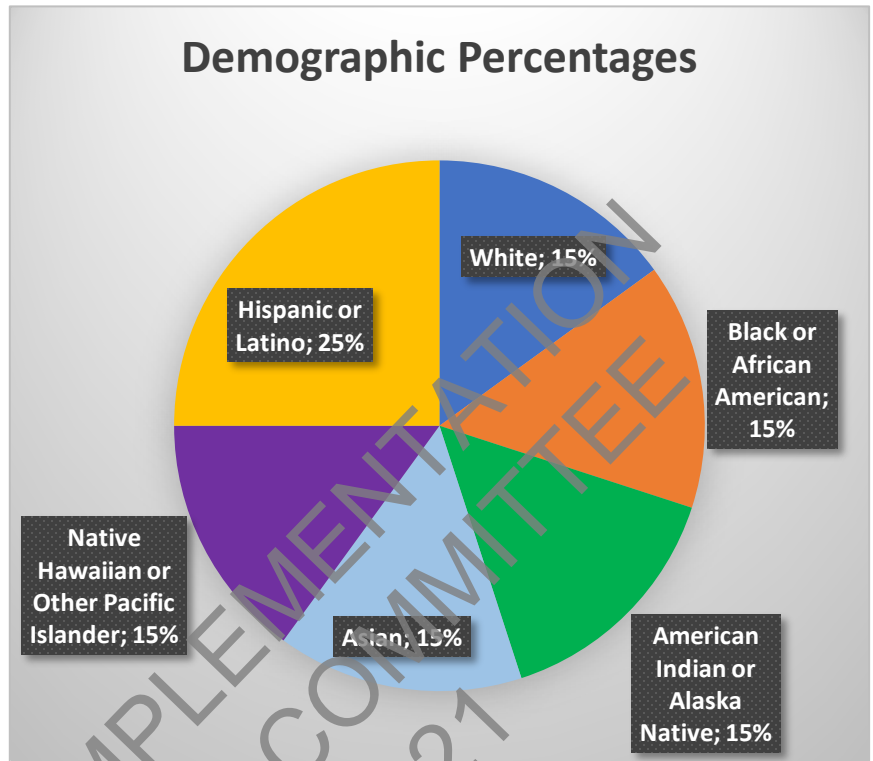
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



¹ See Metropolitan Transportation Commission Open Data Catalog for modeling and GIS data: <http://opendata.mtc.ca.gov/>

2b. What are the racial demographics of those impacted by the proposal?²

Ethnicity	Percent
White	
Black or African American	
American Indian or Alaska Native	
Asian	
Native Hawaiian or Other Pacific Islander	
Hispanic or Latino	



[To create the chart on the right—mouse click on it. Select “Edit Data.” In the pop-up table that appears, input the demographic percentages in Column B. The chart will automatically update.]

2c. How have you identified, involved and informed community members and stakeholders – especially those most impacted – of this proposal?

2d. Which relevant community members or stakeholders are not involved in the discussion and how can they be engaged?

2e. What do data and your conversation with stakeholders tell you about existing racial inequities that influence people’s lives and should be taken into consideration?

2f. What are the root causes or factors creating these racial inequities?

² See US Census Bureau - American FactFinder for online access to population, housing, economic and geographic data: <http://factfinder.census.gov>

Step 3: Determine Benefit and/or Burden

- 3a. Describe who (individuals and/or groups) benefits from or is burdened by this proposal, and how.
- 3b. Which, if any, communities disproportionately benefit or are burdened by this proposal?

Step 4: Advance Opportunity or Minimize Harm

- 4a. Describe recommended strategies to address adverse impacts, prevent unintended negative consequences, and advance racial equity (e.g. potential program, policy, partnership and/or budget/fiscal strategies).
- 4b. What strategies address root causes of inequity listed in question (2f) above?
- 4c. Are the proposed strategies to address inequities (mark all that apply):
- Aligned with mission/values of your Agency?
 - Adequately funded?
 - Adequately resourced with personnel?
 - Adequately resourced with mechanisms (policy, systems) to ensure successful implementation and enforcement?
 - Adequately resourced with provisions to ensure ongoing data collection, public reporting, stakeholder participation and public accountability?
 - Aligned with community-desired outcomes (if applicable)?
- 4d. If any of the above in (4c) are not marked, what resources or actions are needed?

Step 5: Evaluate - Raise Racial Awareness - Be Accountable

- 5a. How will impacts and performance be documented and evaluated? What methodology will be used? How will results be used?
- 5b. What opportunities are there to raise awareness about racial equity related to this proposal?
- 5c. How will you continue to partner and deepen relationships with communities of color to make sure your proposal is working and sustainable?
- 5d. How will you incorporate community feedback into the evaluation (if applicable)?

Step 6: Report Back

- 6a. Share analysis and report responses from Step 5 with leadership and community members (if applicable) involved in development of this worksheet.

Appendix A

STEP #1 - Proposal Goal/Desired Outcome(s)

What is the proposal goal and what are the desired results and outcomes?

Develop a clear description of the policy, program, practice, or budget decision (referred to as “proposal” in the remainder of these steps).

What is your desired impact or result?

We encourage you to be clear about the changes the proposal seeks to make and intended results. Results are the improvements made at the community, locality or regional scale.

Community indicators are how we measure impact in the community and should be disaggregated by race considering how race plays into the data collection and results – something to this effect).

Outcomes are at the agency, department, or program level. Performance measures are used to monitor implementation of actions. Actions should influence community indicators and contribute to desired results. Performance measures respond to three different levels:

- a. Quantity—how much did we do?
- b. Quality—how well did we do it?
- c. Is anyone better off?

When you align community indicators, agency strategies, and performance measures, you maximize the likelihood for impact.

STEP #2 - Involve Stakeholders + Analyze Data

What are the data? What does the data tell us?

Measurement matters. Organizational commitment to racial equity becomes focused and measurable with the use of data. Using relevant and reliable data appropriately will allow you to assess whether you are achieving desired impacts and what improvements are needed. Data also provides the opportunity to create measurable strategies and actions that are grounded in community conditions.

Often data are available, but not used to inform strategies and track results. For this tool, data collection should occur at the community and organizational level. Data should include 1) community indicators and desired results, and 2) specific program or policy outcomes and performance measures.

In analyzing data, it is important to include qualitative data and experiences in the community. Sometimes data can describe communities as a homogeneous group, without respect to subpopulations with differing socioeconomic and cultural experience. Using this data could perpetuate historic inequities. Missing data can demonstrate that certain communities, issues or inequities have historically been overlooked. For us to have impact in the community, we must form partnerships and assess cumulative impacts.

Step #3 - Determine Benefit and/or Burden

Who benefits from or will be burdened by your proposal? What are your strategies for advancing racial equity or mitigating unintended consequences?

Based on your data stakeholder input, you should step back and assess your proposal and think about complementary strategies that will help advance racial equity.

You should be able to answer the following questions:

1. Given what you have learned from the data and stakeholder involvement, how will the proposal increase or decrease racial equity? Who would benefit from or be burdened by your proposal?
2. What are potential unintended consequences? What are the ways in which your proposal could be modified to enhance positive impact or reduce negative impacts?
3. Are there complimentary strategies that you can implement? What are ways in which existing partnerships could be strengthened to maximize impact in the community? (if applicable)
4. Are the impacts aligned with the community outcomes? (if applicable)

STEP #4 - Advance Opportunity or Minimize Harm

What is your plan for implementation?

Now that you know what the unintended consequences, benefits, and impacts of the proposal and have developed strategies to mitigate unintended consequences or expand impact, it is important to focus on thoughtful implementation.

Each question within this section should be carefully considered before moving forward. Root causes of inequities should be factored in if long-term solutions wish to be attained.

Ensuring that your project aligns with the mission/values of your Agency is a critical first step. Without adequate resources and funding many proposals will fail.

If these support mechanisms are not in place initially, identify ways or solutions to address.

STEP #5 - Evaluate - Raise Racial Awareness - Be Accountable

How will you ensure accountability, communicate, and evaluate results?

Just as data was critical in analyzing potential impacts of the program or policy, data will be important in seeing whether the program or policy has worked. Developing mechanisms for collecting data and evaluating progress will help measure whether racial equity is being advanced.

Accountability entails putting processes, policies, and leadership in place to ensure that program plans, evaluation recommendations, and actions leading to the identification and elimination of root causes of inequities are actually implemented.

How you communicate about your racial equity proposal is also important for your success. Poor communication about race can trigger implicit bias or perpetuate stereotypes, often times unintentionally. Use a communications tool, such as the Center for Social Inclusion's [Talking About Race Right Toolkit](#) to develop messages and a communications strategy.

Racial equity tools should be used on an ongoing basis. Using a racial equity tool at different phases of a project will allow new opportunities for advancing racial equity to be identified and implemented. Evaluating results means that you will be able to make any adjustments to maximize impact.

You should be able to answer the following questions about accountability and implementation:

1. How will impacts be documented and evaluated? Are you achieving the anticipated outcomes? Are you having impact in the community (if applicable)?
2. What are your messages and communication strategies that will help advance racial equity?
3. How will you continue to partner and deepen relationships with communities to make sure your work to advance racial equity is working and sustainable for the long haul?

Step #6 - Report Back

Share the findings from your analysis and evaluation with your leadership team, ROAR-Equity team, and key stakeholders. These groups can review your final proposal and assist you anytime during the process. The goal is to create projects and proposals that can reduce inequities and have positive impacts for all.

TECHNOLOGY IMPLEMENTATION
OFFICE STEERING COMMITTEE
MEETING OF 09/17/2021

Appendix B

Community Engagement Continuum

Adapted from *Community Engagement Guide: A tool to advance Equity & Social Justice in King County, Washington*.

The community engagement continuum provides details, characteristics and example strategies for five levels of community engagement. The continuum shows a range of actions from agency-led information sharing that tends to be shorter-term to longer-term community-led activities. The continuum can be used for both simple and complex efforts. As a project develops, the level of community engagement may need to change to meet changing needs and objectives.

The level of engagement will depend on various factors, including program goals, legal requirements, time constraints, level of program and community readiness, and capacity and resources. There is no one right level of engagement, but considering the range of engagement and its implications on your work is a key step in promoting community participation and building community trust. Regardless of the level of engagement, the role of both the regional agencies and community partners as part of the engagement process should always be clearly defined.

Levels of Engagement				
Agency Informs Agency initiates an effort, coordinates with departments and uses a variety of channels to inform community	Agency Consults Agency gathers information from the community to inform agency-led projects	Agency engages in dialogue Agency engages community members to shape priorities and plans	Agency and community work together Community and agency share in decision-making to co-create solutions together	Community directs action Community initiates and directs strategy and action with participation and technical assistance from agency
Characteristics of Engagement				
<ul style="list-style-type: none"> Primarily one-way channel of communication One interaction Term-limited to event Addresses immediate need of agency and community 	<ul style="list-style-type: none"> Primarily one-way channel of communication One to multiple interactions Short to medium term Shapes and informs agency projects 	<ul style="list-style-type: none"> Two-way channel of communication Multiple interactions Medium to long-term Advancement of solutions to complex problems 	<ul style="list-style-type: none"> Two-way channel of communication Multiple interactions Medium to long-term Advancement of solutions to complex problems 	<ul style="list-style-type: none"> Two-way channel of communication Multiple interactions Medium to long-term Advancement of solutions to complex problems
Example Strategies				
Media releases, brochures, pamphlets, outreach to vulnerable populations, ethnic media contacts, translated information, staff outreach to residents, new and social media	Focus groups, interviews, community surveys	Forums, advisory boards, stakeholder involvement, coalitions, policy development and advocacy, workshops, community-wide events	Co-led community meetings, advisory boards, coalitions and partnerships, policy development and advocacy	Community-led planning efforts, community-hosted forums, collaborative partnerships, coalitions, policy development and advocacy

Appendix C

Glossary and Common Equity Terms

Accountable: Responsive to the needs and concerns of the public, including people of color, historically underrepresented communities and those impacted by the agency's proposal.

Bias: Prejudice toward one group and its members relative to another group.

Contracting Equity: Efforts to achieve equitable racial outcomes in expenditure of resources, and rendering of goods and services. Investments in contracting, consulting, and procurement that provide equal benefits to the communities a jurisdiction serves.

Community Indicator: The means by which we measure how a community or groups of individuals fare on socioeconomic, environmental, and other conditions.

Community Outcomes: The specific result the proposal seeks to achieve that advances racial equity.

Diversity: Individual differences (e.g. personality, language, learning styles and life experiences) and social differences (e.g. race, ethnicity, class, gender, gender identity, sexual orientation, sexual identity, country of origin and ability status, as well as cultural, political, religious or other affiliations).

Cultural Competence: The state of having and applying knowledge and skill in specific areas: awareness of one's own cultural worldview; recognition of one's attitudes toward cultural differences; realization of different cultural practices and worldviews; and thoughtfulness in cross cultural interaction. Over an extended period of time, individuals and organizations develop the wisdom and capability to: 1) Examine critically how cultural worldviews influence perceptions of power, dominance and inequality; and 2) Behave honorably within the complex dynamics of differences and commonalities among humans, groups and systems.

Explicit Bias: Biases that people are aware of and that operate consciously. They are expressed directly.

Equity: The creation of opportunities for historically underrepresented populations to have equal access to opportunities and resources that are capable of closing the demographic disparities in all spheres of social functioning.

Equity Result: The equity outcome the proposal aims to achieve in the community.

Implicit Bias: Biases people are usually unaware of and that operate at the subconscious level. Implicit bias is usually expressed indirectly.

Inclusion: An inclusive organization creates practices that value, engage, and support individuals to promote understanding, connection, and a collaborative culture in a diverse workforce.

Inclusive Outreach and Public Engagement: Processes inclusive of people of diverse races, cultures, and socioeconomic status. Access to information, resources and civic processes so community members can effectively engage in the design and delivery of public services.

Individual Racism: Pre-judgment, bias, discrimination, stereotypes about an individual or group based on race. The impacts of racism on individuals including white people internalizing privilege and people of color internalizing oppression.

Institutional Racism: Organizational programs, policies, practices, and procedures that work to the benefit of the majority racial/ethnic group and to the detriment of the minority racial/ethnic group, often unintentionally or inadvertently.

Performance Measure: A quantifiable indicator used to assess how well an organization is achieving its desired objectives. Performance measures respond to three different levels: 1) Quantity—how much did we do?; 2) Quality—how well did we do it?; and 3) Is anyone better off? A mix of these types of performance measures is contained within the recommendations. Performance measures are at the county, department, or program level.

Proposal: The agency policy, practice, program, budget or decision under evaluation using the racial equity tool.

Racial Equity: When social, economic and political opportunities are not predicted based upon a person's race. Race can no longer be used to predict life outcomes and outcomes for all groups are improved.

Stakeholders: People or entities potentially interested in the agency's proposal. Examples might include: specific racial/ethnic groups, other institutions like the Housing Authority, schools, community-based organizations, employees, unions, etc.

Structural Racism: The interplay of policies, practices and programs of multiple institutions which reinforce ways to perpetuate racial group inequity.

Workforce Equity: The workforce of a jurisdiction reflects the diversity of its residents, including across the breadth (functions and departments) and depth (hierarchy) of government.

Appendix D

Data Sources

Federal

- American FactFinder: The US Census Bureau's main site for online access to population, housing, economic and geographic data from 2000 onward: <http://factfinder.census.gov>
- US Census Quick Facts: <https://www.census.gov/quickfacts/> Center for Disease Control (CDC): <http://wonder.cdc.gov>
- [National Historical Geographic Information System \(NHGIS\)](#): A data project run by the Minnesota Population Center at the University of Minnesota to provide aggregate census data and GIS-compatible boundary files for the United States from 1790 and onward.
- [Integrated Public Use Microdata Series \(IPUMS\)](#): Harmonized historical population data at the individual-level (microdata) provided by the Minnesota Population Center at the University of Minnesota.
- [Yearbook of Immigration Statistics](#): Reports and tables of legal migration from the Department of Homeland Security.
- [US Environmental Protection Agency EJSCREEN](#): A mapping tool and dataset for evaluating environmental justice concerns which uses 11 indicators for environmental hazard and 6 demographic indicators, including race.

State of California

- Department of Finance Demographics Research Unit is designated as the single official source of demographic data for state planning and budgeting. Includes data reports, research on [Equal Employment Opportunity Data](#), [Immigration and Migration Population Projections](#), more
- American FactFinder and the US Census website also have state data: <http://factfinder.census.gov>
- CalEPA and OEHHA CalEnviroScreen

San Francisco Bay Area Region

- Metropolitan Transportation Commission: Demographic data, Communities of Concern (Coc): <http://opendata.mtc.ca.gov/>
 - Communities of Concern (CoC) represent geographical areas (census tracts) which inform the equity analysis of Plan Bay Area—the region's transportation plan and sustainable communities strategy. CoC designation is based on six characteristics of disadvantage, including race.
- Bay Area Census: <http://www.bayareacensus.ca.gov/>
- SF Bay Conservation and Development Commission (BCDC) Community Indicators for Flood Risk: <http://www.adaptingtorisingtides.org/maps-and-data-products/>
 - Community Indicators for Flood Risk are a data product of the BCDC [Adapting to Rising Tides Program](#). The Indicators consider geographical areas (census block groups) where communities exhibit characteristics which may make them more vulnerable to a flood event of sea level rise. The characteristics are comprised of 10 socioeconomic factors, including race.
- BAAQMD CARE Communities: <http://www.baaqmd.gov/plans-and-climate/community-air-risk-evaluation-care-program>
- BAAQMD Clean Air Plan: <http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans>

COMMITTEE SUMMARY REPORT OF THE RICHMOND AREA COMMUNITY EMISSIONS REDUCTION PLAN STEERING COMMITTEE

The Richmond Area Community Emissions Reduction Plan Steering Committee met on Monday, September 20, 2021, and approved the minutes of August 20, 2021. This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the Committee participated by teleconference.

The Committee then received the staff presentation *Final Charter Revision Process and Adoption*. The Steering Committee discussed the charter development process since June 2021, and displayed the tracked changes to the proposed charter language that the Committee members have made thus far. The Committee made final revisions and adopted the charter to govern the Community Steering Committee through the development of the Community Emission Reduction Plan process.

The Committee then received and discussed the staff presentation *Co-Creating the Community Description*, which explained the need and purpose for the Community Description in the Community Emissions Reduction Plan, summarized the current draft outline of the Community Description, and discussed how the community would like to co-create the Community Description. Committee members responded to the following prompts: “How can we best integrate community history and perspectives”; “How can we best incorporate historic and current land use patterns”; and “How do you want to co-create the Community Description?” During this item, four Committee members volunteered to serve on the newly formed Community Description Ad Hoc Committee.

[OVER]

Finally, the Committee received and discussed the staff presentation *Discussion on Process for Filling Vacant Seats*, which addressed the options available for replacing vacant seats (of which there are currently three), how to make recommendations to the Air District Board on whether to re-open the application process, and what gaps need to be addressed with the selection of new members.

The next meeting of the Richmond Area Community Emissions Reduction Plan Steering Committee will be held on Monday, October 18, 2021, at 5:30 p.m., via webcast, pursuant to procedures in accordance with Government Code Section 54593. This concludes the Chair Report of the Richmond Area Community Emissions Reduction Plan Steering Committee for meeting of September 20, 2021.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Report of the Richmond Area Community Emissions Reduction Plan Steering
Committee Meeting of September 20, 2021

RECOMMENDED ACTIONS

The Richmond Area Community Emissions Reduction Plan Steering Committee (Committee) recommends Board of Directors (Board) approval of the following:

- A) Charter Adoption and Selection Process;
 - 1) The Committee will vote to adopt the final Path to Clean Air Charter.
- B) Co-Creating the Community Description; and
 - 1) None; receive and file.
- C) Discussion on Process for Filling Vacant Seats.
 - 1) None; receive and file.

BACKGROUND

- A) Charter Adoption and Selection Process;
- B) Co-Creating the Community Description; and
- C) Discussion on Process for Filling Vacant Seats.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None;
- B) None; and
- C) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marjorie Villanueva

Reviewed by: Vanessa Johnson

Attachment 15.2A: 09/20/2021 – Richmond Area Community Emissions Reduction Plan Steering
Committee Meeting Agenda #3

Attachment 15.2B: 09/20/2021 – Richmond Area Community Emissions Reduction Plan Steering
Committee Meeting Agenda #4

Attachment 15.2C: 09/20/2021 – Richmond Area Community Emissions Reduction Plan Steering
Committee Meeting Agenda #5

AGENDA: 3

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Members of the Path to Clean Air Community Steering Committee

From: Veronica Eady
Senior Deputy Executive Officer of Policy & Equity

Date: September 9, 2021

Re: Charter Development and Adoption Process

RECOMMENDED ACTION

The Committee will vote to adopt the final Path to Clean Air Charter.

BACKGROUND

The Draft Path to Clean Air Community Steering Committee Charter (AGENDA: 3A – ATTACHMENT) is based on the Charter developed by the Community Design Team for the Community Air Monitoring Program, which was adopted in April 2019 and amended in May 2019. Elements of the Charter were clarified when the Air District Board voted in a resolution to form a Community Steering Committee subject to Brown Act regulations in December 2020, and further specifies rules around Committee size, membership, and voting structure in meetings in 2021.

DISCUSSION

The Committee will review, revise and adopt a charter to govern the Community Steering Committee through the development of the Community Emission Reduction Plan process.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Veronica Eady
Senior Deputy Executive Officer of Policy & Equity

Prepared by: Kevin Qip
Reviewed by: Veronica Eady

Attachment 3A: Draft Path to Clean Air Community Steering Committee Charter

AGENDA 3A - ATTACHMENT

The Path to Clean Air in the Richmond-North Richmond-San Pablo Area Community Steering Committee Charter and Participation Agreement

Statement of Purpose

The ~~purpose-~~ purpose/goal of The Path to Clean Air Community Steering Committee in the Richmond-San Pablo-North Richmond Area is to remedy persistent air pollution exposures and reduce health risks and inequities associated with poor air quality for people ~~excessive local health risks to people~~ who live, work, and play in and around the Richmond-San Pablo-North Richmond study area. This purpose/goal ~~objective~~ will be accomplished by identifying community prioritized priorities, specific improvements, and by working with BAAQMD staff to determine effective implementation strategies goals, and implementing strategies to reduce air pollution exposures in this study area.

Assembly Bill 617 (Garcia, C., Chapter 136, Statutes of 2017) is a State-mandated program that uses a community-based approach to reduce local air pollution in communities around the State that continue to experience disproportionate impacts from air pollution. The Richmond-North Richmond-San Pablo area's Path to Clean Air is the region's first effort under the AB 617 program to develop a Community Air Monitoring Plan (CAMP) to look for, identify, and understand areas of elevated air pollution exposure in Richmond, North Richmond, and San Pablo communities. The CAMP Community Steering Committee adopted the branding and name, "Path to Clean Air." With the completion of the Community Air Monitoring Plan the Path to Clean Air is beginning the next phase of the AB 617 Program, developing a Community Emissions and Exposure Reduction Plan (CERP). On March 3, 2021, the Air District Board of Directors voted to appoint a 31-community member ~~Community~~ Steering Committee to help guide the development of a Community Emissions Reduction Plan for the Richmond-North Richmond-San Pablo area.

1. Steering Committee Activities

Path to Clean Air Richmond-North Richmond-San Pablo Community Steering Committee members will participate in the development of the CERP and will act as liaisons for ~~between~~ between the community, and stakeholders, and BAAQMD staff and Board, they ~~represent - the, represent, and policy makers~~ by disseminating information, making decisions and providing input as appropriate. Steering Committee members will also receive regular updates on the implementation of the Community Air Monitoring Plan. The Richmond-North Richmond-San Pablo area CERP will need to be completed in by ~~February~~ 2022 with plan implementation beginning in 2022. The CSC will be subject to the California Brown Act (California Government Code sections 54950, et seq.) and in

AGENDA 3A - ATTACHMENT

conducting its meetings and deliberations, the CSC shall follow Robert's Rules of Order as nearly as possible.

2. Steering Committee Objectives

The Path to Clean Air Richmond-North Richmond-San Pablo Community Steering Committee will serve as outlined in the Statement of Purpose. The Steering Committee will develop a Community Emissions and Exposure Reduction Plan that identifies and develops strategies to address areas of elevated air pollution exposure in the Richmond-North Richmond-San Pablo area. The Steering Committee will disseminate information and consider input from the broader community. The goal is for the implementation of the CERP to begin in 2022. After the CERP has been developed, the Steering Committee Co-chairs may elect to change the meeting schedule as needed to best support and provide guidance on implementation and develop progress reports, with the consent of a majority of the CERP Steering Committee.

3. Membership

Community Steering Committee (CSC) members will represent people who live in the Richmond-North Richmond-San Pablo area and other interested stakeholders affiliated with various sectors. These sectors can include community-based organizations, youth organizations, non-profits, faith leaders, education, government, health, and business representatives from the Richmond-North Richmond-San Pablo area. The CSC shall be comprised of an odd number of members between 27 and 31, with a minimum of 70% of members residing within the initial study area, and with two non-voting members representing local businesses and industrial companies (not business associations).

4. Roles and Responsibilities

Co-chairs: The voting members of the Community Steering Committee shall select two Co-chairs from among the CSC members, and the voting members of the CSC shall select a Board Liaison from among the CSC members who shall provide informational reports to the Board of Directors. The Co-chair team will be responsible for developing meeting agendas, and for leading Steering Committee meetings.

Community Steering Committee Members: Steering Committee members will be responsible for assisting Air District and Co-chairs in developing the Richmond-North Richmond-San Pablo CERP, in accordance with the California Air Resources Board's Community Air Protection Blueprint¹. They will identify the scope of issues to be considered; inform technical analyses to understand these issues; co-develop with the Bay

AGENDA 3A - ATTACHMENT

Area Air Quality Management District strategies to solve the issues identified; and ensure continued accountability for CERP implementation.

~~*Co-chairs:* The voting members of the Community Steering Committee shall select two Co-chairs from among the CSC members, and the voting members of the CSC shall select a Board Liaison from among the CSC members who shall provide informational reports to the Board of Directors. The Co-chair team will be responsible for developing meeting agendas, and for leading Steering Committee meetings.~~

5. Standard Steering Committee Meeting Procedures

~~*Deliberation and Consensus:* Decision-making will not proceed without a quorum (quorum = ½) of voting members. Steering Committee members are expected to attend a minimum of thirteen (13) of the possible eighteen (18) Steering Committee meetings (in their entirety) throughout the course of the CERP development and implementation. Community summits and town hall meetings may also be scheduled through the development of the plan and implementation, which members should also attend.~~

Steering Committee members may choose to recuse themselves from decisions at any time. Members **must** recuse themselves from decisions where there is a conflict of interest. The Political Reform Act requires that, “No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest” (Government Code Section 87100 et seq). ~~Steering Committee members who participate in this process are expected to sign the *Path to Clean Air in the Richmond North Richmond San Pablo Area Steering Committee Participation Agreement* (Page 6 of this Charter) which outlines the expected conduct of all Steering Committee members.~~

~~*Open Meetings:* The Community Steering Committee meetings must be open to the public, with materials publicly available in advance. Stakeholder input is welcome and encouraged.~~

~~*Meeting Schedule and Agendas:* Co-chairs and BAAQMD staff will develop meeting agenda. Individual Steering Committee members have the right to submit items for placement on the agenda.~~

Should the co-chairs or BAAQMD staff deny the member’s request, the denial and the reasons for the denial must be submitted in writing to the requesting member and the entire Steering Committee no later than 6 business days in advance of the meeting for which the item has been requested. Failure to do so will cause the request to be automatically on the agenda of the meeting requested.

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AGENDA 3A - ATTACHMENT

Steering Committee agendas and meeting materials (including Spanish translated) will be posted on the District's website at least 72 calendar hours prior to the meeting. Meeting minutes will also be posted on the District's website.

Ad-hoc Committees Members who wish to be further involved may choose to participate in ad-hoc committees.

6. Amendments

Amendments to this charter of the Steering Committee of the Path to Clean Air in the Richmond-San Pablo Area Partnership Agreement require approval by a majority quorum of voting members present.

7. Accessibility/~~Accommodation~~

The Steering Committee meetings and other outreach events associated with the committee must be held at transit accessible facilities that can accommodate members covered by the Americans with Disabilities Act.

8. Accommodation

Language interpretation services will be provided as needed with a minimum of (six) 6 business days in advance of the request.

98. Dissemination of Materials

All documents, materials, and correspondence, produced by or submitted to CERP, Steering Committee, Air District staff, or facilitators, will be considered public information records and subject to the California Public Records Act regulations and procedures for disclosure and transparency.

109. Website

BAAQMD website will be updated twice a month, in preparation for the next Steering Committee meeting (uploaded material for discussion) and after each Steering Committee meeting, to include meeting summaries, notes, and optimally meeting recordings.²²

114. Participation Principles

The following are principles, goals, and expectations of conduct for Steering Committee members. Steering Committee members will work collectively and cooperatively with all stakeholders within the community—people who live in the study area, businesses and organizations, youth groups, schools, local, regional and State governments, health agencies and

AGENDA 3A - ATTACHMENT

faith-based organizations—to ensure all represented parties are heard and can agree on an outcome that protects public health. This will include:

a. **Providing strategic guidance, vision, and oversight**, such as:

- Informing the development of the Richmond-North Richmond-San Pablo Area Community Emissions Reduction Plan
- Tracking progress of the work using agreed-upon indicators at Steering Committee and subcommittee levels.
- Improving data collection and reporting for community education using data to to inform future development of emission and exposure reduction strategies.
- Identifying effective goals to bring about reduced health risk in the Richmond-North Richmond-San Pablo Area study area.

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b. **Providing leadership and accountability** by:

- Identifying obstacles to achieving the goal and developing solutions to overcome them.
- Considering how my own organization or those in my network can align to the common goals and principles of the Steering Committee.
- Serving as a vocal champion of the program's collective impact and effort in the communities.
- Working towards consensus while recognizing that not everyone will agree on every issue and to resolve conflicts in a positive, swift and constructive manner.
- Approaching a committee member that misses more than 4 meetings. The committee co chairs will meet with the specific member to assess their continuation as a member of the steering committee on a case-by-case basis.

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c. **Play an active role** by:

- Attending a minimum of 70% of Steering Committee meetings (in their entirety) throughout the course of the CERP development and implementation.
- Attending community summits and town hall meetings as they are scheduled through the development of the plan and implementation.
- Participating according to the Charter. Provision will be made for members to participate electronically.
- Reviewing materials prior to meetings and coming prepared for engaged discussion, active listening, and respectful dialogue.
- Committing to scheduled Steering Committee meetings and a few hours of preparation in between. Attending occasional community town hall meetings to share the work of the Steering Committee.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Members of the Path to Clean Air Community Steering Committee

From: Veronica Eady
Senior Deputy Executive Officer of Policy & Equity

Date: September 9, 2021

Re: Co-Creating the Community Description

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Building on a previous Air District staff presentation on some of the community characteristics that the Air District has gathered, Air District staff will discuss with the Steering Committee the need and purpose of the Community Description and will ask for input on how the Steering Committee would like to co-create the Community Description for the Community Emissions Reduction Plan. Air District staff will also summarize the current draft outline of the Community Description, included below:

- I. Location
- II. Community History – Then and Now
- III. Land Use: Past and Present
- IV. Community Perspective
- V. Air Quality in Community Today
- VI. Population Characteristics:
- VII. Health Conditions:
 - a. Introduction
 - b. Social determinants of health
 - c. Literature review
 - d. Health data

DISCUSSION

The Steering Committee will reflect on the need and purpose of the Community Description and will discuss how best to describe the community and co-create the Community Description in the Community Emissions Reduction Plan. The Steering Committee will also discuss the current draft outline of the Community Description, to be summarized in the Air District presentation, and outlined in detail in this memo.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Veronica Eady
Senior Deputy Executive Officer of Policy & Equity

Prepared by: Kelly Malinowski
Reviewed by: Veronica Eady

PATH TO CLEAN AIR COMMUNITY
STEERING COMMITTEE MEETING
OF 9/20/2021

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Members of the Path to Clean Air Community Steering Committee

From: Veronica Eady
Senior Deputy Executive Officer of Policy & Equity

Date: September 9, 2021

Re: Discussion on Process for Filling Vacant Seats

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Committee will receive a presentation on the options available for replacing vacant seats and make recommendations to the Air District Board on whether to re-open the application process and what gaps need to be addressed with the selection of new members.

DISCUSSION

The Steering Committee deliberate in the discussion, on whether to open up the application process to new members, or only to candidates who previously applied in the first round. The Steering Committee will also identify gaps in representation or areas where the Committee would benefit by having new members who have lived experience or backgrounds that would benefit their work.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Veronica Eady
Senior Deputy Executive Officer of Policy & Equity

Prepared by: Kevin Olp
Reviewed by: Veronica Eady

**COMMITTEE CHAIR SUMMARY REPORT OF THE MOBILE SOURCE
AND CLIMATE IMPACTS COMMITTEE**

(Co-Chairs: David Canepa; Katie Rice)

The Mobile Source and Climate Impacts Committee met on Thursday, September 23, 2021, and approved the minutes of June 24, 2021. This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the Committee participated by teleconference.

The Committee reviewed and discussed the presentation *Update on Plan Bay Area 2050*, given by James Choe from the Metropolitan Transportation Commission/Association of Bay Area Governments.

The Committee then reviewed and discussed the staff presentation *Update on California Environmental Quality Act Thresholds of Significance for Greenhouse Gas Emissions*.

Finally, the Committee reviewed and discussed the staff presentation *Projects and Contracts with Proposed Awards Over \$100,000*. The Committee recommends the Board:

1. Approve recommended projects with proposed grant awards over \$100,000;
and
2. Authorize the Executive Officer/Air Pollution Control Officer to enter into all necessary agreements with applicants for the recommended projects.

The next meeting of the Mobile Source and Climate Impacts Committee will be held on Thursday, October 28, 2021, at 9:30 a.m. via webcast, pursuant to procedures in accordance with Government Code Section 54593. I move that the Board approves the Committee's recommended actions. This concludes the Chair Report of the Mobile Source and Climate Impacts Committee.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Report of the Mobile Source and Climate Impacts Committee Meeting of June 24, 2021

RECOMMENDED ACTIONS

The Mobile Source and Climate Impacts Committee (Committee) recommends Board of Directors (Board) approval of the following:

- A) Plan Bay Area 2050 Update;
 - 1) None; receive and file;
- B) Update on California Environmental Quality Act (CEQA) Thresholds of Significance for Greenhouse Gases;
- C) ACTION REQUESTED: Projects and Contracts with Proposed Grant Awards Over \$100,000
 - 1) Approve recommended projects with proposed grant awards over \$100,000 as shown in Attachment 1; and
 - 2) Authorize the Executive Officer/APCO to enter into all necessary agreements with applicants for the recommended.

BACKGROUND

The Committee met on Thursday, May 27, 2021, and received the following reports:

- A) Plan Bay Area 2050 Update;
- B) Update on California Environmental Quality Act (CEQA) Thresholds of Significance for Greenhouse Gases; and
- C) Projects and Contracts with Proposed Grant Awards Over \$100,000

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None. Staff resources to support PBA 2050 implementation are included in the FYE 2022 budget;
- B) None. Resources to update and implement the CEQA Guidelines are included in the FYE 2022 budget; and
- C) None. The Air District distributes the CMP, MSIF, Community Health Protection Grant Program, and TFCA funding to project sponsors on a reimbursement basis. Funding for administrative costs is provided by each funding source.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Justine Buenaflor
Reviewed by: Vanessa Johnson

Attachment 16.2A: 09/23/2021 – Mobile Source and Climate Impacts Committee Meeting Agenda
#3

Attachment 16.2B: 09/23/2021 – Mobile Source and Climate Impacts Committee Meeting Agenda
#4

Attachment 16.2C: 09/23/2021 – Mobile Source and Climate Impacts Committee Meeting Agenda
#5

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons David J. Canepa and Katie Rice, and Members
of the Mobile Source and Climate Impacts Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 16, 2021

Re: Plan Bay Area 2050 Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In 2008, the California State Legislature passed Senate Bill (SB) 375 (Chapter 728, Statutes of 2008), which directs the California Air Resources Board (CARB) to develop progressively stringent regional targets for reducing greenhouse gases (GHGs) from passenger vehicles.

To ensure that cities and counties are involved in developing effective plans to meet these targets, SB 375 requires Metropolitan Planning Organizations (MPOs) to include a Sustainable Communities Strategy (SCS) in the regional transportation plan that demonstrates how the region will meet the GHG targets. The SCS coordinates the regional housing needs allocation (RHNA) process and the regional transportation planning process and must include land use, housing, and transportation strategies that, if implemented, would allow the region to meet the GHG targets.

The Metropolitan Transportation Commission (MTC) is the MPO for the San Francisco Bay Area, and the Association of Bay Area Governments (ABAG) is responsible for administering the RHNA process in the region. The region's first SCS, Plan Bay Area, was adopted in 2013, and the first revision, Plan Bay Area 2040, was adopted in 2017. Plan Bay Area 2050 (PBA 2050) is MTC/ABAG's current iteration of the regional SCS required by SB 375. CARB's GHG emissions reduction target for PBA 2050 is a 19% reduction in per capita GHG emissions from passenger vehicles relative to 2005 levels. Development of the plan kicked off in summer of 2019, and is ongoing, with adoption of the plan expected in fall 2021. The plan is made up of two major elements, the Blueprint and the Implementation Plan, and will undergo environmental review in an Environmental Impact Report (EIR).

The Implementation Plan focuses on short-term actions that MTC/ABAG, along with regional partners, can take over the next five years to begin to realize the vision of PBA 2050. The Implementation Plan development process is intended to be collaborative and engage Bay Area residents, local governments, civic organizations, non-profits and other stakeholders to identify actions to tackle the shared challenges in the region.

Equity is a crosscutting issue that MTC/ABAG have focused on throughout the development of PBA 2050. They have incorporated equity into the Blueprint strategies through engaging with the Regional Equity Working Group (REWG) and through focus groups of historically underrepresented community members, facilitated by community-based organizations. In addition to incorporating equity in the development of the Blueprint strategies, MTC/ABAG developed an Equity Analysis Report for the draft PBA 2050, detailing how equity is woven into each strategy. The report also estimates the share of plan funding that is allocated toward investments benefiting underserved communities.

The final proposed PBA 2050 and the Final EIR are expected to be presented for approval by MTC and the ABAG Executive Board on October 21, 2021.

DISCUSSION

The 35 Blueprint strategies approved by MTC and the ABAG Executive Board in January 2021 form the backbone of PBA 2050. The Blueprint includes a broad set of strategies that are aimed at making the Bay Area more affordable, connected, diverse, healthy, and vibrant by integrating the four main themes of the plan: transportation, housing, economy, and environment.

Staff has engaged with MTC and ABAG throughout the development of PBA 2050 by attending MTC and ABAG Committee Meetings, participating in Regional Advisory Work Group (RAWG) meetings and Regional Equity Working Group (REWG) meetings, as well as other workshops and direct meetings with MTC and ABAG staff. Through this engagement, Staff has worked to ensure consistency with the Air District's 2017 Clean Air Plan, AB 617 and equity work, and existing Air District programs and initiatives.

Since the release of the Draft Implementation Plan and Draft EIR, Staff has continued to engage with MTC and ABAG by providing comments on these documents, and the Equity Analysis Report and participating in working group meetings, webinars, and direct meetings with MTC/ABAG staff.

Meetings with MTC/ABAG have been held at both Staff and Executive level to discuss overlap of PBA strategies with Air District priorities and strategies. While these meetings have mainly focused on Strategies EN7 - Expand Commute Trip Reduction Programs at Major Employers and EN8 - Expand Clean Vehicle Initiatives, staff have also had discussions with MTC staff on other areas of overlap, such as transportation demand management, building decarbonization and transportation equity. A Summary of Select PBA Blueprint Strategies that intersect with Air District work and priorities is included as Attachment A.

Staff will continue to work with MTC and ABAG on areas of overlap between PBA 2050 and Air District programs, to ensure continued consistency with the Air District's 2017 Clean Air Plan, AB 617 and equity work, and existing Air District programs and initiatives.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. Staff resources to support PBA 2050 implementation are included in the FYE 2022 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Monte DiPalma
Reviewed by: Henry Hilken

Attachment 1: Appendix A, Summary of Select PBA 2050 Blueprint Strategies

MOBILE SOURCE COMMITTEE
MEETING OF 09/23/2021

**Appendix A
Summary of Select PBA 2050 Blueprint Strategies**

Staff reviewed the Blueprint strategies to identified priority strategies that align with Air District priorities and programs. The identified priority strategies are grouped into three themes: Transportation and Equity, Building Decarbonization, and Clean Vehicles and Reduced Vehicle Miles Traveled (VMT). Priority strategies are listed by theme below along with a brief description of the strategy and potential synergies with Air District programs and 2017 Clean Air Plan (CAP) Control Measures.

Transportation and Equity		
The strategies listed in the Transportation and Equity theme both increase access to alternative modes of transportation and improve equity in the region. They help to reduce climate and air quality pollutants, reduce VMT, and help to improve transit accessibility for low-income people and people living in the communities most impacted by air pollution.		
T2	Support Community-Led Transportation Enhancements in Communities of Concern	Strategy T2 aims to increase investments in historically underserved and marginalized communities by advancing locally identified transportation and priority projects. T2 has a strong synergy with the Air District's Community Health Protection Program (CHPP) and has overlap with the Air District's Commuter Benefits Program (CBP), Cut the Commute Challenge (CCC), and Diesel Free by '33 Initiative (DFx33). Alignment with 2017 Clean Air Plan (CAP) Control Measures TR3, TR4, TR5, TR7, TR8, TR9, TR14, and TR15.
T8	Build a Complete Streets Network	Strategy T8 aims to enhance streetscapes to encourage a shift away from personal automobile travel to active modes of transportation (biking and walking) through increasing the amount of bike lanes and multi-use paths and making the regional network safer, with a focus on Communities of Concern. T8 has synergies with the Air District's CHPP and CCC. Alignment with CAP Control Measures TR2, TR7, TR8, and TR9.
T10	Enhance Local Transit Frequency, Capacity, and Reliability	Strategy T10 aims to improve the quality and availability of local bus and light-rail service and includes capital improvements to increase speed and reliability as well as service increases, with a focus on better meeting low-income residents' transportation needs. T10 has synergies with the Air District's CHPP and CCC. Alignment with CAP Control Measures TR3 and TR4.

Building Decarbonization

The strategies in the Building Decarbonization theme are aimed at increasing the amount of housing throughout the region. These strategies have the potential to reduce air pollutants, climate pollutants, and VMT if they result in more transit-oriented development and help to advance equity through building more affordable housing throughout the region. Further climate benefits can be achieved with these strategies if the new housing being proposed is developed using best practices for building decarbonization.

H3	Allow a Greater Mix of Housing Densities and Types in Blueprint Growth Geographies	Strategy H3 aims to increase housing types and tenures within Blueprint Growth Geographies to be built in priority development areas with a focus on transit-rich and high-opportunity areas. The Air District will engage on H3 to ensure that building decarbonization measures are included in implementation. H3 also has synergies with CHPP, CBP, CCC, and Air District's Charge! Program (Charge!). Alignment with CAP Control Measures BL1, BL2, BL4, TR10, and EN2.
H4	Build Adequate Affordable Housing to Ensure Homes for All	Strategy H4 aims to build enough affordable housing to provide housing for people experiencing homelessness and to meet the needs of low-income households in the region, with a focus on transit-rich areas, high-resource areas, and communities facing displacement risk. The Air District will engage on H4 to ensure that building decarbonization measures are included in implementation. H4 also has synergies with CHP, CBPP, CCC, and Charge!. Alignment with CAP Control Measures BL1, BL2, BL4, TR10, and EN2.
H6	Transform Aging Malls and Office Parks into Neighborhoods	Strategy H6 aims to redevelop shopping malls and office parks with limited commercial viability as mixed-income housing developments with public spaces and regional and local services with a focus on transit-rich and high-resource areas. The Air District will engage on H6 to ensure that building decarbonization measures are included in implementation. H6 also has synergies with CBP, CCC, and Charge!. Alignment with CAP Control Measures BL1, BL2, BL4, TR10, and EN2.

Building Decarbonization Continued

H8	Accelerate Reuse of Public and Community Land for Mixed-Income Housing and Essential Services	Strategy H8 aims to spur the development of mixed-income housing, services, and public space on underutilized public land and land owned by non-profits. The Air District will engage on H8 to ensure that building decarbonization measures are included in implementation. H8 also has synergies with CHPP, CBP, CCC, and Charge!. Alignment with CAP Control Measures BL1, BL2, BL4, TR10, and EN2.
EN2	Provide Means-Based Financial Support to Retrofit Existing Residential Buildings (Energy, Water, Seismic, Fire)	Strategy EN2 aims to improve energy and water efficiency of the existing housing stock through incentives for retrofits in addition to seismic and fire retrofits. EN2 has synergies with CHPP and Charge!. Alignment with CAP Control Measures BL1 and BL2.
EN3	Fund Energy Upgrades to Enable Carbon-Neutrality in All Existing Commercial and Public Buildings	Strategy EN3 aims to improve energy efficiency and power resiliency in all public and commercial buildings through subsidies and includes funding for backup energy storage system, including micro grids and solar-plus-storage. EN3 has synergies with CHPP. Alignment with CAP Control Measures BL1 and BL2.

Clean Vehicles and Reducing Vehicle Miles Travelled

The strategies in the Clean Vehicles and Reducing Vehicle Miles Travelled (VMT) theme are aimed at decreasing GHG emissions through the adoption of cleaner vehicles and by reducing VMT.

EN7	Expand Commute Trip Reduction Programs at Major Employers	Strategy EN7 aims to reduce GHG emissions, traffic congestion, and transit overcrowding by expanding employer commute trip reduction programs for major employers to shift auto commuters to any combination of telecommuting, transit, walking, and/or bicycling. EN7 has synergies with CBP, CCC, and CHPP. Alignment with CAP Control Measures TR1 and TR2.
EN8	Expand Clean Vehicle Initiatives	Strategy EN8 aims to reduce GHG emissions from automobile travel through expanding funding for zero-emission vehicles and charging/fueling infrastructure. EN8 has synergies with CHPP, Charge!, and the Clean Cars for All Program (CC4A). Alignment with CAP Control Measure TR8.

Clean Vehicles and Reducing Vehicle Miles Travelled Continued

EN9	Expand Transportation Demand Management Initiatives	Strategy EN9 aims to reduce GHG emissions from automobile travel by reducing demand for single-occupancy passenger vehicle travel through expanded investments in transportation demand management programs. EN9 has synergies with CHPP, CBP, and CCC. Alignment with CAP Control Measures TR2, TR8, TR11, and TR14.
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Strategies to be Tracked

Strategies in this section have been identified as needing to be tracked to ensure resolution of the identified issue(s).

EC6	Retain and Invest in Key Industrial Lands	Staff will track this strategy to ensure that it doesn't concentrate polluting industries in communities that are already burdened with air pollution. Alignment with CHPP and CAP Control Measure TR10.
EN8	Expand Clean Vehicle Initiatives	Staff will track this strategy since the expansion of battery-electric use will increase the need for solutions to address waste batteries in the future and such solutions need to begin being determined now. Alignment with CAP Control Measure TR8.

MOBILE SOURCE COMMITTEE
MEETING OF 09/23/2022

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons David J. Canepa and Katie Rice, and Members
of the Mobile Source and Climate Impacts Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 16, 2021

Re: Update on California Environmental Quality Act (CEQA) Thresholds of Significance
for Greenhouse Gases

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The California Environmental Quality Act (CEQA) was signed into law in 1970. CEQA requires that California public agencies study and disclose the environmental impacts of proposed development projects and plans, and limit those impacts to the extent feasible. These environmental impacts include air quality and greenhouse gas (GHG) emissions, as well as impacts not directly related to the Air District's purview, such as water quality, transportation, and biological resources, among others.

Air pollutant and GHG emissions from land use development can occur directly, e.g., emissions from combustion devices such as boilers and generators, and indirectly, e.g., from transportation activity associated with a project. Although Air District permits protect public health by assuring that stationary sources of air pollution comply with all applicable Air District regulations, the Air District does not have authority to issue permits for GHG emissions from local land use development. City or county land use permits determine whether and where a GHG-emitting project may be located, and local land use permits sometimes do not adequately consider GHG emissions. As such, the Air District's ability to influence GHG emissions in land use projects is limited. Although Air District air quality permits may impose conditions on stationary source operations that could also result in GHG co-benefits, Air District permits do not address GHG emissions from transportation, fossil fuel combustion, or other activities. Many land use developments result in public concern, with calls for the Air District to take action, and our options are limited due to local land use decisions.

The CEQA process and the Air District's CEQA Guidelines are tools the Air District employs to further its and the State's goals of reducing air pollution and meeting GHG emissions reduction targets. The Air District's CEQA thresholds and Guidelines are intended to assist cities, counties, and other lead agencies in analyzing and mitigating air quality and climate impacts of local projects and plans. The significance thresholds provide lead agencies with recommended benchmarks for determining whether a project's or plan's impact on air quality or GHG emissions rises to a level

of significance. The Guidelines provide recommended methods for assessing the air quality and GHG impacts of projects and plans proposed within the Air District jurisdiction. The Air District's CEQA Guidelines also provide recommended mitigation measures that a project or plan can incorporate to further reduce air quality and climate impacts.

Substantive changes have occurred with respect to the data and assumptions underlying the analytical methodologies, thresholds, and guidance since the Air District's last update of its GHG thresholds in June 2010. In addition, the State has taken strong legislative and programmatic action to achieve GHG reductions beyond 2020. Further, landmark court decisions related to CEQA litigation have occurred since 2010, creating new parameters that influence how GHG impacts can be determined and mitigated under CEQA. Accordingly, the Air District seeks to update the CEQA GHG thresholds and Guidelines to reflect current State legislation, policy guidance and GHG reduction targets, new and revised requirements in the State CEQA Guidelines, case law, improved analytical methodologies, and updated reduction strategies and technologies.

Staff also plans to update significance thresholds for air pollution impacts, especially regarding fine particulate matter (PM) and risk in our most impacted communities. Air District work to minimize local exposure to PM and air toxics is addressed through the AB 617 program, as well as other programs, some of which are currently under development, such as amendments to permit regulations and the Advisory Council's examination of health-based PM standards. Staff intends to revisit local air pollution CEQA thresholds in the near future as these programs become further developed.

DISCUSSION

Staff has initiated an update to the CEQA thresholds and Guidelines. Key motivations of this effort include the need to update the recommended GHG thresholds to align with the latest State GHG reduction targets for 2030, 2045, and 2050, and to support local planning efforts. The current GHG thresholds are based on the State's 2008 Scoping Plan and 2020 GHG reduction target, and must be updated to reflect current statewide targets and time horizons.

Staff's proposed approach includes updated GHG thresholds of significance for: 1) Land-use Projects; 2) Stationary Source Projects, and; 3) Land-use Development Plans. A summary table of the thresholds is presented below, followed by a description of each of the thresholds.

Project Type	Proposed GHG Threshold
Land-use Projects	Must include A or B: A) Projects must include, at a minimum, the following project design elements: 1) Buildings a) No natural gas (residential and non-residential) 2) Transportation a) Achieve compliance with (voluntary) electric vehicle (EV) charging requirements in the most recently adopted version of CALGreen Tier 2 b) Achieve SB 743 target of 15% reduction in vehicles miles traveled (VMT) per capita below regional average B) Be consistent with a local GHG Reduction Strategy that meets the criteria under the CEQA Guidelines section 15183.5(b), and pursuant to Air District guidance.
Stationary Sources	Compliance with Cap-and-Trade OR 2,000 metric tons carbon dioxide equivalent (MTCO _{2e}) per year
Land-use Plans	Must include A and B: A) Meets State’s goals to achieve 40% emissions below 1990 levels by 2030, and carbon neutrality by 2045; AND B) Meets criteria for GHG reduction strategy under the State CEQA Guidelines, and pursuant to Air District’s guidance.

1) Land-use Projects

For a land-use project’s GHG emissions to be a less than significant level, the project must include a) certain project design elements, *or* b) the project must be consistent with a local GHG Reduction Strategy. Project design elements include aspects of the project that are within the control of the project developer and that have the potential to lock-in GHG emissions for the duration of the project-life. The design elements included in the proposed thresholds address GHG emissions from building operations and transportation.

Alternatively, a land-use development project could opt to demonstrate that the project is consistent with a local GHG Reduction Strategy, which in turn conforms to State CEQA and Air District guidance. Criteria for a GHG Reduction Strategy that supports this type of streamlining is specified in the State of California CEQA Guidelines (section 15183.5(b)). In addition, the Air District is developing further supportive guidance for local GHG Reduction Strategies on how to reflect consistency with the State Guidelines.

2) Stationary Source Projects

Stationary source projects under CEQA include projects that require an Air District permit. For a stationary source project’s GHG emissions to be less than significant, the project must either be subject to and compliant with the State Cap-and-Trade Regulation, *or* it must emit fewer than 2,000 metric tons of carbon dioxide equivalent (MTCO_{2e}) per year. The 2,000 MTCO_{2e} threshold was determined through an evaluation of permit applications from 2016 through 2018. The types of sources that would be captured by this new proposed threshold would include industrial sized boilers and diesel generators.

3) Land-use Development Plans

Land-use development plans being developed by local and regional agencies include general plans, climate action plans, transportation plans, etc. In order for a land-use plan to demonstrate a less-than-significant impact on GHG emissions, the plan must be consistent with the State's goals of reducing GHG emissions to 40 percent below 1990 levels by 2030, and to achieve carbon neutrality as soon as possible and no later than 2045. In addition, the plan must also meet the criteria for a GHG Reduction Strategy under the State CEQA Guidelines and pursuant to Air District's guidance (similar to the discussion above for land-use projects).

Staff convened focus groups with local government planning staff, builders, affordable housing developers and environmental advocates in Summer 2021 to discuss the current approach for updating the CEQA GHG thresholds. Pending Committee feedback, staff intends to hold public workshops in the fourth quarter of 2021, to complete updates to the GHG thresholds, and return to the Board of Directors in early 2022 for adoption.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. Resources to update and implement the CEQA Guidelines are included in the FYE 2022 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jakub Zielkiewicz
Reviewed by: Henry Milken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons David Canepa and Katie Rice, and Members
of the Mobile Source and Climate Impacts Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 16, 2021

Re: Projects and Contracts with Proposed Grant Awards Over \$100,000

RECOMMENDED ACTIONS

Recommend Board of Directors:

1. Approve recommended projects with proposed grant awards over \$100,000 as shown in Attachment 1; and
2. Authorize the Executive Officer/APCO to enter into all necessary agreements with applicants for the recommended projects.

BACKGROUND

The Bay Area Air Quality Management District (Air District) has participated in the Carl Moyer Program (CMP), in cooperation with the California Air Resources Board (CARB), since the program began in fiscal year 1998-1999. The CMP provides grants to public and private entities to reduce emissions of nitrogen oxides (NOx), reactive organic gases (ROG), and particulate matter (PM) from existing heavy-duty engines by either replacing or retrofitting them. Eligible heavy-duty diesel engine applications include: on-road trucks and buses, off-road equipment, marine vessels, locomotives, and stationary agricultural pump engines. Since 2018, this funding may also be used to incentivize the installation of infrastructure that will support the deployment of new zero-emissions vehicles and equipment.

Assembly Bill (AB) 923 (Firebaugh), enacted in 2004 (codified as Health and Safety Code (HSC) Section 44225), authorized local air districts to increase their motor vehicle registration surcharge up to an additional \$2 per vehicle. The revenues from the additional \$2 surcharge are deposited in the Air District's Mobile Source Incentive Fund (MSIF). AB 923 stipulates that air districts may use the revenues generated by the additional \$2 surcharge for projects eligible under the CMP.

On January 20, 2021, the Board of Directors (Board) authorized the Air District's participation in Year 23 of the CMP and authorized the Executive Officer/APCO to execute grant agreements and amendments for projects funded with CMP funds or MSIF revenues with individual grant award amounts up to \$100,000.

In 2017, AB 617 directed the CARB, in conjunction with local air districts to establish the Community Air Protection Program (CAPP). AB 617 provides a new community-focused action framework to improve air quality and reduce exposure to criteria air pollutants and toxic air contaminants in communities most impacted by air pollution. AB 617 includes a variety of strategies to address air quality issues in impacted communities including: community-level monitoring, uniform emission reporting across the State, stronger regulation of pollution sources, and incentives for reducing air pollution and public health impacts from mobile and stationary sources. Funding for incentives to support AB 617 communities was approved by the California Legislature beginning in fiscal year ending (FYE) 2018. Funding for the CAPP comes from the State's Greenhouse Gas Reduction Fund (GGRF), which is used to reduce criteria pollutants, toxic air contaminants, and greenhouse gases.

In May 2020, the Governor issued a revised budget that authorized up to \$200 million for a third cycle of CAPP incentive funding. On June 17, 2020, the Board authorized the Air District to accept, obligate, and expend up to \$40 million in year-3 CAPP. CAPP funds are primarily distributed through the Air District's Community Health Protection Grant Program to implement projects eligible under the CMP and optionally on-road truck replacements under the Proposition 1B Goods Movement Emission Reduction Program. Staff has also begun working with CARB to expand eligibility to include stationary source projects and projects that have been identified and prioritized by communities with a Community Emissions Reduction Program, pursuant to HSC Section 44391.2.

In February 2018, CARB developed the Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program Guidelines that outlines requirements for eligible equipment, e.g., agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations. On October 21, 2019, CARB's Executive Officer approved an update to the FARMER Program Guidelines to include eligibility criteria for demonstration projects. The 2020 California State Budget appropriated \$65 million in Fiscal Year 2019-20 GGRF funds to the CARB for the continued reduction of criteria, toxic, and greenhouse gas emissions from the agricultural sector through the FARMER Program. On November 20, 2019, the Board authorized the Air District's participation in the current cycle of the FARMER program.

In 1991, the California State Legislature authorized the Air District to impose a \$4 surcharge on motor vehicles registered within the nine-county Bay Area to fund projects that reduce on-road motor vehicle emissions within the Air District's jurisdiction. The statutory authority and requirements for the Transportation Fund for Clean Air (TFCA) are set forth in the HSC Sections 44241 and 44242. Sixty percent of TFCA funds are awarded by the Air District to eligible projects and programs implemented directly by the Air District (e.g., Spare the Air program) and to a program referred to as the Regional Fund. Each year, the Board allocates funding and adopts policies and evaluation criteria that govern the expenditure of TFCA monies. The remaining forty percent of TFCA funds are passed through to the designated County Program Manager in each of the nine counties within the Air District's jurisdiction that in turn award TFCA funds to eligible projects within their communities.

On April 7, 2021, the Board authorized funding allocations for use of the sixty percent of the TFCA revenue in FYE 2022, cost-effectiveness limits for Air District-sponsored FYE 2022 programs, and the Executive Officer/APCO to execute grant agreements and amendments for projects with individual grant award amounts up to \$100,000. On June 16, 2021, the Board adopted policies and evaluation criteria for the FYE 2022 Regional Fund program.

Projects with grant award amounts over \$100,000 are brought to the Mobile Source and Climate Impacts Committee for consideration at least on a quarterly basis. Staff reviews and evaluates grant applications based upon the respective governing policies and guidelines established by the CARB, the Board, and other funding agencies/entities. Along with recommendations for projects and grant awards over \$100,000. Staff also updates the Committee on the status of incentive funding for the current fiscal year, including total funding awarded, incentive fund balance available for award, funds allocated by county and by equipment category type, and percentages of funding benefitting impacted and low-income communities. The reported emissions reduction benefits to counties and impacted communities are based on information provided by each applicant.

DISCUSSION

Carl Moyer Program and Community Health Protection Grant Program:

For the FYE 2022 the Air District had approximately \$46 million available in CMP, MSIF, Community Health Protection (CHP) Grant Program, and FARMER funds for eligible projects, including prior year funds. This total may change as additional revenue are awarded to the Air District. The Air District accepts project applications on a rolling basis and evaluates them on a first-come, first-served basis.

As of August 24, 2021, the Air District has awarded 11 previously evaluated projects and evaluated 18 new project applications. Of the new applications that were evaluated between July 1 and August 24, 2021, five eligible projects have proposed grant awards over \$100,000. Three marine projects will replace a total of ten engines with cleaner diesel engines for two tugboats and one commercial fishing vessel. One off-road agricultural project will replace a diesel-powered tractor. These projects will reduce over 70 tons of NO_x, ROG, and PM per year. Staff recommends the allocation of \$7,786,606 for these projects from a combination of CMP, FARMER, Community Health Protection, and MSIF revenues. Attachment 1, Table 1, provides additional information on these projects.

In addition, two previously awarded school bus projects have proposed modified awards to allow Palo Alto Unified School District and Milpitas Unified School District to install DC fast chargers in preference to the previously approved (lower-powered) infrastructure. Both projects were previously approved in prior fiscal years to replace diesel and compressed nature gas (CNG) buses with electric school buses and install supporting charging infrastructure. Staff recommends the additional allocation of \$338,155 for these projects from a combination of CMP, FARMER, Community Health Protection, and MSIF revenues. Attachment 1, Table 2, provides additional information on these projects and their proposed award increases.

Attachment 2 lists all of the eligible projects that have been awarded by the Air District between July 1, 2021, and August 24, 2021, and includes information about equipment category, award amounts, estimated emissions reductions, county location, and whether the project benefits Air District designated Community Air Risk Evaluation (CARE) areas or disadvantaged (Senate Bill (SB) 535) and/or low-income (AB 1550) communities. To date, approximately 88% of the funds¹ have been awarded or allocated to low-income residents or to projects that reduce emissions CARE areas, disadvantaged SB 535, and/or low-income AB 1550 communities. This percentage will change over time as the remaining funds are awarded later in the fiscal year and as more complete information about the location of projects and program participants becomes available.

Transportation Fund for Clean Air Program:

For the FYE 2022, the Air District had approximately \$29.39 million in TFCA monies available for eligible projects and programs consisting of new and prior-year revenues. The Air District accepts project applications for certain project categories on a rolling basis and evaluates them on a first-come, first-served basis. There were no projects evaluated between July 1, 2021, and August 24, 2021, with proposed grant awards over \$100,000.

Attachment 3, Table 1, lists all eligible TFCA projects that have been evaluated and awarded between July 1, 2021, and August 24, 2021, including information about the project category, award amount, estimated emissions reduction, county location, and whether the project benefits Air District designated Community Air Risk Evaluation (CARE) areas or disadvantaged (Senate Bill (SB) 535) and/or low-income (AB 1550) communities. To date, approximately 100% of the funds¹ have been awarded or allocated to low-income residents or to projects that reduce emissions in CARE, disadvantaged SB 535, and/or low-income AB 1550 communities. The percentage of projects in these communities will change over time as the remaining funds are awarded later in the fiscal year and as more complete information about the location of projects and program participants becomes available.

¹ For the purpose of determining whether funding was awarded or allocated to low-income residents or to projects that reduce emissions in CARE, SB 535, and/or low-income AB 1550 communities, funds awarded and allocated to date does not include any amounts awarded to regional projects where all communities receive the benefit. It also does not include amounts awarded to projects where the location of the benefit is unknown until additional information becomes available.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. The Air District distributes the CMP, MSIF, Community Health Protection Grant Program, and TFCA funding to project sponsors on a reimbursement basis. Funding for administrative costs is provided by each funding source.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Linda Hui, Ken Mak, Chad White

Reviewed by: Minda Berbeco, Alona Davis, Chengfeng Wang, Karen Schkolnick

Attachment 1: Projects with grant awards greater than \$100,000

Attachment 2: CMP/MSIF, FARMER and Community Health Protection Grant Program Projects
Awarded and Allocated between 7/1/21 and 8/24/21

Attachment 3: TFCA Projects Awarded and Allocated Projects between 7/1/21 and 8/24/21

Attachment 4: Summary of Funding Awarded and Allocated between 7/1/21 and 8/24/21

MOBILE SOURCE COMMITTEE
MEETING OF 09/23/2021

AGENDA 5 - ATTACHMENT 1

Table 1 - Carl Moyer Program, Mobile Source Incentive Fund, FARMER, and Community Health Protection Program projects with grant awards greater than \$100k (Evaluated between 7/1/21 and 8/24/21)

Project #	Applicant Name	Project Category	Project Description	Proposed Contract Award	Total Project Cost	Emission Reductions (tons per year)			County
						NO _x	ROG	PM	
22MOY183	Joshua Mantua	Marine	Replace one tier-0 diesel main engine and one tier-0 diesel aux engine with one tier-3 diesel main engine and one tier-3 diesel aux engine on a commercial fishing boat.	\$ 172,500	\$ 216,453	0.661	0.028	0.028	Sonoma, Marin, San Francisco, San Mateo
22MOY159	Baydelta Navigation LTD	Marine	Replace two tier-2 diesel main engines and two tier-2 diesel aux engines with two tier-4 diesel main engines and two tier-3 diesel aux engines on a tugboat.	\$ 3,529,000	\$ 4,186,000	30.665	2.726	1.021	San Francisco, Alameda, Contra Costa, Marin, Solano
22MOY160	Baydelta Navigation LTD	Marine	Replace two tier-2 main engines with tier-4 main engines and replacement of two Tier 2 auxiliary engines with Tier 3 auxiliary engines for a tugboat.	\$ 3,529,000	\$ 4,186,000	30.665	2.726	1.021	San Francisco, Alameda, Contra Costa, Marin, Solano
22MOY143	Kabeela Inc.	Off-Road/Ag	Replace one agricultural tier-2 diesel tractor with a tier-4 diesel tractor.	\$ 120,800	\$ 151,042	0.304	0.022	0.015	Santa Clara
22SBP52	Pittsburg Unified School District	School Bus	Replace three diesel school buses with three LPG school buses.	\$ 435,306	\$ 471,590	0.290	0.022	0.000	Contra Costa
5 Projects				\$ 7,786,606	\$ 9,211,086	62.584	5.523	2.084	

Table 2 - Modifications to Carl Moyer Program, Mobile Source Incentive Fund, FARMER, Community Health Protection Program, projects with grant awards greater than \$100k (Evaluated between 7/1/21 and 8/24/21)

Project #	Applicant Name	Project Category	Project Description (CHANGE)	Date Previously Approved	Award Previously Approved	Proposed Increase	New Proposed Award	Total Project Cost	County
21SBP98*	Palo Alto Unified School District	School Bus	Replace one diesel school bus and one CNG school bus with two electric school buses and install supporting infrastructure. Funding increase will afford DC fast chargers.	3/4/20	\$ 837,278	\$ 242,828	\$ 1,080,106	\$1,203,602	Santa Clara
22SBP14**	Milpitas Unified School District	School Bus	Replace two diesel school buses with two electric school buses and install supporting infrastructure. Funding increase will afford DC fast chargers.	4/7/21	\$ 827,154	\$ 95,327	\$ 922,481	\$ 925,881	Santa Clara
2 Projects						\$ 1,664,432	\$ 338,155	\$ 2,002,587	\$2,129,483

*This project was previously awarded \$513,500.00 of TFCA funds and \$323,778.00 of CMP/MSIF/CHP funds. The proposed increase of \$242,828.00 in CMP/MSIF/CHP funds will allow for DC fast-charging infrastructure to be included as part of this project.

**This project was previously awarded \$204,598.00 of TFCA funds and \$622,556.00 of CMP/MSIF/CHP funds. The proposed increase of \$95,327.00 in CMP/MSIF/CHP funds will allow for DC fast-charging infrastructure to be included as part of this project.

AGENDA 5 - ATTACHMENT 2

*CMP/MSIF, FARMER and Community Health Protection Grant Program projects
(awarded and allocated between 7/1/21 and 8/24/21)*

Project #	Project Category	Project Type	Number of Engines	Proposed Contract Award	Applicant Name	Emission Reductions (tons per year)			Board Approval Date	CARE Area	AB1550/SB535 Area	County
						NOx	ROG	PM				
22SBP71	School Bus	Equipment replacement + Infrastructure	12	\$ 3,775,186.00	Petaluma City Schools	0.932	0.071	0.005	7/7/2021	No	Yes	Sonoma
22MOY138	Ag/ off-road	Equipment replacement	3	\$ 525,300.00	Dave Soiland	2.035	0.165	0.097	7/7/2021	No	No	Sonoma
22SBP84	School Bus	Equipment replacement + Infrastructure	4	\$ 803,786.00	Rincon Valley Union School District	0.228	0.015	0.003	7/7/2021	No	Yes	Sonoma
22MOY149	Ag/ off-road	Equipment replacement	1	\$ 170,500.00	Renati Dairy	0.522	0.068	0.048	7/7/2021	No	No	Sonoma
22MOY127	Ag/ off-road	Equipment replacement	2	\$ 107,100.00	Napa Select Vineyard Services, Inc.	0.187	0.012	0.011	7/7/2021	No	No	Napa
22MOY142	Ag/ off-road	Equipment replacement	2	\$ 105,500.00	Cobb Creek Holdings, LLC DBA CCH Ag Services	0.205	0.034	0.021	7/7/2021	No	No	Napa
22MOY135	Marine	Engine replacement	1	\$ 154,000.00	William E. Smith	1.831	0.048	0.069	7/7/2021	No	NO	San Mateo
22SBP105	School Bus	Equipment replacement + Infrastructure	4	\$ 1,731,969.00	Fremont Unified School District	0.414	0.036	0.018	7/7/2021	No	Yes	Alameda
22MOY169	Ag/ off-road	Equipment replacement	2	\$ 132,260.00	Kenzo Estate, Inc.	0.223	0.020	0.016	7/7/2021	No	No	Napa
22SBP40	School Bus	Equipment replacement + Infrastructure	5	\$ 889,832.00	Franklin-Mckinley School District	0.250	0.015	0.003	7/7/2021	Yes	Yes	Santa Clara
22MOY158	Marine	Engine replacement	1	\$ 174,000.00	Laurence J. Collins	0.790	0.018	0.028	7/7/2021	No	No	San Francisco
22MOY130	On-road	Equipment replacement	1	\$ 25,000.00	Min Jian Huang (jiamwang)	0.841	0.070	0.000	APCO	Yes	Yes	Alameda
22MOY151	Ag/ off-road	Equipment replacement	2	\$ 86,000.00	Hardin Vineyard Management LLC	0.257	0.055	0.023	APCO	No	No	Napa
22MOY124	On-road	Equipment replacement	1	\$ 25,000.00	Kulwant Kherra (kskhera)	0.773	0.065	0.000	APCO	Yes	Yes	Alameda
22MOY78	Ag/ off-road	Equipment replacement	1	\$ 35,000.00	Cortina Vineyard Management	0.047	0.011	0.008	APCO	Yes	Yes	Napa
22MOY143	Ag/ off-road	Equipment replacement	1	\$ 120,800.00	Kabeela Inc.	0.304	0.022	0.015	TBD	No	Yes	Santa Clara
22MOY131	On-road	Equipment replacement	1	\$ 25,000.00	Karanbir Singh (karanbirsg)	0.820	0.690	0.000	APCO	No	No	Contra Costa
22MOY166	Ag/ off-road	Equipment replacement	2	\$ 96,400.00	Stone Bridge Cellars Inc.	0.166	0.009	0.009	APCO	No	No	Napa
22MOY174	On-road	Equipment replacement	1	\$ 25,000.00	Can Yuan Chen (canchen)	1.008	0.085	0.000	APCO	Yes	Yes	Alameda
22MOY92	Ag/ off-road	Equipment replacement	1	\$ 29,550.00	Paul P. Bianchi, Inc	0.025	0.023	0.007	APCO	No	No	Sonoma
22SBP52	School Bus	Equipment replacement	3	\$ 435,306.00	Pittsburg Unified School District	0.290	0.022	0.000	TBD	Yes	Yes	Contra Costa
22MOY185	Ag/ off-road	Equipment replacement	1	\$ 67,100.00	Domenico J. Carinalli, Jr.	0.156	0.010	0.009	APCO	No	No	Sonoma
22MOY99	Ag/ off-road	Equipment replacement	1	\$ 41,100.00	Daylight Vineyard Management, Inc.	0.062	0.005	0.007	APCO	No	No	Sonoma

AGENDA 5 - ATTACHMENT 2

*CMP/MSIF, FARMER and Community Health Protection Grant Program projects
(awarded and allocated between 7/1/21 and 8/24/21)*

Project #	Project Category	Project Type	Number of Engines	Proposed Contract Award	Applicant Name	Emission Reductions (tons per year)			Board Approval Date	CARE Area	AB1550/SB535 Area	County
						NOx	ROG	PM				
22MOY179	Marine	Engine replacement	1	\$ 72,000.00	Kyle Dryer dba Diamond Sportfishing	0.705	0.009	0.028	APCO	Yes	No	Alameda/Contra Costa/San Francisco
22MOY183	Marine	Engine Replacement	2	\$ 172,500.00	Joseph Mantua	0.661	0.028	0.028	TBD	No	No	Marin/San Maeto/San Francisco/Sonoma
22MOY140	Marine	Engine Replacement	1	\$ 72,000.00	Mike Carpenter	0.249	0.008	0.010	APCO	No	No	Marin/San Francisco/Sonoma
22MOY22	Ag/ off-road	Equipment replacement	2	\$ 57,100.00	Joseph Pinheiro	0.047	0.018	0.010	APCO	No	No	Sonoma
22MOY159	Marine	Engine replacement	4	\$ 3,529,000.00	Baydelta Navigation LTD	30.665	2.726	1.021	TBD	Yes	Yes	San Francisco, Alameda, Contra Costa, Marin, Solano
22MOY160	Marine	Engine replacement	4	\$ 3,529,000.00	Baydelta Navigation LTD	30.665	2.726	1.021	TBD	Yes	Yes	San Francisco, Alameda, Contra Costa, Marin, Solano
21SBP98*	School Bus	Equipment replacement + Infrastructure	--	\$ 242,828	Palo Alto Unified School District	--	--	--	TBD	Yes	Yes	Santa Clara
22SBP14**	School Bus	Equipment replacement + Infrastructure	--	\$ 95,327	Milpitas Unified School District	--	--	--	TBD	Yes	Yes	Santa Clara

31 Projects 67 \$ 17,351,444 75.4 7.1 2.5

*This project was previously awarded \$513,500.00 of TFCA funds and \$323,778.00 of CMP/MSIF/CHP funds on 3/4/20. The proposed increase of \$242,828 in CMP/MSIF/CHP funds will allow for DC fast-charging infrastructure to be included as part of this project.

**This project was previously awarded \$204,598.00 of TFCA funds and \$622,556.00 of CMP/MSIF/CHP funds on 4/7/21. The proposed increase of \$95,327 in CMP/MSIF/CHP funds will allow for DC fast-charging infrastructure to be included as part of this project.

MOBILE SOURCE COMMITTEE
MEETING OF 09/23/2021

AGENDA 5 - ATTACHMENT 3

Table 1 - TFCA projects awarded and allocated (between 7/1/21 and 8/24/21)

Project #	Project Category	Project Description	Award Amount	Applicant Name	Emission Reductions (tons per year)			Board/ APCO Approval Date	CARE Area	AB1550 / SB535 Area	County
					NO _x	ROG	PM				
21R05	LD Vehicles	Charge! Program [§]	\$ 6,000,000	BAAQMD	TBD*	TBD*	TBD*	7/7/21	TBD*	TBD*	Regional
22R02	LD Vehicles	Vehicle Buy Back Program	\$ 200,000	BAAQMD	N/A**	N/A**	N/A**	6/16/21	N/A	N/A	Regional
21RSB03	School Bus	Match funding for Project #22SBP71 for the replacement of 12 diesel school buses with 12 electric school buses.	\$ 1,153,346	BAAQMD	N/A**	N/A**	N/A**	7/7/21	No	Yes	Sonoma
21RSB04	School Bus	Match funding for Project #22SBP84 for the replacement of 3 diesel school buses & 1 CNG school bus with 4 electric school buses.	\$ 892,045	BAAQMD	N/A**	N/A**	N/A**	7/7/21	No	Yes	Sonoma
21RSB05	School Bus	Match funding for Project #22SBP40 for the replacement of 5 diesel special needs school buses with 5 electric special needs school buses.	\$ 1,232,175	BAAQMD	N/A**	N/A**	N/A**	7/7/21	Yes	Yes	Santa Clara
22R01	Trip Reduction	Enhanced Mobile Source & Commuter Benefits Enforcement	\$ 150,000	BAAQMD	TBD*	TBD*	TBD*	6/16/21	N/A	N/A	Regional
22R03	Trip Reduction	Spare The Air/Intermittent Control/Flex Your Commute Programs	\$ 2,290,000	BAAQMD	TBD*	TBD*	TBD*	6/16/21	N/A	N/A	Regional
Total			\$11,917,566		0.000	0.000	0.000				

* Funds have been allocated to these programs and projects and results will be determined at the end of project period.

** Emission reductions are fully reported under the Carl Moyer Program to prevent double counting.

§ Up to \$1,000,000 of Award Amount may come from either the TFCA or the Mobile Source Incentive Fund (MSIF)/CMP.

AGENDA 5 - ATTACHMENT 4

Summary of funding awarded and allocated from the following revenue sources between 7/1/21 and 8/24/21

- Carl Moyer Program (CMP)
- Community Health Protection Program (CHP)
- Mobile Source Incentive Fund (MSIF)
- Transportation Fund for Clean Air (TFCA)
- Funding Agricultural Replacement Measures for Emission Reductions (FARMER)

Figure 1. Status of FYE 2022 funding by source
includes funds awarded, recommended for award, and available

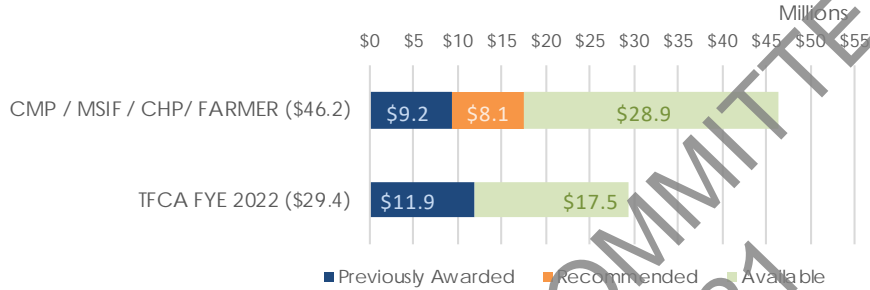


Figure 2. Funding awarded and allocated in FYE 2022 by county
includes funds awarded & recommended for award

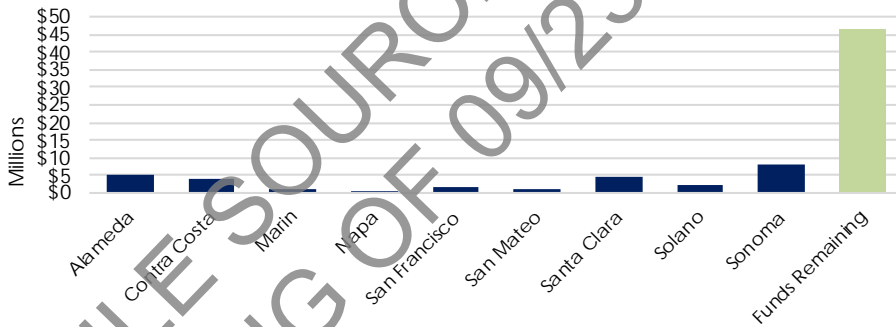
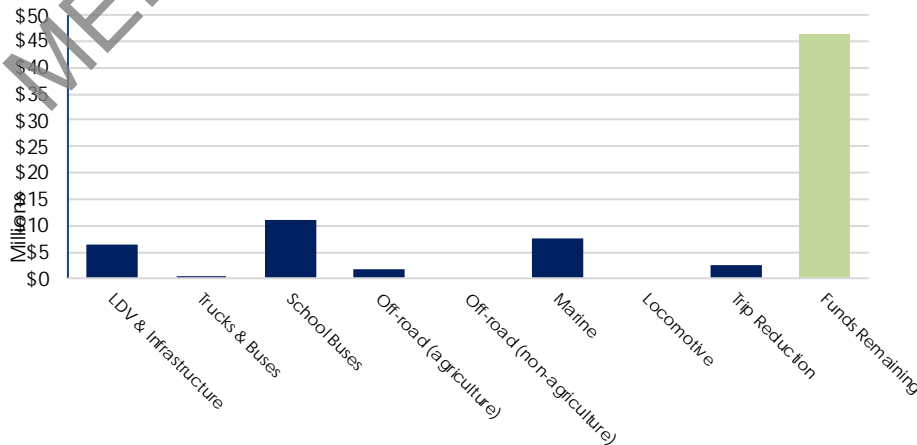


Figure 3. Funding awarded and allocated in FYE 2022 by project category
includes funds awarded & recommended for award



BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Measures to Address Lead from General Aviation Fuel

RECOMMENDED ACTIONS

Direct staff to take the following actions to address lead emissions from General Aviation fuel:

1. Petition the United States Environmental Protection Agency (USEPA) to make an endangerment finding under section 231 of the Clean Air Act that leaded aviation gasoline (“avgas”) contributes to air pollution that harms public health and welfare;
2. Urge the USEPA and Federal Aviation Administration (FAA) to take immediate, feasible measures to reduce lead emissions from avgas;
3. Urge California Senators and Bay Area Members of Congress to urge USEPA and FAA to take action on this issue;
4. Urge sister agencies such as the California Air Resources Board, California Air Pollution Control Officers Association, and the National Association of Clean Air Agencies to take similar actions;
5. Petition the California Department of Public Health to study blood levels at other airports especially those with high expected emissions near residences to provide specific information for local decision makers; and
6. Educate local governments on the issue.

BACKGROUND

Leaded gasoline used in general aviation, specifically piston-engine powered small aircraft, is the largest remaining nationwide source of lead. Communities near general aviation airports tend to be lower income and higher minority areas, and emissions from general aviation add to the cumulative impact that these environmental justice communities experience.

- It's been clear since for many years that children living near these airports have elevated blood lead levels. Thus, children of low socioeconomic status are at greater risk of being disproportionately impacted by lead emissions.
- A recent study at Reid Hillview airport in Santa Clara County showed elevated blood lead levels, building on and consistent with, results from previous studies.

The scientific consensus is that there is no safe level of lead exposure. Lead is toxic and can persist in human tissue, the brain, and the skeletal system for many decades after exposure. Even low levels of lead in blood are linked to adverse cognitive and behavioral performance in children:

- IQ loss, decreased ability to pay attention, and poor academic achievement
- Delinquency and violence in adolescence
- Early onset dementia in adults with early exposure

USEPA has made progress in reducing lead exposure risk from many sources, including drinking water and lead based paint. Addressing aviation gasoline is a major remaining opportunity. USEPA was first petitioned on this issue in 2006 and has intermittently evaluated impacts from lead emissions from aviation since that time. In 2015, USEPA stated that they planned to issue a Proposed Endangerment Finding for public comment in 2017, but to date has not followed through on the promise. It is critical we take action to reduce remaining lead exposure in our most vulnerable communities.

DISCUSSION

Staff is requesting direction from the Board to support the recommended actions above.

We support the petition submitted by Earthjustice and Santa Clara County (and several other non-governmental organizations) and urge USEPA to move forward with the endangerment finding that leaded avgas contributes to air pollution and endangers public health and welfare. We also urge USEPA to pursue near-term actions to facilitate and incentivize removing leaded avgas from airports to achieve exposure reductions as fast as possible.

USEPA, FAA, counties, and other government agencies with relevant jurisdiction should do whatever they can to reduce lead emissions and exposure from general aviation airports, especially near residential areas.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Greg Nudd

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Cindy Chavez and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 1, 2021

Re: Climate Protection Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In 2015, 196 nations signed the Paris Climate Agreement, making commitments to limit greenhouse gas (GHG) emissions to levels that would contain global warming to 1.5 – 2°C over pre-industrial levels. The Agreement calls on countries to work to achieve a leveling-off of global GHG emissions as soon as possible and to become carbon neutral no later than the second half of this century. Despite these commitments, recent studies by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) find that worldwide greenhouse gas emissions levels continue to rise.

In its recently released report, the United Nations' Intergovernmental Panel on Climate Change's (IPCC) Sixth Assessment Report, *Climate Change 2021: The Physical Science Basis* presents a stark analysis of GHG trends. For example, each of the last four decades has been successively warmer than any decade that preceded it since 1850. We now experience temperatures approximately 1.1°C above average global 1850 temperatures. In addition, in June 2021, CO₂ concentrations at Mauna Loa, the location of the longest background data set, reached 420 parts per million (ppm). The earth's atmosphere has not seen such levels for at least 2 million years.

DISCUSSION

In the face of these challenging findings, the Bay Area and California continue to provide national leadership on the issue of climate change. According to the California Air Resources Board (CARB), California met the 2020 GHG reduction target laid out in the Global Warming Solutions Act of 2006 (AB 32) of reducing statewide emissions to 1990 levels by 2020. This is in large part due to regulatory activity that has taken place at the state level – through the Renewables Portfolio Standard for electricity, the Low Carbon Fuel Standard, the Clean Car Standards and the Cap and Trade program – as well as regulatory, incentive-based and policy initiatives at the regional and local level.

As focus turns to achieving longer-term GHG reduction targets under SB 32 (reducing emissions 40% below 1990 levels by 2030) and Executive Order B-55-18 (achieve carbon neutrality by 2045), the role of regional agencies and local governments continues to be a key element of the state's climate protection initiatives. Achieving deep emission reductions in the transportation sector, the building stock, waste management, highly potent GHGs, and other sectors will require policy adoption, behavior changes and technological advances at the regional and local levels. Staff will provide an overview of key climate activities of the Air District moving into 2022.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Henry Hilken