



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
BUDGET AND FINANCE COMMITTEE

COMMITTEE MEMBERS

CAROLE GROOM – CHAIR
JOHN J. BAUTERS
DAVID HUDSON
MYRNA MELGAR
KATIE RICE

BRAD WAGENKNECHT - VICE CHAIR
DAVID CANEPA
DAVINA HURT
KAREN MITCHOFF

**THIS MEETING WILL BE CONDUCTED UNDER PROCEDURES AUTHORIZED BY
ASSEMBLY BILL 361**

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BUDGET AND FINANCE COMMITTEE MEETING AGENDA

WEDNESDAY, NOVEMBER 23, 2022

9:30 AM

1. **Call to Order - Roll Call**
2. **Pledge of Allegiance**
3. **Public Meeting Procedure**

The Committee Chair shall call the meeting to order and the Clerk of the Boards shall take roll of the Committee 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 two minutes each to address the Committee. No speaker who has already spoken on that item will be entitled to speak to that item again.*

CONSENT CALENDAR (Item 4)

4. Approval of the Minutes of October 26, 2022

The Committee will consider approving the draft minutes of the Budget and Finance Committee meeting of October 26, 2022.

PRESENTATION(S)

5. Fourth Quarter Preliminary Financial Report - Fiscal Year Ending June 30, 2022

This is an informational item for the Committee to receive an update on the Air District's preliminary financial results for the fourth quarter of the Fiscal Year Ending (FYE) 2022. This item will be presented by Jun Pan, Acting Manager, Finance Division.

ACTION ITEM(S)

6. Proposed Amendment to the Cost Recovery and Containment Policy

This is an action item for the Committee to recommend to the Board of Directors that the Board adopt staff's proposed amended Cost Recovery and Containment Policy. This item will be presented by Fred Tanaka, Manager, Engineering Division.

OTHER BUSINESS

7. Public Comment on Non-Agenda Matters

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 two minutes each to address the Committee.

8. Committee Member Comments

Any member of the Committee, 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)

9. Time and Place of Next Meeting

Wednesday, December 28, 2022, at 9:30 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

10. Adjournment

The Committee meeting shall be adjourned by the 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, Suma Peesapati, at (415) 749-4967 or by email at speesapati@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

NOVEMBER 2022

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Stationary Source and Climate Impacts Committee	Monday	21	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Budget and Finance Committee	Wednesday	23	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee– CANCELLED AND RESCHEDULED TO NOVEMBER 28, 2022 AT 9:30 A.M.	Thursday	24	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee	Monday	28	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Path to Clean Air Community Emissions Reduction Plan Steering Committee	Monday	28	5:30 p.m.	Webcast only pursuant to Assembly Bill 361

DECEMBER 2022

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Community Equity, Health and Justice Committee	Thursday	1	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Advisory Council Meeting – CANCELLED & RESCHEDULED TO THURSDAY, DECEMBER 15, 2022 AT 8:30 A.M.	Monday	5	8:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Meeting	Wednesday	7	9:00 a.m.	1 st Floor, Board Room (In person option available) <u>and REMOTE</u> pursuant to Assembly Bill 361
Board of Directors Legislative Committee	Monday	12	1:00 p.m.	Webcast only pursuant to Assembly Bill 361
Path to Clean Air Community Emissions Reduction Plan Steering Committee	Monday	12	5:30 p.m.	Webcast only pursuant to Assembly Bill 361
Advisory Council Meeting	Thursday	15	8:30 a.m.	Webcast only pursuant to Assembly Bill 361

DECEMBER 2022

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Stationary Source and Climate Impacts Committee - CANCELLED	Monday	19	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Meeting	Wednesday	21	9:00 a.m.	1 st Floor, Board Room (In person option available) <u>and</u> REMOTE pursuant to Assembly Bill 361
Board of Directors Administration Committee	Wednesday	21	11:00 a.m.	1 st Floor, Board Room (In person option available) <u>and</u> REMOTE pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee - CANCELLED	Thursday	22	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Budget and Finance Committee	Wednesday	28	9:30 a.m.	Webcast only pursuant to Assembly Bill 361

ADG 11/18/22– 9:24 a.m.

G/Board/Executive Office/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Carole Groom and Members
of the Budget and Finance Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: November 23, 2022

Re: Approval of the Minutes of October 26, 2022

RECOMMENDED ACTION

Approve the attached draft minutes of the Budget and Finance Committee meeting of October 26, 2022.

BACKGROUND

None.

DISCUSSION

Attached for your review and approval are the draft minutes of the Budget and Finance Committee meeting of October 26, 2022.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Draft Minutes of the Budget and Finance Committee Meeting of October 26, 2022

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

DRAFT MINUTES

Budget & Finance Committee Meeting
Wednesday, October 26, 2022

This meeting was conducted under procedures in accordance with Assembly Bill 361 (Rivas 2021). Members of the Committee participated by teleconference.

- 1. PLEDGE OF ALLEGIANCE (OUT OF ORDER, ITEM 2)**
- 2. PUBLIC MEETING PROCEDURE (ITEM 3)**
- 3. CALL TO ORDER – ROLL CALL (ITEM 1)**

Committee Chairperson Carole Groom called the meeting to order at 9:30 a.m.

Present: Committee Chairperson Carole Groom; Committee Vice Chairperson Brad Wagenknecht; and Directors David Hudson, Davina Hurt, Myrna Melgar, Karen Mitchoff, and Katie Rice.

Absent: Director John J. Bauters and David Canepa.

- 4. APPROVAL OF THE MINUTES OF APRIL 27, 2022**

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Director Hudson made a motion, seconded by Director Rice, to **approve** the Minutes of the Meeting of April 27, 2022; and the motion carried by the following vote of the Committee:

AYES: Groom, Hudson, Hurt, Melgar, Mitchoff, Rice, Wagenknecht.
NOES: None.
ABSTAIN: None.
ABSENT: Bauters, Canepa.

5. FUNDING POLICY FOR THE OTHER POST-EMPLOYMENT BENEFITS (OPEB) AND PENSION PLANS

Stephanie Osaze, Director of Finance, gave the staff presentation *Other Post-Employment Benefits (OPEB)*, including: outcome; outline; requested action; Plan overview – OPEB, California Public Employees' Retirement System (CalPERS) Pension Plan, funding of retirement liabilities; Policy overview - OPEB Medical Plan; CalPERS Pension Plan; and recommendation.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed whether the Air District anticipates fluctuations in OPEB and Pension Plan actuarial valuations, based on investment return assumptions; when the next CalPERS actuarial statement will be released; and whether the recommended action takes into account the redirection of annual discretionary contributions.

Committee Action

Vice Chair Wagenknecht made a motion, seconded by Director Hudson, to **approve** the Air District's proposed funding policy for OPEB and pension plans; and the motion carried by the following vote of the Committee:

AYES: Groom, Hudson, Hurt, Melgar, Mitchoff, Rice, Wagenknecht.
NOES: None.
ABSTAIN: None.
ABSENT: Bauters, Canepa.

6. CALIFORNIA EMPLOYERS' PENSION PREFUNDING TRUST (CEPPT) INVESTMENT POLICY

Leonid Bak, Economist, gave the staff presentation *California Employers' Pension Prefunding Trust Investment Policy*, including: outcome; outline; requested action; CEPPT investment Strategies 1 and 2; CalPERS Pension Retirement Plan; recommended funds allocation; and recommendation.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed whether, at the end of FYE 2023, market conditions might indicate that Investment Strategy #2 would not be wise; and whether the funding target level of 90% could be achieved faster with a three-tranche approach.

Committee Action

Vice Chair Wagenknecht made a motion, seconded by Director Hurt, to **adopt** the following funding allocation and choose investment policy: Direct investments in the Air District’s CEPPT 115 Trust account to use investment strategy 2; and allocate Air District’s funds to the CEPPT 115 Trust account in 2 tranches: First, following adoption of the recommendation (1st tranche), second, at the end of Fiscal Year (FY) 2023 (2nd tranche); and the motion carried by the following vote of the Committee:

AYES: Groom, Hudson, Hurt, Melgar, Mitchoff, Rice, Wagenknecht.
NOES: None.
ABSTAIN: None.
ABSENT: Bauters, Canepa.

7. PATHWAY TO 100 PERCENT COST RECOVERY

Mr. Bak gave the staff presentation *Pathways to 100 Percent Cost Recovery*, including: outcome; outline; requested action; brief history – fees and cost recovery overview; summary of Matrix Study options; summary of assumptions; for context: Fiscal Year Ending (FYE) 2023 Budget overview; options to reach 100% cost recovery model output; and summary and conclusions.

Public Comments

Public comments were given by Christine Wolfe, California Council for Environmental and Economic Balance; Jed Holtzman, San Francisco resident; and Jan Warren, Interfaith Climate Action Network of Contra Costa County.

Committee Comments

The Committee and staff discussed whether the Board and staff have new budgetary goals, besides 100% cost recovery, since the Committee met in the summer; the reliability of the Matrix Study proposal and model assumptions; the desire for a cost recovery policy that results in predictable fees; concerns about subsidizing industry fees; whether the model assumptions include cost of living increases or bargaining agreements; and when is the next labor negotiation with the Air District’s Employees’ Association will occur.

Committee Action

None; receive and file.

8. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

9. COMMITTEE MEMBER COMMENTS

None.

10. TIME AND PLACE OF NEXT MEETING

Wednesday, November 23, 2022, at 9:30 a.m., via webcast, pursuant to procedures authorized by Assembly Bill 361 (Rivas 2021).

11. ADJOURNMENT

The meeting adjourned at 10:38 a.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Carole Groom and Members
of the Budget and Finance Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: November 23, 2022

Re: Fourth Quarter Preliminary Financial Report - Fiscal Year Ending June 30, 2022

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

The finance staff will present an update on the Air District's preliminary financial results for the fourth quarter of the 2021-2022 fiscal year. Attachment A summarizes the preliminary financial results.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Jun Pan
Reviewed by: Stephanie Osaze

ATTACHMENTS:

1. Fourth Quarter Financial Report Fiscal Year Ending 2022 - Attachment A

Attachment A: Financial Summary

The following information summarizes the financial results of the 4th quarter of the fiscal year ending 2022.

GENERAL FUND: STATEMENT OF REVENUES – Comparison of Prior Year Quarter Actual and Current Year Budget to Actual

REVENUE TYPE	4th QTR FY 2021	4th QTR FY 2022	FY 2022 - % of BUDGETED REVENUE
County Receipts	\$39,778,798	\$41,502,972	106%
Permit Fee Receipts	\$39,684,361	\$41,868,340	105%
Title V Permit Fees	\$6,210,781	\$7,136,860	114%
Asbestos Fees	\$4,094,654	\$4,336,520	108%
Toxic Inventory Fees	\$1,995,672	\$1,441,310	197%
Community Health Impact	\$0	\$1,277,852	139%
Criteria Pollutant Toxic	\$0	\$1,288,653	99%
Penalties and Settlements	\$4,212,013	\$4,829,132	176%
Interest Income	\$828,005	\$872,547	54%
Total Revenue	\$96,804,285	\$104,554,187	108%

GENERAL FUND: STATEMENT OF EXPENDITURES - Comparison of Prior Year Quarter Actual and Current Year Budget to Actual

EXPENDITURE TYPE	4th QTR FY 2021	4th QTR FY 2022	FY 2022 - % of BUDGETED EXPENDITURES
Personnel - Salaries*	\$51,515,900	\$55,209,036	99%
Personnel - Benefits*	\$26,992,260	\$28,743,216	96%
Operational Services / Supplies	\$24,583,454	\$27,215,385	85%
Capital Outlay	\$3,501,905	\$3,367,283	65%
Total Expenditures	\$106,593,520	\$114,534,920	93%
* Consolidated (includes Special Funds)			

CASH INVESTMENTS IN COUNTY TREASURY – Account Balances as of the Fourth Quarter

CASH/INVESTMENTS	4th QTR FY 2021	4th QTR FY 2022
General Fund	\$84,042,994	\$102,053,412
TFCA	\$119,332,833	\$123,411,783
MSIF	\$48,518,058	\$58,878,326
Carl Moyer	\$74,573,104	\$70,304,482
CA Goods Movement	\$21,186,646	\$21,041,228
AQ Projects	\$1,609,109	\$3,249,005
Vehicles Mitigation	\$7,615,319	\$24,500,089
Total	\$356,878,064	\$403,438,325

FUND BALANCES	6/30/2020	6/30/2021	6/30/2022
	Audited	Audited	Projected
DESIGNATED: *			
Community Benefits			\$3,000,000
Economic Contingency	\$20,082,966	\$21,294,922	\$23,303,025
Pension Liability	\$3,000,000	\$4,000,000	\$4,000,000
Technology Implementation Office	\$3,350,000	\$3,350,000	\$3,350,000
Wildfire Mitigation	\$1,000,000	\$1,000,000	\$2,000,000
AB617 Staffing Contingency			\$6,000,000
Pandemic Contingency			\$7,000,000
Total Designated Reserves	\$27,432,966	\$29,644,922	\$48,653,025
Undesignated Fund Balance	\$26,401,581	\$34,385,565	\$14,877,462
TOTAL DESIGNATED & UNDESIGNATED	\$53,834,547	\$64,030,487	\$63,530,487
TOTAL FUND BALANCE	\$53,834,547	\$64,030,487	\$63,530,487
* Designated Fund Balances are subject to change at Board's discretion.			
OUTSTANDING LIABILITIES			
CalPERS Pension Retirement			\$101,305,734
Certificate of Participation Notes			\$21,173,770
TOTAL OUTSTANDING LIABILITIES			\$122,479,504

VENDOR PAYMENTS

In accordance with provisions of the Administrative Code, Division II Fiscal Policies and Procedures - Section 4 Purchasing Procedures: 4.3 Contract Limitations, the staff is required to present recurring payments for routine business needs such as utilities, licenses, office supplies and the like, more than, or accumulating to more than \$100,000 for the fiscal year. In addition, this report includes all of the vendors receiving payments in excess of \$100,000 under contracts that have not been previously reviewed by the Board. In addition, staff will report on vendors that undertook work for the Air District on several projects that individuals were less than \$100,000, but cumulatively exceed \$100,000.

Below is a list of vendors with cumulative payments made through the Fourth quarter of 2021-22 fiscal year that exceeded \$100,000 and meets the reporting criteria noted above. All expenditures have been appropriately budgeted as a part of the overall Air District budget for The fiscal Year 2021-22.

	VENDOR NAME	AMOUNT PAID (July 2021 - June 2022)	Explanation
1	Alliant Insurance Services	\$730,435	Various Business Insurance Policies
2	BAAQMD Employee Association	\$180,239	Employee Union Dues
3	Bay Area Headquarters Authority	\$3,057,469	Shared Services & Common Areas
4	Benefits Coordinators Corp.	\$1,454,708	Life Insurance Plan & LTD Insurance
5	CA Public Employee Retirement System (Heath)	\$8,184,417	Health Insurance Plan
6	CA Public Employee Retirement System (Retirement)	\$7,418,141	Retirement Benefits & 457 Supplemental Plan
7	CA Vision Plan	\$107,535	Vision Insurance Plan
8	CAPCOA	\$916,608	Pass through EPA grants
9	Ceridian Corp	\$169,560	Payroll Processing Services
10	Comcast Cable Communications	\$177,640	Internet Data Services
11	Cubic Transportation Systems	\$457,613	Clipper Transit Subsidy
12	Denovo Ventures, LLC	\$171,084	Financial application JD Edward services
13	Enterprise Fleet Services	\$631,042	Fleet Leasing and Maintenance services
14	Pacific Gas & Electric	\$211,743	Utility Services
15	EPlus Technology	\$164,565	Cisco Computer Network Equipment Warranty
16	MEB Consulting Group	\$120,000	External Review Services
17	P&A Administrative Services	\$292,000	Flexible Spending & Cobra Benefit Services
18	Preferred Benefit Insurance AD	\$552,043	Dental Insurance Plan
19	Robert Half, Inc.	\$769,884	Temporary Staffing Services
20	Sedwick Claims Management	\$149,308	Worker's Compensation Insurance Services
21	Sloan Sakai Yeung & Wong LLP	\$237,332	Human Resources Consulting Services
22	Thermo Environmental Instrument	\$107,348	Equipment Purchase and Maintenance
23	True North Research	\$118,800	Survey and Analysis Services
24	Verizon Wireless	\$215,587	Cell Phone Services
25	WEX Fleet Universal	\$168,619	Fleet Fuel Purchase
26	Wang Brothers Investment LLC	\$510,259	Richmond Site Lease

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Carole Groom and Members
of the Budget and Finance Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: November 23, 2022

Re: Proposed Amendment to the Cost Recovery and Containment Policy

RECOMMENDED ACTION

Recommend to the Board of Directors that the Board adopt the proposed amended Cost Recovery and Containment Policy.

BACKGROUND

The Cost Recovery and Containment Policy provides the framework for the Air District to contain costs and to adjust fees in support of its regulatory programs.

DISCUSSION

On March 7, 2012, the Board of Directors adopted a Cost Recovery and Containment Policy for fee-based activity that established a goal of increasing fee revenue sufficient to achieve at least 85 percent recovery of regulatory program costs.

The policy has three (3) main elements: 1) Cost Containment, 2) Analysis of Cost Recovery and 3) Cost Recovery Goals. Part 3 provides the strategic framework for the Regulation 3 rule development process that is conducted in parallel with the next fiscal year annual budget.

In July 2021, the Air District obtained the services of the Matrix Consulting Group. The work was prompted by the Board to study the Air District's current indirect costs as well as fee-related cost recovery by fee schedule and continue to look at any cost containment practices. A key goal of this analysis is to determine methods to obtain 100% cost recovery associated with fee-based activities and schedules. The final report was presented to the Budget and Finance Committee on April 27, 2022.

The proposed policy was developed using the 2022 Matrix study findings and comments from the Board meetings.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The policy alone does not have a budget impact. The policy will impact the budget when implemented as a strategy in Regulation 3 rule development processes.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Fred Tanaka
Reviewed by: Pamela J. Leong, Veronica Eady

ATTACHMENTS:

1. 2022 Cost Recovery and Containment Policy - FINAL DRAFT
2. 2012 Cost Recovery and Containment Policy

COST RECOVERY AND CONTAINMENT POLICY FOR BAY AREA AIR QUALITY MANAGEMENT DISTRICT REGULATORY PROGRAMS

PURPOSE

WHEREAS, the Air District has the primary authority for the control of air pollution from all sources of air emissions located in the San Francisco Bay Area, other than emissions from motor vehicles, in accordance with the provisions of Health & Safety Code sections 39002 and 40000.

WHEREAS, the Air District is responsible for implementing and enforcing various Air District, State, and federal air quality regulatory requirements that apply to non-vehicular sources.

WHEREAS, the Air District's regulatory programs include but are not limited to permitting and notification programs, compliance and enforcement of permitted and registered facilities, compliance assistance at permitted and registered facilities, source testing and monitoring at permitted facilities, rule development for regulated industries, the development of the emissions inventory for permitted and registered facilities and other permit work at permitted facilities.

WHEREAS, the Air District is authorized to assess fees to regulated entities for the purpose of recovering the reasonable costs of regulatory program activities, and these authorities include those provided for in California Health and Safety Code sections 42311, 42364, and 44380.

WHEREAS, the Air District's fees fall within the categories provided in Section 1(e) of Article XIII C of the California Constitution, which indicates that charges assessed to regulated entities to recover regulatory program activity costs, and charges assessed to cover the cost of conferring a privilege or providing a service, are not taxes.

WHEREAS, the Air District has adopted, and periodically amends, a fee regulation for the purpose of recovering regulatory program activity costs, and this regulation with its various fee schedules, is used to allocate costs to fee payers in a manner which bears a fair or reasonable relationship to the payer's burden on, or benefits received from, regulatory activities.

WHEREAS, the Air District analyzes whether assessed fees result in the collection of sufficient revenue to recover the costs of related program activities; and Air District staff conduct these analyses on an annual basis, with an independent contractor review of these analyses and methodologies -conducted approximately every five years, with the most recent independent study conducted in 2022. . Each fee study and cost recovery update completed revealed that District fee revenue falls short of recovering the costs of related program activities.

WHEREAS, the Air District's most recent independent fee report (*2022 Cost Recovery Report, Bay Area Air Quality Management District, May 2022*) concluded that in Fiscal Year Ending (FYE) 2021, the Air District recovered approximately 83.7 percent of its fee-related activity costs (up from 65 percent in FYE 2011), resulting in an under-recovery of costs (i.e., a cost recovery gap), and a subsidy to fee payers, of approximately \$10.2 million, and that this cost recovery gap resulted despite the implementation of a number of strategies to contain costs.

WHEREAS, the Air District's Board of Directors has recognized since 1999 that the Air District's cost recovery gap has been an issue that needs to be addressed, and since that time has adopted annual fee amendments in order to increase fee revenue.

WHEREAS, the Air District's Board of Directors adopted a policy in 2012 with a goal to increase overall recovery of regulatory program activity costs to 85 percent.

WHEREAS, in addition to fee revenue, the Air District receives revenue from Bay Area counties that is derived from property taxes, and a large portion of this tax revenue has historically been used on an annual basis to fill the cost recovery gap.

WHEREAS, the tax revenue that the Air District receives varies on a year-to-year basis, and cannot necessarily be relied on to fill the cost recovery gap and also cover other Air District operational costs necessitating, in certain years, the use of reserve funds.

WHEREAS, tax revenue that the Air District receives, to the extent that it is not needed to fill the cost recovery gap, can be used to fund initiatives or programs that may further the Air District's mission but that lack a dedicated funding source.

WHEREAS, it may be appropriate as a matter of policy to establish specific fee discounts for small businesses, green businesses, or other regulated entities or members of the public, where tax revenue is used to cover a portion of regulatory program activity costs, and the Air District's existing fee regulation contains several fee discounts of this type.

POLICY

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Bay Area Air Quality Management District that:

(1) Cost Containment – In order to ensure that the costs of its regulatory programs remain reasonable, the Air District should continue to implement feasible cost containment measures, including the use of appropriate best management practices, without compromising the Air District's effective implementation and enforcement of applicable regulatory requirements. The Air District's annual budget documents should include a summary of cost containment measures that are being implemented.

(2) Analysis of Cost Recovery – The Air District should continue to analyze the extent to which fees recover regulatory program activity costs, both on an overall basis, and at

the level of individual fee schedules. An independent review of the Air District cost recovery analyses should be periodically completed by a qualified Air District contractor and should be updated on an annual basis by Air District staff using a consistent methodology.

(3) Cost Recovery Goals – It is the general policy of the Air District, except as otherwise noted below, that the costs of regulatory program activities be fully recovered by assessing fees to regulated entities. To move towards this goal, the Air District should amend its fee regulation over the next several years, in conjunction with the adoption of the Air District budget, in a manner sufficient to increase overall recovery of regulatory program activity costs to 100 percent. Proposed amendments to specific fee schedules should also be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps. Proposed fee amendments should include fee-recoverable work that is currently not being charged a fee. As allowed by law, any proposed regulatory measures should also propose new fees or fee amendments that are designed to recover increased regulatory program implementation costs concurrent with rule adoption, unless the Board of Directors determines that a portion of those costs should be covered by tax revenue. Tax revenue should also continue to be used to cover existing fee discounts that the Air District provides (e.g., for small businesses, green businesses, and third-party permit appeals).

BE IT FURTHER RESOLVED that this resolution is non-binding in the case of unforeseen financial circumstances, and may also be reconsidered or updated by the Air District's Board of Directors.

COST RECOVERY POLICY FOR BAY AREA AIR QUALITY MANAGEMENT DISTRICT REGULATORY PROGRAMS

PURPOSE

WHEREAS, the District has the primary authority for the control of air pollution from all sources of air emissions located in the San Francisco Bay Area, other than emissions from motor vehicles, in accordance with the provisions of Health & Safety Code sections 39002 and 40000.

WHEREAS, the District is responsible for implementing and enforcing various District, State, and federal air quality regulatory requirements that apply to non-vehicular sources.

WHEREAS, the District's regulatory programs involve issuing permits, performing inspections, and other associated activities.

WHEREAS, the District is authorized to assess fees to regulated entities for the purpose of recovering the reasonable costs of regulatory program activities, and these authorities include those provided for in California Health and Safety Code sections 42311, 42364, and 44380.

WHEREAS, the District's fees fall within the categories provided in Section 1(e) of Article XIII C of the California Constitution, which indicates that charges assessed to regulated entities to recover regulatory program activity costs, and charges assessed to cover the cost of conferring a privilege or providing a service, are not taxes.

WHEREAS, the District has adopted, and periodically amends, a fee regulation for the purpose of recovering regulatory program activity costs, and this regulation with its various fee schedules, is used to allocate costs to fee payers in a manner which bears a fair or reasonable relationship to the payer's burden on, or benefits received from, regulatory activities.

WHEREAS, the District analyzes whether assessed fees result in the collection of sufficient revenue to recover the costs of related program activities; these analyses have included contractor-conducted fee studies completed in 1999, 2005, and 2011, and annual District staff-conducted cost recovery updates completed in 2006 through 2010. Each fee study and cost recovery update completed revealed that District fee revenue falls significantly short of recovering the costs of related program activities.

WHEREAS, the District's most recently completed fee study (*Cost Recovery and Containment Study, Bay Area Air Quality Management District*, Final Report, Matrix Consulting Group, March 9, 2011) concluded that in Fiscal Year Ending (FYE) 2010, the District recovered approximately 62 percent of its fee-related activity costs, resulting in an under-recovery of costs (i.e., a cost recovery gap), and a subsidy to fee payers, of approximately \$16.8 million, and that this cost recovery gap resulted despite the

implementation of a number of strategies to contain costs.

WHEREAS, cost recovery analyses have indicated that the District's Fee Schedule P: Major Facility Review Fees, which establishes fees for program activities associated with the Title V permit program, has under-recovered costs by an average of \$3.4 million per year over the period FYE 2004 through FYE 2010.

WHEREAS, the District's Board of Directors has recognized since 1999 that the District's cost recovery gap has been an issue that needs to be addressed, and since that time has adopted annual fee amendments in order to increase fee revenue.

WHEREAS, in addition to fee revenue, the District receives revenue from Bay Area counties that is derived from property taxes, and a large portion of this tax revenue has historically been used on an annual basis to fill the cost recovery gap.

WHEREAS, the tax revenue that the District receives varies on a year-to-year basis, and cannot necessarily be relied on to fill the cost recovery gap and also cover other District expenses necessitating, in certain years, the use of reserve funds.

WHEREAS, tax revenue that the District receives, to the extent that it is not needed to fill the cost recovery gap, can be used to fund initiatives or programs that may further the District's mission but that lack a dedicated funding source.

WHEREAS, it may be appropriate as a matter of policy to establish specific fee discounts for small businesses, green businesses, or other regulated entities or members of the public, where tax revenue is used to cover a portion of regulatory program activity costs, and the District's existing fee regulation contains several fee discounts of this type.

POLICY

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Bay Area Air Quality Management District that:

(1) Cost Containment –In order to ensure that the costs of its regulatory programs remain reasonable, the District should continue to implement feasible cost containment measures, including the use of appropriate best management practices, without compromising the District's effective implementation and enforcement of applicable regulatory requirements. The District's annual budget documents should include a summary of cost containment measures that are being implemented.

(2) Analysis of Cost Recovery – The District should continue to analyze the extent to which fees recover regulatory program activity costs, both on an overall basis, and at the level of individual fee schedules. These cost recovery analyses should be periodically completed by a qualified District contractor, and should be updated on an annual basis by District staff using a consistent methodology.

(3) Cost Recovery Goals – It is the general policy of the District, except as otherwise noted below, that the costs of regulatory program activities be fully recovered by assessing fees to regulated entities. In order to move towards this goal, the District should amend its fee regulation over the next four years, in conjunction with the adoption of budgets for Fiscal Year Ending (FYE) 2013 through FYE 2016, in a manner sufficient to increase overall recovery of regulatory program activity costs to 85 percent. Amendments to specific fee schedules should also be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps. This includes Fee Schedule P: Major Facility Review Fees, which has been determined to under-recover costs by a significant amount. Newly adopted regulatory measures should include fees that are designed to recover increased regulatory program activity costs associated with the measure, unless the Board of Directors determines that a portion of those costs should be covered by tax revenue. Tax revenue should also continue to be used to subsidize existing fee discounts that the District provides (e.g., for small businesses, green businesses, and third-party permit appeals), and to cover the cost of the District’s wood smoke enforcement program.

BE IT FURTHER RESOLVED that this resolution is non-binding in the case of unforeseen financial circumstances, and may also be reconsidered or updated by the District’s Board of Directors.