



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

**BOARD OF DIRECTORS
MEETING
May 18, 2022**

THIS MEETING WILL BE CONDUCTED UNDER PROCEDURES AUTHORIZED BY ASSEMBLY BILL 361 (RIVAS 2021) ALLOWING REMOTE MEETINGS. THIS MEETING WILL BE ACCESSIBLE VIA WEBCAST, TELECONFERENCE, AND ZOOM. A ZOOM PANELIST LINK WILL BE SENT SEPARATELY TO COMMITTEE OR BOARD MEMBERS

- **THE PUBLIC MAY OBSERVE THIS MEETING THROUGH THE WEBCAST BY CLICKING THE LINK AVAILABLE ON THE AIR DISTRICT'S AGENDA WEBPAGE AT**

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- **THE PUBLIC MAY PARTICIPATE REMOTELY VIA ZOOM AT THE FOLLOWING LINK OR BY PHONE**

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(669) 900-6833 or (408) 638-0968

WEBINAR ID: 819 6424 2349

- **THOSE PARTICIPATING BY PHONE WHO WOULD LIKE TO MAKE A COMMENT CAN USE THE "RAISE HAND" FEATURE BY DIALING "*9". IN ORDER TO RECEIVE THE FULL ZOOM EXPERIENCE, PLEASE MAKE SURE YOUR APPLICATION IS UP TO DATE**

BOARD OF DIRECTORS MEETING AGENDA

WEDNESDAY, MAY 18, 2022

9:00 AM

Chairperson, John Bauters

1. **Call to Order - Roll Call**
2. **Pledge of Allegiance**
3. **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 two minutes each to address the Board. No speaker who has already spoken on that item will be entitled to speak to that item again.*

CONSENT CALENDAR (Items 4 - 13)

4. Approval of the Minutes of May 4, 2022

The Board of Directors will consider approving the draft minutes of the Board of Directors meeting of May 4, 2022.

5. Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas)

The Board of Directors will consider approving a resolution reauthorizing Air District Board and Committee meetings remote teleconferencing through June 17, 2022.

6. Board Communications Received from May 5, 2022 through May 17, 2022

A copy of communications directed to the Board of Directors received by the Air District from May 5, 2022 through May 17, 2022, if any, will be distributed to the Board Members by way of email.

7. Air District Personnel on Out of State Business Travel for the Month Ending April 2022

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.

8. Authorization to Execute Contract Amendment for Environmental Audit, Inc.

Recommend the Board of Directors authorize the Interim Executive Officer/APCO to execute contract amendment for Environmental Audit, Inc., in an amount not to exceed \$245,000.

9. Authorization to Execute Contract Amendment for BioWatch Maintenance and Operations

The Board of Directors will consider authorizing the Interim Executive Officer/APCO to execute a contract amendment with Technical & Business Systems (T&B Systems) to increase the agreement by an amount not to exceed \$1,347,435, to a total amount not to exceed \$9,315,160.

10. Authorization to Execute Contract Amendment for Mortarotti-Ramirez Productions

Recommend the Board of Directors authorize the Interim Executive Officer/APCO to execute a contract amendment with Mortarotti-Ramirez Productions to provide professional videography services in an amount not to exceed \$250,000.

11. Authorization to Execute Contract Amendment for Cylogy, Inc.

Recommend the Board of Directors authorize the Interim Executive Officer/APCO to execute a contract amendment with Cylogy, Inc., for an additional amount of \$250,000, to provide website support, complete ongoing web projects and perform routine web maintenance for the Spare the Air website, which brings the total contract in an amount not to exceed \$2,358,023.

12. Report of the Community Equity, Health and Justice Committee Meeting of May 5, 2022

The Board of Directors will receive a report of the Community Equity, Health and Justice Committee Meeting of May 5, 2022, and will consider approval of the following action items recommended by that Committee:

- A) Appointment of Elizabeth Tyler as City of San Pablo Representative to Assembly Bill (AB) 617 Path to Clean Air Community Emission Reduction Plan Steering Committee.

13. Report of the Legislative Committee Meeting of May 9, 2022

The Board of Directors will receive a report of the Legislative Committee meeting of May 9, 2022.

DISCUSSION

14. Appointment of New Board Secretary for Remainder of 2022 Term

The Board of Directors will receive a report of the Nominating Committee meeting of May 18, 2022, and will consider appointment of a Board Secretary for the remainder of the 2022 Term.

- A) Receive the Report of the Nominating Committee Meeting of May 18, 2022.
- B) Consideration and Appointment of Board Secretary for the Remaining Term of Office in 2022.

CLOSED SESSION

15. Conference with Legal Counsel - Existing Litigation (Gov't Code § 54956.9)

The Athletics Investment Group, LLC v. Bay Area Air Quality Management District, Alameda County Superior Ct. No. 22CV010930

16. Public Employee Appointment and Employment

Pursuant to Government Code Section 54957(b)

Title: Interim Executive Officer/Air Pollution Control Officer

OPEN SESSION

17. Consider Approving the District Counsel's Employment Agreement

Consider Approving the District Counsel's Employment Agreement and Authorizing the Chair to Execute the Agreement.

18. Consider Approving the Interim Executive Officer's Employment Agreement

Consider Approving the Interim Executive Officer's Employment Agreement and Authorizing the Chair to Execute the Agreement.

OTHER BUSINESS

19. 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 Board.

20. Board Member Comments

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)

21. Report of the Interim Executive Officer/APCO

22. Chairperson's Report

23. Time and Place of Next Meeting

Wednesday, June 1, 2022, at 9:00 a.m., in person or via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

24. 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, 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

MAY 2022

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Technology Implementation Office (TIO) Steering Committee	Friday	13	1:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Stationary Source and Climate Impacts Committee - CANCELLED	Monday	16	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Path to Clean Air Community Emissions Reduction Plan Steering Committee	Monday	16	5:30 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Nominating Committee	Wednesday	18	8:45 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Meeting	Wednesday	18	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Administration Committee	Wednesday	18	10:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Budget and Finance Committee - CANCELLED	Wednesday	25	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee	Thursday	26	9:30 a.m.	Webcast only pursuant to Assembly Bill 361

JUNE 2022

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	1	9:00 a.m.	1 st Floor, Board Room (In person option available) and REMOTE pursuant to Assembly Bill 361
Board of Directors Community Equity, Health and Justice Committee	Thursday	2	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Advisory Council Meeting - CANCELLED	Monday	13	8:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Legislative Committee	Monday	13	1:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Stationary Source and Climate Impacts Committee	Monday	13	2:30 p.m.	Webcast only pursuant to Assembly Bill 361

JUNE 2022

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	15	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 Administration Committee	Wednesday	15	11:00 a.m.	1 st Floor, Board Room (In person option available) <u>and REMOTE</u> pursuant to Assembly Bill 361
Board of Directors Stationary Source and Climate Impacts Committee – CANCELLED & RESCHEDULED TO MONDAY, JUNE 13, 2022 AT 2:30 P.M.	Monday	20	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Budget and Finance Committee	Wednesday	22	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee	Thursday	23	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Path to Clean Air Community Emissions Reduction Plan Steering Committee	Monday	27	5:30 p.m.	Webcast only pursuant to Assembly Bill 361
Community Advisory Council Meeting	Thursday	30	6:00 p.m.	Webcast only pursuant to Assembly Bill 361

HL 5/12/2022 – 11:50 A.M.

G/Board/Executive Office/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Approval of the Minutes of May 4, 2022

RECOMMENDED ACTION

Approve the attached draft minutes of the Board of Directors meeting of May 4, 2022.

BACKGROUND

None.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors meeting of May 4, 2022.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Draft Minutes of the Board of Directors Meeting of May 4, 2022

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

Board of Directors Regular Meeting
Wednesday, May 4, 2022

*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 Assembly Bill 361 (Rivas 2021), allowing remote meetings. Members of the Board of Directors participated both by teleconference (via Zoom) and in person.

1. **PUBLIC MEETING PROCEDURE (OUT OF ORDER, ITEM 3)**

CALL TO ORDER (ITEM 1)

2. **Opening Comments:** Board of Directors (Board) Chairperson, Karen Mitchoff, called the meeting to order at 9:09 a.m.

Roll Call:

Present: Chairperson Karen Mitchoff; Vice Chairperson John Bauters; Secretary Davina Hurt; and Directors Margaret Abe-Koga (Zoom), Teresa Barrett, David Canepa (Zoom), John Gioia (Zoom), Carole Groom (Zoom), Erin Hannigan (Zoom), David Haubert (Zoom), Lynda Hopkins (Zoom), David Hudson, Tyrone Jue (Zoom), Sergio Lopez, Myrna Melgar (Zoom), Rob Rennie (Zoom), Katie Rice, Mark Ross (Zoom), Brad Wagenknecht, Shamann Walton (Zoom), and Steve Young.

Absent: Directors Pauline Russo Cutter, Otto Lee, and Nate Miley.

3. **PLEDGE OF ALLEGIANCE (ITEM 2)**

CONSENT CALENDAR (ITEMS 4 – 14)

4. Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas)
5. Approval of the Minutes of April 20, 2022
6. Board Communications Received from April 20, 2022 through May 3, 2022
7. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of March 2022
8. Authorization to Amend Contract with Communities for a Better Environment, for Partnership, Outreach and Engagement, and Research Support for the Assembly Bill (AB) 617 Community Emissions Reduction Plan (CERP) Process for East Oakland

9. Authorization to Amend Contract with RBA Creative LLC in an Amount Not to Exceed \$201,500 for Facilitation, Technical Support and Steering Committee Member Outreach for the Community Advisory Council (CAC) and the Community Steering Committee (CSC) for the Assembly Bill (AB) 617 West Oakland Community Action Plan
10. Report of the Stationary Source & Climate Impacts Committee Meeting of April 18, 2022
11. Report of the Administration Committee Meeting of April 20, 2022
12. Report of the Richmond Area Community Emissions Reduction Plan Steering Committee Meeting of April 25, 2022
13. Report of the Budget and Finance Committee Meeting of April 27, 2022
14. Report of the Mobile Source & Climate Impacts Committee Meeting of April 28, 2022

Item 7 (Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of March 2022) **was pulled from the Consent Calendar by Director Young.**

Item 8 (Authorization to Amend Contract with Communities for a Better Environment, for Partnership, Outreach and Engagement, and Research Support for the Assembly Bill (AB) 617 Community Emissions Reduction Plan (CERP) Process for East Oakland) **was pulled from the Consent Calendar by Director Hudson.**

Public Comments

No requests received.

Board Comments

The Board and staff discussed whether Board members may know the details of any fines pertaining to Notices of Violation issued to Valero Refining Company – California; the cost increase of the task order to extend the contract term end date to December 31, 2023, for Partnership, Outreach and Engagement, and Research Support for the AB 617 CERP Process for East Oakland (for Contract No. 2021.175 between the Air District and Communities for a Better Environment); and the request that the language in the Air District’s business contracts contain more specific (rather than vague) terms and objectives.

NOTED PRESENT: Director Groom was noted present at 9:26 a.m.

Board Action

Vice Chair Bauters made a motion, seconded by Director Hudson, to **approve** Consent Calendar Items 4, 5, 6, 9, and 10-14; and the motion **carried** by the following vote of the Board:

- AYES: Margaret Abe-Koga, Teresa Barrett, John Bauters, John Gioia, Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Davina Hurt, Tyrone Jue, Sergio Lopez, Myrna Melgar, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Shamann Walton, Steve Young.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Pauline Russo Cutter, David Canepa, Carole Groom, Otto Lee, Nate Miley.

Director Hudson made a motion, seconded by Secretary Hurt, to **approve** Consent Calendar Items 7 and 8; and the motion **carried** by the following vote of the Board:

- AYES: Margaret Abe-Koga, Teresa Barrett, John Bauters, John Gioia, Carole Groom, Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Davina Hurt, Tyrone Jue, Sergio Lopez, Myrna Melgar, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Shamann Walton, Steve Young.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Pauline Russo Cutter, David Canepa, Otto Lee, Nate Miley.

PUBLIC HEARING

15. PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED NEW REGULATION 13: CLIMATE POLLUTANTS, RULE 5: INDUSTRIAL HYDROGEN PLANTS AND PROPOSED AMENDMENTS OF REGULATION 8: ORGANIC COMPOUNDS, RULE 2: MISCELLANEOUS OPERATIONS; AND CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Alexander Crockett, Interim Executive Officer/Air Pollution Control Officer, introduced Victor Douglas, Rule Development Manager, who gave the staff presentation *Public Hearing on Proposed Regulation 13: Climate Pollutants, Rule 5: Industrial Hydrogen Plants*, including: outcome; outline; requested action; recent rule development history; background; hydrogen production via steam methane reformation; hydrogen production via electrolysis; why do hydrogen vent emissions occur; overview of hydrogen plant configurations; proposed new Rule 13-5 provisions; Rule 8-2 proposed amendments; potential nitrogen oxide (NOx) and greenhouse gas (GHG) emissions impacts of a flare; net annual GHG emissions from potential operation of a flare; aesthetic impact of potential new flares and visible emissions from flares; cost and cost effectiveness analysis; socioeconomic impacts; environmental impacts; statutory findings; Air District impacts; and recommended action.

Chair Mitchoff opened the Public Hearing.

Public Comments

Public comments were given by Kevin Buchan, Western States Petroleum Association; Dr. Stephen Rosenblum, Palo Alto resident; and Rick Shih, PBF Energy, Inc.

Board Comments

The Board and staff discussed what happens to excess hydrogen produced at refinery hydrogen plants; the reason for an added exemption for sources complying with the control requirements of Section 13-5-301; health impacts (upon fence-line communities) of flaring from hydrogen plants; the way in which the Air District differentiates hydrogen plant flaring events and refinery propane flaring events; if such flaring events are visibly different; the difference and tradeoffs between projected NOx and GHG emissions level reductions; whether recycled water may be used for electrolysis; how the cost of electrolysis compares with other methods of hydrogen production; the new fee to fund four new full-time equivalent staff members, and when that would be implemented, if approved; the total annualized

cost associated with flares; the fear and trauma that the sight of flaring can cause for fenceline communities, and the request that the Air District strategizes ways to work with fenceline communities on this issue; whether hydrogen venting is considered a minor flaring event; whether the Air District has a flare event notification system; concerns about claims from industry that the Air District did not respond to public comments submitted during the comment period (ending April 15, 2022); the Alternative Compliance Plan's proposed method that would allow an affected facility to reduce the overall emissions of methane and other GHGs by 90% via an approach approved by the Air District; and proposed reporting requirements.

Chair Mitchoff closed the Public Hearing.

Board Action

Vice Chair Bauters made a motion, seconded by Secretary Hurt, to **adopt** the Proposed New Regulation 13: Climate Pollutants, Rule 5: Industrial Hydrogen Plants, Proposed Amendments of Regulation 8: Organic Compounds, Rule 2: Miscellaneous Operations, and Certification of a Final Environmental Impact Report Pursuant to the California Environmental Quality Act; and to adopt the proposed Board Resolution; and the motion **carried** by the following vote of the Board:

- AYES: Margaret Abe-Koga, Teresa Barrett, John Bauters, John Gioia, Carole Groom, Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Davina Hurt, Tyrone Jue, Sergio Lopez, Myrna Melgar, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Shamann Walton, Steve Young.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Pauline Russo Cutter, David Canepa, Otto Lee, Nate Miley.

OTHER BUSINESS

16. PUBLIC COMMENT ON NON-AGENDA MATTERS (ITEM 18)

No requests received.

17. BOARD MEMBER COMMENTS (ITEM 19)

Director Lopez expressed his belief that publicly posting responses to comments to proposed regulation is important and a good practice.

18. REPORT OF THE INTERIM EXECUTIVE OFFICER/APCO (ITEM 20)

Mr. Crockett announced that the Air District's 2021 Annual Report was published on May 3, 2022 and can be found at <https://www.baaqmd.gov/publications/annual-reports>. He also asked Dr. Ranyee Chiang, Director of Meteorology and Measurement, to give a summary on recent air quality.

19. **CHAIRPERSON'S REPORT (ITEM 21)**

Chair Mitchoff announced the addition of Santa Clara County Supervisor, Otto Lee, as the Board's newest member. She also announced the cancellation of the May 16 Stationary Source & Climate Impacts Committee meeting and the May 25 Budget & Finance Committee meeting.

20. **TIME AND PLACE OF NEXT MEETING (ITEM 22)**

Wednesday, May 18, 2022, at 9:00 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

CLOSED SESSION (10:33 a.m.)

21. **PUBLIC EMPLOYEE APPOINTMENT AND EMPLOYMENT (ITEM 16)**

Pursuant to Government Code Section 54957(b)

Title: District Counsel

Reportable Action: None.

22. **CONFERENCE WITH LABOR NEGOTIATIONS (ITEM 17)**

Pursuant to Government Code Section 54957.6

Agency Designated Representatives: Board Chair Karen Mitchoff, Board Vice Chair John Bauters, John Chiladakis, DeeAnne Gillick, Sloan Sakai, Yeung & Wong

Unrepresented Employees: District Counsel

Reportable Action: None.

OPEN SESSION (11:00 a.m.)

23. **ADJOURNMENT**

The meeting adjourned at 11:00 a.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas)

RECOMMENDED ACTION

The Board of Directors will consider approving a resolution reauthorizing Air District Board and Committee meetings remote teleconferencing through June 17, 2022.

BACKGROUND

AB 361 (R. Rivas 2021) – Open meetings: state and local agencies: teleconferences. Allows until January 1, 2024, a local agency to use teleconferencing without complying with certain 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. The law requires a resolution every 30 days to provide this flexibility.

DISCUSSION

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 expired 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 54953 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 54953(e) 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,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Alexander G. Crockett

ATTACHMENTS:

1. Draft AB 361 Subsequent Resolution

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2022-XX

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT PROCLAIMING A LOCAL EMERGENCY PERSISTS, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM ON MARCH 20, 2020, AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT FOR THE PERIOD MAY 18 TO JUNE 17, 2022 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 provision 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, the Board of Directors previously adopted Resolutions on October 6, 2021 and thereafter, finding that the requisite conditions exist for the legislative bodies of the District to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District, and the Board of Directors has done so; and

WHEREAS, emergency conditions persist in the District, specifically, the COVID-19 state of emergency remains active and Governor Newsom's Covid-19 Emergency Proclamation of March 4, 2020 remains in effect to prevent, mitigate, and respond to the spread of COVID-19; and

WHEREAS, social distancing has been ordered and strongly recommended by state and local public health authorities due to the imminent health and safety 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 affirm a local emergency exists and re-ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the legislative bodies of the District shall continue to 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 continue to 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 and webcast links and phone numbers 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. Affirmation that Local Emergency Persists. The Board of Directors hereby considers the conditions of the state of emergency related to Covid 19 in the District, proclaims that a local emergency persists throughout the Bay Area Air Quality Management District due to COVID-19, observes that social distancing has been ordered and strongly recommended by the public health authorities, and finds that in person meetings present imminent health risks during the COVID-19 pandemic.

Section 3. Re-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, continuing to conduct 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) June 17, 2022 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 18TH day of MAY 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

John Bauters
Chair of the Board of Directors

Vacant
Secretary of the Board of Directors

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Board Communications Received from May 5, 2022 through May 17, 2022

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from May 5, 2022 through May 17, 2022, if any, will be distributed to the Board Members by way of email.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Michelle Beteta
Reviewed by: Vanessa Johnson

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Air District Personnel on Out of State Business Travel for the Month Ending April
2022

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 District personnel who have traveled on out-of-state business. The report covers out-of-state business travel for the month of April 2022. The monthly out-of-state business travel report is presented in the month following travel completion.

DISCUSSION

The following out-of-state business travel activities occurred in the month of April 2022:

- Jeff McKay, Chief Financial Officer, attended The Association of Air Pollution Control Agencies (AAPCA) 2022 Spring Meeting, Salt Lake City, April 26th - 30th, 2022

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Stephanie Osaze

Reviewed by: Jeff McKay

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

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

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Interim Executive Officer/APCO to execute a contract amendment for Environmental Audit, Inc. in the amount of \$100,000 for a total not to exceed \$245,000 through December 31, 2023.

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 amends existing rules to further reduce the emissions of air pollutants. In the development of these new rules and amendments, the California Environmental Quality Act (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, Inc. 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. On October 6, 2021, the Board of Directors authorized an increase to the total cost of the contract, for services not to exceed \$145,000.

DISCUSSION

During the term of the contract, Environmental Audit, Inc. recently worked on preparing environmental analyses for two significant and simultaneous rulemaking efforts: new Proposed Rule 13-5: Industrial Hydrogen Plants and proposed amendments to Rules 2-1: General Permitting, and 2-5: New Source Review of Toxic Air Contaminants. The October 6, 2021 contract amendment authorized additional funds to support the combined efforts for both of these rulemaking efforts. However, upcoming rulemaking efforts will require additional CEQA environmental analysis performed by Environmental Audit, Inc. As a result, an extension of the contract and additional funds are needed to cover costs of the CEQA environmental analyses that are required by statute for upcoming rulemaking activities.

BUDGET CONSIDERATION/FINANCIAL IMPACT

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

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Mark Tang
Reviewed by: Elizabeth Yura

ATTACHMENTS:

1. Executed Original Contract: Environmental Audit, Inc. - Contract No. 2019.171
2. Executed Contract Amendment 1: Environmental Audit, Inc. - Contract No. 2019.171
3. Executed Contract Amendment 2: Environmental Audit, Inc. - Contract No. 2019.171
4. Executed Contract Amendment 3: Environmental Audit, Inc. - Contract No. 2019.171
5. Draft Contract Amendment 4: Environmental Audit, Inc. - 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

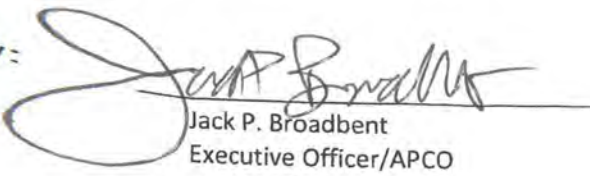
party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or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

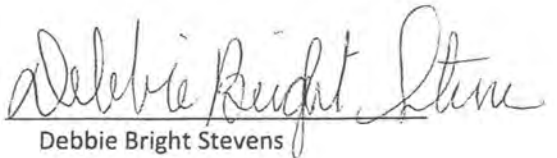
25. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
26. HEADINGS – Headings on the 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.

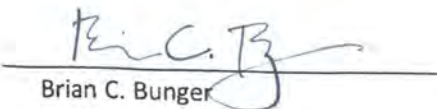
By: 
Jack P. Broadbent
Executive Officer/APCO

By: 
Debbie Bright Stevens
Senior Vice President

Date: 8/6/19

Date: 7/30/19

Approved as to form:
District Counsel

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

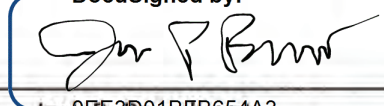
TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

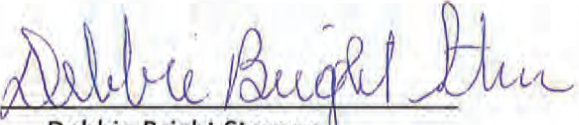
1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Section 5, "Term." The term of the Contract shall be extended so that the termination date of the Contract is now June 30, 2022.
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force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

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.

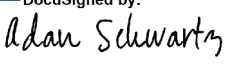
DocuSigned by:

By: _____
Jack E. D'Arben
Executive Officer/APCO

DocuSigned by:

By: _____
Debbie Bright Stevens
Senior Vice President

Date: 8/9/2021

Date: 8/06/2021

Approved as to form:
District Counsel

DocuSigned by:

By: _____ 8/9/2021
150A910F987E4D3...
Adan Schwartz
Acting District Counsel

**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:

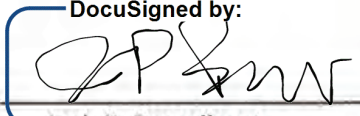
TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

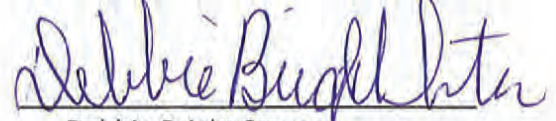
1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, "Agreement to Provide Services," of the Contract to replace "\$95,000" with "\$145,000."
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

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.

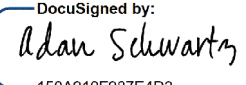
DocuSigned by:
By: 
Jack P. D'Amico
Executive Officer/APCO

By: 
Debbie Bright Stevens
Senior Vice President

Date: 11/17/2021

Date: Nov. 16, 2021

Approved as to form:
District Counsel

DocuSigned by:
By:  11/17/2021
Adam Schwartz
Acting District Counsel

AMENDMENT NO. 4 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 26, 2022.

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 entered into Amendment No. 3 to the Contract, dated September 20, 2021, for reference purposes only, to amend the total cost of the Contract.
5. The PARTIES seek to amend the term and 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.
6. 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 December 31, 2023.
2. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, “Agreement to Provide Services,” of the Contract to replace “\$145,000” with “\$245,000.”

3. 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: _____
Alexander Crockett
Interim Executive Officer/APCO

By: _____
Debbie Bright Stevens
Senior Vice President

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Adan Schwartz
Acting District Counsel

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Authorization to Execute Contract Amendment for BioWatch Maintenance and
Operations

RECOMMENDED ACTION

Authorize the Interim Executive Officer/APCO to execute a contract amendment with Technical & Business Systems (T&B Systems) to increase the agreement by an amount not to exceed \$1,347,435, to a total amount not to exceed \$9,315,160.

BACKGROUND

The Air District operates a Bay Area monitoring network pursuant to the Department of Homeland Security (DHS) BioWatch Program. BioWatch monitors the air for biological agents likely to be used in a bioterrorism attack. If a detection occurs, public health and other local and state officials use the information to coordinate emergency response, including prompt medical care and other actions to protect public health and safety.

DISCUSSION

The Air District sought a qualified contractor to maintain and operate all aspects of the network of air sampling sites and to develop additional sites, as required. An RFQ was open from February 3 through February 26, 2021. Three Air District staff members evaluated the single submission based on the following criteria: comprehension of and ability to provide services to the Air District; experience of firm; quality and diversity of work product; demonstrated knowledge of Air District activities; number, complexity, and nature of similar services provided by firm; and proposed fee structure. Based on this review, Air District staff deemed the current contractor, T&B Systems, to be highly qualified to continue operating the BioWatch network. T&B Systems has been operating the BAAQMD BioWatch network since its inception in 2002 and has the experience and staff needed to operate the current network of 32 sites throughout the Bay Area.

Based on performance of T&B Services, staff is requesting consideration of a contract extension to cover operation of the network through the end of June 30, 2023. This additional amount will

not exceed \$1,347,435 and will not exceed the amount of the grant award from the Department of Homeland Security.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for the vendor contract recommendation is provided by a grant from the Department of Homeland Security that is included in 809 program budget for FYE 2023. The contract is dependent on DHS approval of continued grant funding, which occurs on an annual cycle. Approval for the next twelve months of funding is expected by May 15, 2022. There will be no financial impact to the Air District's general revenue resources.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Charley Knoderer
Reviewed by: Ranyee Chiang

ATTACHMENTS:

1. T&B Systems Originally Executed Contract 2015
2. T&B Systems Executed Contract Amendment 2021
3. T&B Systems Draft Contract Amendment 2022

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

PROFESSIONAL SERVICES CONTRACT

CONTRACT NO. 2015.161

1. PARTIES – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 939 Ellis Street, San Francisco, CA 94109, and Technical and Business Systems (T&B) (referred to herein as “CONTRACTOR”) whose address is 25570 Rye Canyon Road, Unit J, Valencia, CA 91355.
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 paragraph D above.
4. TERM – The term of this Contract is from July 1, 2015 to June 30, 2016, unless further extended by amendment of this Contract in writing, terminated earlier, or if Federal funding to perform the duties stated in Attachment A – Scope of Work is terminated or exhausted. No work set forth in this Contract shall commence until this Contract is fully executed by all parties.
5. TERMINATION- In the event any party fails to comply with any term or condition of this Contract, including, but not limited to, the requirements of Attachment A - Scope of Work, fails to provide the services in the manner agreed upon by the parties, or if Federal funding to perform duties stated in Attachment A – Scope of Work is terminated or exhausted, this failure shall constitute a breach of the Contract. The non-breaching party, at its sole discretion, shall have the option of either (1)

notifying the breaching party that it must cure this breach or (2) providing written notification of at least 10 business days of its intention to terminate this Contract. Notification shall be provided in the manner set forth in Section 11. The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.

6. INSURANCE

- A. CONTRACTOR shall furnish evidence to the DISTRICT of workers' compensation insurance for each of its employees in accordance with either California or other applicable statutory requirements.
- B. CONTRACTOR shall provide evidence of a liability insurance with a combined single limit (general and automotive) of one million dollars (\$1,000,000). DISTRICT shall be named as an additional insured on any such liability policy, and thirty (30)-days prior written notice of cancellation or modification of any such insurance shall be given by CONTRACTOR to DISTRICT. Any such modifications are subject to pre-approval by DISTRICT.
- C. 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 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, 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, employees.

8. PAYMENT

- A. DISTRICT shall pay CONTRACTOR for work performed under this Contract in accordance with Attachment B - Cost Schedule, attached hereto and incorporated herein by this reference. Payment of such compensation shall be made by DISTRICT to CONTRACTOR within thirty (30) calendar days after approval by DISTRICT of an itemized invoice prepared and furnished by CONTRACTOR showing services performed, referencing tasks as shown in Attachment A – Scope of Work, the hours associated with same, or percentage completion thereof, and the amount of charge claimed.
- B. DISTRICT's payment of invoices shall be subject to the following limitations and requirements:
 - i) Each invoice, including supporting documentation, must be prepared in duplicate on CONTRACTOR's letterhead; must list DISTRICT's contract number, the period covered by the invoice, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and must be submitted to: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109, Attn: Contracts Manager.

- ii) Charges for equipment, material, supplies, travel expenses, work of subcontractors, and other charges, as applicable, must be first approved in writing by the District's representative and itemized by CONTRACTOR. DISTRICT shall not pay interest, fees, handling charges, or cost of money on Contract.
 - C. DISTRICT shall reimburse CONTRACTOR for travel-related expenses only if such travel is expressly set forth in Attachment A – Scope of Work of this Contract or pre-authorized by DISTRICT in writing.
 - D. DISTRICT reserves the right to deduct a percentage of the fees set forth in Attachment B – Cost Schedule when the services described in Attachment A – Scope of Work, are not performed satisfactorily in DISTRICT's sole judgment. The portion so deducted shall be DISTRICT's best estimate of the value of work not performed.
 - E. The total amount for which the DISTRICT may be held liable for the performance of work specified in this Contract, including any authorized travel-related expenses, shall not exceed \$1,106,386.
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 939 Ellis Street, 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 \$1,106,386. 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
 939 Ellis Street
 San Francisco, CA 94109
 Attn: Satnam Hundel

CONTRACTOR: Technical and Business Systems
25570 Rye Canyon Road, Unit J
Valencia, CA 91355.
Attn: David Bush

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.
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.
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 to in writing.

15. PUBLICATION

The work performed under this contract is considered sensitive by the United States Department of Homeland Security and must meet all the guidelines set forth by the United States Government concerning sensitive material.

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, Executive Order No. 11246 (30 Federal Register 12319), and all administrative rules and regulations issued pursuant to said Acts and Order. 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.
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 to 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.
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.

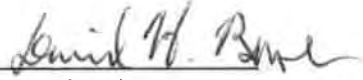
27. SURVIVAL OF TERMS – The provisions of sections 7 (Indemnification), 13 (Confidentiality), 14 (Intellectual Property Rights), and 15 (Publication) shall survive the expiration or termination of this Contract.

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

TECHNICAL AND BUSINESS
SYSTEMS

By: 
FOR Jack P. Broadbent
Executive Officer/ARCO

By: 
David Bush
Principal

Date: 9/11/15

Date: 9/4/15

Approved as to form:
District Counsel

By: 
Brian C. Bungler
District Counsel

ATTACHMENT A

SCOPE OF WORK

The CONTRACTOR will maintain and operate all aspects of the Bay Area BioWatch network and will develop additional sites, as required, to meet the needs of the DISTRICT. Once the additional sites are developed, the CONTRACTOR will incorporate the new sites into the existing network and will operate and maintain those additional sites. All sites will be operated according to the latest Standard Operational Procedures as provided by the DISTRICT. The CONTRACTOR will provide progress reports to the DISTRICT with every invoice to update the DISTRICT of network operation. More specific information regarding each task is listed in descriptions of the individual tasks below. The actual order of the tasks will depend upon the pace of each individual task. The DISTRICT will review and if necessary revise the work plan and schedule to ensure work progresses in accordance with DISTRICT priorities.

A. - Task 1. Operate and maintain all aspects of the current BioWatch network

The DISTRICT supply all SOPs necessary to maintain the BioWatch network in accordance with all requirements. The DISTRICT will also act as the intermediary between the various governmental agencies and landlords involved in the program. The DISTRICT will provide program and budgetary oversight.

Contractor's Deliverables

Daily delivery of all filters to the designated laboratory by the deadline assigned by the laboratory,
Maintain and repair all equipment associated with the BioWatch program,
Perform all required quality assurance/quality control (QA/QC) and data processing as outlined in the SOPs

Provide a summary of activities and explanation of charges with every invoice to keep the DISTRICT apprised of all developments within the BioWatch network

B. - Task 2. Develop additional sites throughout the Bay Area to meet the requirements of the DISTRICT

The DISTRICT will provide maps and information necessary to properly site additional BioWatch sampling locations. The DISTRICT will sign all leases, pay all rents and maintain all relationships necessary to secure identified sites.

Contractor's Deliverables

Provide sites and contacts responsible for securing leases for sites as defined by DISTRICT supplied maps and siting information,

Interact with the DISTRICT to ensure that new sites are developed, leases signed and instrumentation deployed as required to meet the requirements of DISTRICT supplies maps and information

C. - Task 3. Incorporate new sites into the BioWatch network as they become operational

The DISTRICT will act as the intermediary between all new landlords and the various governmental agencies to ensure that developed sites are maintained and meet the needs of the program.

Contractor's Deliverables

Incorporate all new sites into the existing BioWatch network,
Maintain compliance with Task 1, above, for all new sites

D. – Task 4. Operate the Environmental Radiation Ambient Monitoring System (ERAMS)

The DISTRICT will provide materials and act as the intermediary between the CONTRACTOR and various National governmental agencies to maintain operation with the ERAMS SOPs.

Contractor's Deliverables

Change filter media and measure radiation levels twice weekly according to the ERAMS SOP.

E. District Responsibilities

The DISTRICT will:

- Maintain leases for all sites
- Provide all documentation and information to allow the CONTRACTOR to properly perform required tasks.
- Act as intermediary between involved governmental agencies and the CONTRACTOR
- Provide project and budgetary oversight, and;
- Provide periodic updates on DHS funding

ATTACHMENT B

COST SCHEDULE

Estimated Cost of Project Management, Rents and Infrastructure

Personnel	15,106
Fringe Benefits	5,803
Travel to Annual BioWatch Meeting	10,700
Supplies	28,631
Contractual	1,106,386
Current Rents and Infrastructure	70,944
Estimated Shop and Field Supplies - Hardware	8,675
Total Other Direct Costs	79,619
Indirect Cost (58.39%)	12,209
Total Costs incurred by BAAQMD	123,437

Included travel for two health professionals from our BAC, as directed by our grant officer

CONTRACTOR OPERATIONAL COSTS PER YEAR TOTALS

	Rate	Maintenance				TOTALS
		Filter Loading	and Calibration	Operation s	Validation and Reporting	
	Hrs.	Hrs.	Hrs.	Hrs.	Hrs.	
LABOR						
Project Manager	163	15	50	250	200	83,945
Scientist	124			100		12,400
Senior Technician	75		500	1000	450	146,250
Technician	55		500	1000	450	107,250
Field Technician	37	800	250	13500		538,350
Administrative Assistant	57	50	50	175	135	23,370
DIRECT COSTS						
Mileage	0.6	3,450	31,286	186,515	12,541	132,751
Bridge Tolls						13,389
Evidence Bags						0
Filter Media						0
Latex Gloves						0
Misc. Hardware/Supplies						28,631
Contractor						15,000
Leases and Facilities						28,152
Communications						5,530
Travel & Meetings						5,350
Grand Total - Contractor Operation 2014						1,106,386
Grand Total - Operations (2014)						1,246,246

28,631 = "Supplies"

Travel for two to Biowatch Conference in Virginia

AMENDMENT NO. 7 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2015.161

This amendment to the above-entitled contract (“Contract Amendment”) is dated, for reference purposes only, April 14, 2021.

RECITALS:

1. The Bay Area Air Quality Management District (“DISTRICT”) and **Technical and Business Systems, Inc.** (“CONTRACTOR”) (hereinafter referred to as the “PARTIES”) entered into the above-entitled contract for maintaining and operating all aspects of the Bay Area BioWatch network and development of additional sites as needed (the “Contract”), which Contract was executed on behalf of CONTRACTOR on September 4, 2015, and on behalf of DISTRICT on September 11, 2015.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated October 17, 2016, for reference purposes only, to update the DISTRICT’s contact information, and to amend the term and total cost of the Contract.
3. The PARTIES entered into Amendment No. 2 to the Contract, dated October 4, 2017, for reference purposes only, to extend the term of the Contract.
4. The PARTIES entered into Amendment No. 3 to the Contract, dated December 11, 2017, for reference purposes only, to amend the term and total cost of the Contract.
5. The PARTIES entered into Amendment No. 4 to the Contract, dated September 18, 2018, for reference purposes only, to amend the term and total cost of the Contract.
6. The PARTIES entered into Amendment No. 5 to the Contract, dated May 21, 2019, for reference purposes only, to amend the term and total cost of the Contract.
7. The PARTIES entered into Amendment No. 6 to the Contract, dated June 11, 2020, for reference purposes only, to amend the term and total cost of the Contract.
8. The PARTIES seek to amend the term and add funds to the Contract because the DISTRICT seeks to have CONTRACTOR continue to provide the services prescribed in the Contract, and CONTRACTOR desires to continue to provide those services, up to the new term end date.

9. In accordance with Section 26 of the Contract, DISTRICT and CONTRACTOR desire to amend the above-entitled Contract as follows:

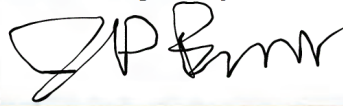
TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

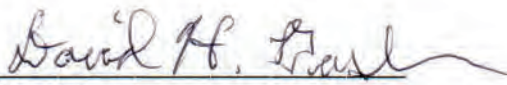
1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Section 4, "Term." The term of the Contract shall be extended so that the termination date of the Contract is now June 30, 2022.
2. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph E of Section 8, "Payment," of the Contract to replace "\$6,707,074" with "\$7,967,725."
3. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph F of Section 9, "Dispute Resolution," of the Contract to replace "\$6,707,074" with "\$7,967,725"
4. By this Contract Amendment, DISTRICT and CONTRACTOR replace Attachment B, Cost Schedule, with the attached "Attachment B-5, Cost Schedule" and agree that all references in the Contract to Attachment B shall be deemed refer to Attachment B-5, Cost Schedule.
5. 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

TECHNICAL AND BUSINESS
SYSTEMS

DocuSigned by:

By: _____
0EE3D01BFB654A3...
Jack P. Broadbent
Executive Officer/APCO

By: 
_____ David Bush
Principal

Date: 6/3/2021

Date: 5/28/2021

Approved as to form:
District Counsel

DocuSigned by:

By: _____ 6/3/2021
2C11BC0B537B4A2...
Brian C. Bunger
District Counsel

ATTACHMENT B-5

COST SCHEDULE

July 1, 2015 through June 30, 2016

CONTRACTOR OPERATIONAL COSTS PER YEAR						TOTALS
		Filter Loading	Maintenance and Calibration	Operations	Validation and Reporting	
LABOR	Rate	Hrs.	Hrs.	Hrs.	Hrs.	
Project Manager	163	15	50	250	200	83,945
Scientist	124			100		12,400
Senior Technician	75		500	1000	450	146,250
Technician	55		500	1000	450	107,250
Field Technician	37	800	250	13500		538,350
Administrative Assistant	57	50	50	175	135	23,370
DIRECT COSTS						
Mileage	0.6	3,450	31,286	186,515	12,541	132,751
Bridge Tolls						13,389
Evidence Bags						0
Filter Media						0
Latex Gloves						0
Misc. Hardware/Supplies*						28,631
Contractor						15,000
Leases and Facilities						28,152
Communications						5,530
Travel & Meetings						5,350
Total – July 1, 2015 through June 30, 2016						1,106,386

July 1, 2016 through December 30, 2017

CONTRACTOR OPERATIONAL COSTS PER YEAR						TOTALS
		Filter Loading	Maintenance and Calibration	Operations	Validation and Reporting	
LABOR	Rate	Hrs.	Hrs.	Hrs.	Hrs.	
Project Manager	167	15	50	250	200	86,005
Scientist	129			100		12,900
Senior Technician	77		500	1000	450	150,150
Technician	58		500	1000	450	113,100
Field Technician	37	800	250	13500		538,350
Administrative Assistant	60			200	50	15,000

DIRECT COSTS

Mileage	0.6	3,450	31,286	186,515	12,541	132,751
Bridge Tolls						13,389
Evidence Bags						0
Filter Media						0
Latex Gloves						0
Misc. Hardware/Supplies*						8,555
Contractor						15,000
Leases and Facilities						28,440
Communications						5,640
Travel & Meetings (BAC Related)						5,350
Total – July 1, 2016 through December 30, 2017						1,116,074

January 1, 2018 through June 30, 2018**CONTRACTOR OPERATIONAL COSTS PER YEAR**

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
LABOR						
Program Manager	180			100	100	36,000
Field Manager	92		250	500	250	92,000
Filter Loading Specialist	52	400		500		46,800
Lead Technician	47		250	250	300	37,600
Sampling Technician	39		600	6000		257,400
Administrative Assistant	68			100		6,800

DIRECT COSTS

Mileage	0.6	1,725	7,822	93,258	6,271	61,682
Bridge Tolls						6,694
Misc. Hardware/Supplies						3,458
Contractor						15,000
Leases and Facilities						17,280
Communications						900
Travel & Meetings (BAC Related)						2,000
Total - January 1, 2018 through June 30, 2018						583,614

July 1, 2018 through June 30, 2019**CONTRACTOR OPERATIONAL COSTS PER YEAR**

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
LABOR						
Project Manager	187			300	200	93,500
Scientist	96		500	1000	500	192,000
Senior Technician	54	800		1000		97,200
Technician	49		500	500	600	78,400
Field Technician	41		1200	12000		541,200
Administrative Assistant	71			200		14,200

DIRECT COSTS

Mileage	0.6	3,450	15,644	186,516	12,542	130,891
Bridge Tolls						7,054
Misc. Hardware/Supplies						13,388
Contractor						30,000
Leases and Facilities						35,251
Communications						1,800
Travel & Meetings (BAC Related)						3,116

Total – July 1, 2018 through June 30, 2019						1,238,000
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July 1, 2019 through June 30, 2020**CONTRACTOR OPERATIONAL COSTS PER YEAR**

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
LABOR						
Project Manager	190.5			300	200	95,250
Scientist	100.5		500	1000	500	201,000
Senior Technician	54	800		1000		97,200
Technician	51		500	500	600	81,600
Field Technician	42		1200	12000		554,400
Administrative Assistant	71			200		14,200

DIRECT COSTS

Mileage	0.59	3,450	15,644	189,770	12,542	130,630
Bridge Tolls						13,388
Misc. Hardware/Supplies						6,000
Contractor						10,000
Leases and Facilities						36,720
Communications						2,400
Travel & Meetings (BAC Related)						4,000

Total – July 1, 2019 through June 30, 2020**1,246,788**July 1, 2020 through June 30, 2021**CONTRACTOR OPERATIONAL COSTS PER YEAR**

	Rate		Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
	First 4	Last 6					
LABOR							
Project Manager	194	194			300	200	97,000
Scientist	103	103		500	1000	500	206,000
Senior Technician	55	55	800		1000		99,000
Technician	52	52		500	500	600	83,200
Field Technician	43	43		1200	12000		567,600
Administrative Assistant	71	71			200		14,200
DIRECT COSTS							
Mileage	0.58	0.58	3,450	15,644	189,770	12,542	128,415
Bridge Tolls							13,388
Misc. Hardware/Supplies							10,000
Contractor							6,000
Leases and Facilities							36,720
Communications							2,400
Travel & Meetings (BAC Related)							4,000

Grand Total - Contractor Operation 2020**1,267,923**July 1, 2021 through June 30, 2022**CONTRACTOR OPERATIONAL COSTS PER YEAR**

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
Project Manager	195			300	180	93,600
Field Manager	106		510	990	510	213,060
Filter Loading Specialist	59	900		990		111,510
Lead Technician	52		300	300	600	62,400
Sampling Technician	43		1200	12000		567,600
Administrative Assistant	71			180		12,780
DIRECT COSTS						
Mileage	0.56	3,450	15,600	191,442	15,600	126,612
Bridge Tolls						13,389
Misc. Hardware/Supplies						15,000
Contractor						300
Leases and Facilities						42,000
Communications						2,400

Grand Total - Contractor Operation 2021/22	1,260,651
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* Need for outdoor parts and supplies to ensure security/electrical needs

Total cost of Contract not to exceed \$7,967,725.

AMENDMENT NO. 8 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2015.161

This amendment to the above-entitled contract (“Contract Amendment”) is dated, for reference purposes only, April 18, 2022.

RECITALS:

1. The Bay Area Air Quality Management District (“DISTRICT”) and **Technical and Business Systems, Inc.** (“CONTRACTOR”) (hereinafter referred to as the “PARTIES”) entered into the above-entitled contract for maintaining and operating all aspects of the Bay Area BioWatch network and development of additional sites as needed (the “Contract”), which Contract was executed on behalf of CONTRACTOR on September 4, 2015, and on behalf of DISTRICT on September 11, 2015.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated October 17, 2016, for reference purposes only, to update the DISTRICT’s contact information, and to amend the term and total cost of the Contract.
3. The PARTIES entered into Amendment No. 2 to the Contract, dated October 4, 2017, for reference purposes only, to extend the term of the Contract.
4. The PARTIES entered into Amendment No. 3 to the Contract, dated December 11, 2017, for reference purposes only, to amend the term and total cost of the Contract.
5. The PARTIES entered into Amendment No. 4 to the Contract, dated September 18, 2018, for reference purposes only, to amend the term and total cost of the Contract.
6. The PARTIES entered into Amendment No. 5 to the Contract, dated May 21, 2019, for reference purposes only, to amend the term and total cost of the Contract.
7. The PARTIES entered into Amendment No. 6 to the Contract, dated June 11, 2020, for reference purposes only, to amend the term and total cost of the Contract.
8. The PARTIES entered into Amendment No. 7 to the Contract, dated April 14, 2021, for reference purposes only, to amend the term and total cost of the Contract.
9. The PARTIES seek to amend the term and add funds to the Contract because the DISTRICT seeks to have CONTRACTOR continue to provide the services prescribed in the Contract,

and CONTRACTOR desires to continue to provide those services, up to the new term end date.

10. In accordance with Section 26 of the Contract, DISTRICT and CONTRACTOR desire to amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Section 4, "Term." The term of the Contract shall be extended so that the termination date of the Contract is now June 30, 2023.
2. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph E of Section 8, "Payment," of the Contract to replace "\$7,967,725" with "\$9,315,160."
3. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph F of Section 9, "Dispute Resolution," of the Contract to replace "\$7,967,725" with "\$9,315,160"
4. By this Contract Amendment, DISTRICT and CONTRACTOR replace Attachment B, Cost Schedule, with the attached "Attachment B-6, Cost Schedule" and agree that all references in the Contract to Attachment B shall be deemed to refer to Attachment B-6, Cost Schedule.
5. 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

TECHNICAL AND BUSINESS
SYSTEMS

By: _____
Alexander Crockett
Interim Executive Officer/APCO

By: _____
David Bush
Principal

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Adan Schwartz
Acting District Counsel

DRAFT

ATTACHMENT B-6

COST SCHEDULE

July 1, 2015 through June 30, 2016

CONTRACTOR OPERATIONAL COSTS PER YEAR **TOTALS**

	Rate	Filter	Maintenance	Operations	Validation	TOTALS
		Loading	and		and	
		Hrs.	Calibration	Hrs.	Reporting	
			Hrs.	Hrs.	Hrs.	
LABOR						
Project Manager	163	15	50	250	200	83,945
Scientist	124			100		12,400
Senior Technician	75		500	1000	450	146,250
Technician	55		500	1000	450	107,250
Field Technician	37	800	250	13500		538,350
Administrative Assistant	57	50	50	175	135	23,370
DIRECT COSTS						
Mileage	0.6	3,450	31,286	186,515	12,541	132,751
Bridge Tolls						13,389
Evidence Bags						0
Filter Media						0
Latex Gloves						0
Misc. Hardware/Supplies*						28,631
Contractor						15,000
Leases and Facilities						28,152
Communications						5,530
Travel & Meetings						5,350
Total – July 1, 2015 through June 30, 2016						1,106,386

July 1, 2016 through December 30, 2017

CONTRACTOR OPERATIONAL COSTS PER YEAR **TOTALS**

	Rate	Filter	Maintenance	Operations	Validation	TOTALS
		Loading	and		and	
		Hrs.	Calibration	Hrs.	Reporting	
			Hrs.	Hrs.	Hrs.	
LABOR						
Project Manager	167	15	50	250	200	86,005
Scientist	129			100		12,900
Senior Technician	77		500	1000	450	150,150
Technician	58		500	1000	450	113,100
Field Technician	37	800	250	13500		538,350
Administrative Assistant	60			200	50	15,000

DIRECT COSTS

Mileage	0.6	3,450	31,286	186,515	12,541	132,751
Bridge Tolls						13,389
Evidence Bags						0
Filter Media						0
Latex Gloves						0
Misc. Hardware/Supplies*						8,555
Contractor						15,000
Leases and Facilities						28,440
Communications						5,640
Travel & Meetings (BAC Related)						5,350
Total – July 1, 2016 through December 30, 2017						1,116,074

January 1, 2018 through June 30, 2018**CONTRACTOR OPERATIONAL COSTS PER YEAR**

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
LABOR						
Program Manager	180			100	100	36,000
Field Manager	92		250	500	250	92,000
Filter Loading Specialist	52	400		500		46,800
Lead Technician	47		250	250	300	37,600
Sampling Technician	39		600	6000		257,400
Administrative Assistant	68			100		6,800
DIRECT COSTS						
Mileage	0.6	1,725	7,822	93,258	6,271	61,682
Bridge Tolls						6,694
Misc. Hardware/Supplies						3,458
Contractor						15,000
Leases and Facilities						17,280
Communications						900
Travel & Meetings (BAC Related)						2,000
Total - January 1, 2018 through June 30, 2018						583,614

July 1, 2018 through June 30, 2019

CONTRACTOR OPERATIONAL COSTS PER YEAR

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
LABOR						
Project Manager	187			300	200	93,500
Scientist	96		500	1000	500	192,000
Senior Technician	54	800		1000		97,200
Technician	49		500	500	600	78,400
Field Technician	41		1200	12000		541,200
Administrative Assistant	71			200		14,200
DIRECT COSTS						
Mileage	0.6	3,450	15,644	186,516	12,542	130,891
Bridge Tolls						7,054
Misc. Hardware/Supplies						13,388
Contractor						30,000
Leases and Facilities						35,251
Communications						1,800
Travel & Meetings (BAC Related)						3,116
Total – July 1, 2018 through June 30, 2019						1,238,000

July 1, 2019 through June 30, 2020

CONTRACTOR OPERATIONAL COSTS PER YEAR

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
LABOR						
Project Manager	190.5			300	200	95,250
Scientist	100.5		500	1000	500	201,000
Senior Technician	54	800		1000		97,200
Technician	51		500	500	600	81,600
Field Technician	42		1200	12000		554,400
Administrative Assistant	71			200		14,200
DIRECT COSTS						
Mileage	0.59	3,450	15,644	189,770	12,542	130,630
Bridge Tolls						13,388
Misc. Hardware/Supplies						6,000
Contractor						10,000
Leases and Facilities						36,720
Communications						2,400
Travel & Meetings (BAC Related)						4,000

Total – July 1, 2019 through June 30, 2020

1,246,788

July 1, 2020 through June 30, 2021

CONTRACTOR OPERATIONAL COSTS PER YEAR

	Rate		Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
	First 4	Last 6					
LABOR							
Project Manager	194	194			300	200	97,000
Scientist	103	103		500	1000	500	206,000
Senior Technician	55	55	800		1000		99,000
Technician	52	52		500	500	600	83,200
Field Technician	43	43		1200	12000		567,600
Administrative Assistant	71	71			200		14,200
DIRECT COSTS							
Mileage	0.58	0.58	3,450	15,644	189,770	12,542	128,415
Bridge Tolls							13,388
Misc. Hardware/Supplies							10,000
Contractor							6,000
Leases and Facilities							36,720
Communications							2,400
Travel & Meetings (BAC Related)							4,000

Grand Total - Contractor Operation 2020

1,267,923

July 1, 2021 through June 30, 2022

CONTRACTOR OPERATIONAL COSTS PER YEAR

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
Project Manager	195			300	180	93,600
Field Manager	106		510	990	510	213,060
Filter Loading Specialist	59	900		990		111,510
Lead Technician	52		300	300	600	62,400
Sampling Technician	43		1200	12000		567,600
Administrative Assistant	71			180		12,780
DIRECT COSTS						
Mileage	0.56	3,450	15,600	191,442	15,600	126,612
Bridge Tolls						13,389
Misc. Hardware/Supplies						15,000
Contractor						300
Leases and Facilities						42,000
Communications						2,400

Grand Total - Contractor Operation 2021/22

1,260,651

July 1, 2022 through June 30, 2023

CONTRACTOR OPERATIONAL COSTS PER YEAR

	Rate	Filter Loading Hrs.	Maintenance and Calibration Hrs.	Operations Hrs.	Validation and Reporting Hrs.	TOTALS
LABOR						
Program Manager	210			300	200	\$105,000
Field Manager	114		510	990	510	229,140
Filter Loading Specialist	64	900		990		120,960
Lead Technician	56		300	300	300	50,400
Sampling Technician	47		600	12000		592,200
Administrative Assistant	73			240		17,520
DIRECT COSTS						
Mileage	0.7	3,450	15,600	192,000	15,600	\$158,655
Bridge Tolls						10,560
Misc. Hardware/Supplies						12,000
Contractor						3,000
Leases and Facilities						45,000
Office Communications						3,000

Total - July 1, 2022 through June 30, 2023

\$1,347,435

* Need for outdoor parts and supplies to ensure security/electrical needs

Total cost of Contract not to exceed \$9,315,160.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Authorization to Execute Contract Amendment for Mortarotti-Ramirez Productions

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Interim Executive Officer/APCO to execute a contract amendment with Mortarotti-Ramirez Productions to provide professional videography services in an amount not to exceed \$250,000.

BACKGROUND

The Communications Office released a Request for Proposals (RFP) in 2020. Through the RFP selection process, Mortarotti-Ramirez Productions was the chosen contractor and has provided professional videography services to the Air District for the past two years.

DISCUSSION

Mortarotti-Ramirez Productions has produced many high-quality videos for the Air District, including videos on the 2017 Clean Air Plan, How to Create a Clean Air Space, and Owing Our Air on our West Oakland partnerships, along with many other videos for the 2019, 2020, and 2021 annual reports. Mortarotti-Ramirez Productions also captured high resolution aerial footage of the Bay Area and footage of empty freeways during the pandemic, which has been used in promotional videos and ad campaigns.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for the contract amendment is included in 301, 303 and 306 program budgets for Fiscal Year Ending (FYE) 2022 and FYE 2023.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Kristina Chu
Reviewed by: Kristine Roselius

ATTACHMENTS:

1. Executed Original Contract: Mortarotti-Ramirez Productions - Contract No. 2020.142
2. Draft Contract Renewal: Mortarotti-Ramirez Productions - Contract No. 2020.142
Amendment 3

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

MASTER SERVICES CONTRACT

CONTRACT NO. 2020.142

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 **Mortarotti-Ramirez Productions** (“CONTRACTOR”) whose address is 5960 Broadway Terrace, Oakland, CA 94618.
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 July 1, 2020 to June 30, 2021, 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 sections 1 through 30 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 \$90,000. 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. No Task Order shall be deemed to have been accepted by CONTRACTOR until DISTRICT receives written confirmation of acceptance from CONTRACTOR. 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: Kristine Roselius.
 - C. Except as specifically set forth in Attachment A or in Task Orders under this Contract. With prior authorization and permission, DISTRICT will reimburse CONTRACTOR for approved expenses incurred executing a Task Order and provide a form to document such expenses, which will be billed separately from the agreement for creative services. These expenses may include travel, food, lodging, permits and fees and will vary from assignment to assignment.
 - 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: Tina Landis

CONTRACTOR: Mortarotti-Ramirez Productions
5960 Broadway Terrace
Oakland, CA 94618
Attn: Robin Mortarotti

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.

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. 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.
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

MORTAROTTI-RAMIREZ PRODUCTIONS

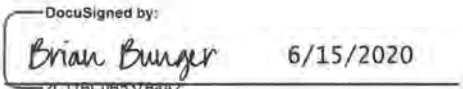
By: 
Jack P. Broadbent
Executive Officer/APCO

By: 
Robin Mortarotti
Producer

Date: 6-17-20

Date: 6-11-20

Approved as to form:
District Counsel

By: 
6/15/2020
Brian C. Bungler
District Counsel

Attachment A

General Description of Services

CONTRACTOR shall provide creative and production services, including original cinematography at the request and direction of the DISTRICT.

A. BASIC ONE-DAY SHOOT

DISTRICT may order a basic one-day shoot by written request to CONTRACTOR.

The costs for one basic shoot day shall be \$3,700 plus any minor location expenses and includes:

- Shoot Day, Director of Photography (10 hours) - \$1,500
- Prep, Director of Photography - \$750
- Equipment Rental, 4K UltraHD Camera - \$1,000
- Production Van - \$100 + mileage and tolls
- Media Prep/Archive/Delivery - \$350

Exclusions:

If any of the following are required in connection with what would otherwise be a basic shoot, the cost schedule above shall not apply, and the parties shall jointly develop a Task Order:

- Drones, helicopters and other special purpose premium instrument equipment rental and operation.
- Lighting and sound equipment.
- Anything other than minor location expenses, such as mileage, bridge tolls, parking, and meals.
- Editorial costs, such as footage transcoding and archiving or production of a full project.

B. ALL OTHER SERVICES

For more complex projects, DISTRICT and CONTRACTOR shall jointly develop a Task Order that reflects the parties' agreements regarding the services to be provided and the costs of those services.

AMENDMENT NO. 3 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2020.142

This amendment to the above-entitled contract ("Contract Amendment") is dated, for reference purposes only, April 28, 2022.

RECITALS:

1. The Bay Area Air Quality Management District ("DISTRICT") and **Mortarotti-Ramirez Productions** ("CONTRACTOR") (hereinafter referred to as the "PARTIES") entered into the above-entitled contract for video production services (the "Contract"), which Contract was executed on behalf of CONTRACTOR on June 11, 2020, and on behalf of DISTRICT on June 17, 2020.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated May 17, 2021, for reference purposes only, to amend the term and total maximum cost of the Contract.
3. The PARTIES entered into Amendment No. 2 to the Contract, dated September 30, 2021, for reference purposes only, to amend the term of the Contract.
4. The PARTIES seek to further amend the term and total cost of the Contract because DISTRICT seeks to have CONTRACTOR continue to provide the services prescribed in the Contract, and CONTRACTOR desires to continue to provide those services.
5. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR desire to 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, 2023.
2. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, "Agreement to Provide Services," of the Contract to replace "\$100,000" with "\$250,000."
3. 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

MORTAROTTI-RAMIREZ PRODUCTIONS

By: _____
Alexander Crockett
Interim Executive Officer/APCO

By: _____
Robin Mortarotti
Producer

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Adan Schwartz
Acting District Counsel

DRAFT

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Authorization to Execute Contract Amendment for Cylogy, Inc.

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Interim Executive Officer/APCO to execute a contract amendment with Cylogy, Inc., for an additional amount of \$250,000, to provide website support, complete ongoing web projects and perform routine web maintenance for the Spare the Air website, which brings the total contract in an amount not to exceed \$2,358,023.

BACKGROUND

The My Air Online Division posted a Request for Qualifications (RFQ) in 2020. Through the RFP selection process, Cylogy, Inc. was the chosen contractor and has provided website maintenance services to the Air District for the past ten years.

DISCUSSION

Through the 2020 RFQ staff selected Cylogy, Inc. from ten bids. Cylogy has a wealth of experience with Sitecore, the Air District's website content management system, and has worked to improve and enhance various components of the Spare the Air website. To maintain continuity and provide needed updates, staff is recommending this work be continued with Cylogy, Inc. under the web development and maintenance Master Services Agreement managed by Online Services, My Air Online. Cylogy, Inc. has an experienced team of website architects, developers, designers, and project team members to provide necessary updates and ongoing support.

Air District staff is recommending a contract amendment for the Cylogy, Inc. contract to assist with Spare the Air website enhancements, site translation implementation, Spare the Air alert exceedance data, data visualization elements and Employer Program website migration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for the contract amendment is included in the 303 and 306 program budgets for FYE 2022 and FYE 2023.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Kristina Chu and Anja Page
Reviewed by: Kristine Roselius and Blair Adams

ATTACHMENTS:

1. Executed Original Contract: Cylogy, Inc. - Contract No. 2020.102
2. Draft Contract Amendment 6: Cylogy, Inc. - Contract No. 2020.102

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

MASTER SERVICES CONTRACT

CONTRACT NO. 2020.102

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 **Cylogy, Inc.** (“CONTRACTOR”) whose address is 600 California Street, 11th Floor, San Francisco, CA 94108.
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 May 1, 2020 to June 30, 2021, 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 \$490,327. 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: Blair Adams.
 - 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: Blair Adams

CONTRACTOR: Cylogy, Inc.
600 California Street, 11th Floor
San Francisco, CA 94108
Attn: Lindsay Sullivan

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. CONTRACTOR shall assign those employees listed in the Task Order to perform services under this Contract. CONTRACTOR shall not assign different employees to perform these services without the express written permission of DISTRICT, which DISTRICT will not unreasonably withhold.
- D. 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. 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.
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

CYLOGY, INC.

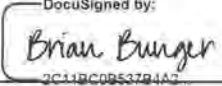
By: 
Jack P. Broadbent
Executive Officer/APCO

By: 
Lindsay Sullivan
Practice Director

Date: 6/3/20

Date: 5/28/2020

Approved as to form:
District Counsel

By:  6/1/2020
Brian C. Bunger
District Counsel

Attachment A
General Description of Services

CONTRACTOR shall provide backend website content management system integration, customization and infrastructure support to DISTRICT.

AMENDMENT NO. 6 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2020.102

This amendment to the above-entitled contract (“Contract Amendment”) is dated, for reference purposes only, May 3, 2022.

RECITALS:

1. The Bay Area Air Quality Management District (“DISTRICT”) and **Cylogy, Inc.** (“CONTRACTOR”) (hereinafter referred to as the “PARTIES”) entered into the above-entitled contract for backend website content management system integration, customization and infrastructure support (the “Contract”), which Contract was executed on behalf of CONTRACTOR on May 28, 2020 and on behalf of DISTRICT on June 3, 2020.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated December 2, 2020, for reference purposes only, to amend the total maximum cost of the Contract.
3. The PARTIES entered into Amendment No. 2 to the Contract, dated April 22, 2021, for reference purposes only, to amend the term and total maximum cost of the Contract.
4. The PARTIES also entered into Amendment No. 2 to the Contract, dated April 22, 2021, for reference purposes only, to amend the schedule and total maximum cost of Task Order No. 2 executed under the Contract.
5. The PARTIES entered into Amendment No. 3 to the Contract, dated May 27, 2021, for reference purposes only, to amend the total maximum cost of the Contract.
6. The PARTIES entered into Amendment No. 4 to the Contract, dated September 27, 2021, for reference purposes only, to amend the total maximum cost of the Contract.
7. The PARTIES entered into Amendment No. 5 to the Contract, dated April 29, 2022, for reference purposes only, to amend the term and total maximum cost of the Contract.
8. The PARTIES seek to amend the total maximum cost of the Contract because the DISTRICT seeks to have CONTRACTOR continue to provide the services prescribed in the Contract, and CONTRACTOR desires to continue to provide those services.
9. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR desire to 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 "\$2,133,023" with "\$2,358,023."
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

CYLOGY, INC.

By: _____
Alexander G. Crockett
Interim Executive Officer/APCO

By: _____
Lindsay Sullivan
Practice Director

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Adan Schwartz
Acting District Counsel

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Report of the Community Equity, Health and Justice Committee Meeting of May 5,
2022

RECOMMENDED ACTION

- A. The Committee recommends the Board: Approve the appointment of a representative from the City of San Pablo to the Path to Clean Air Community Emissions Reduction Plan Community Steering Committee for Board of Directors' consideration and approval. Specifically, this action involves replacing San Pablo Senior Planner, Amanda Booth, with San Pablo Community Development Director, Elizabeth Tyler.

BACKGROUND

None.

DISCUSSION

The Community Equity, Health & Justice Committee met on Thursday, May 5, 2022, and approved the minutes of both March 3, 2022 and April 7, 2022. This meeting was conducted under procedures in accordance with Assembly Bill 361 (Rivas 2021). Members of the Committee participated by teleconference.

The Committee then received a presentation from Ariann Harrison, Executive Director of the Marie Harrison Community Foundation, an organization which seeks solutions to a myriad of social and environmental justice issues faced by impacted Bayview Hunters Point residents.

The Committee then received the staff presentation *Appointment of City of San Pablo Planning Department Representative to Assembly Bill 617 Path to Clean Air Emission Reduction Plan Steering Committee*. The Committee recommends the Board:

- A. Approve the appointment of a representative from the City of San Pablo to the Path to Clean Air Community Emissions Reduction Plan Community Steering Committee for Board of Directors' consideration and approval. Specifically, this action involves replacing San

Pablo Senior Planner, Amanda Booth, with San Pablo Community Development Director, Elizabeth Tyler. The Committee then received and discussed the staff presentation *California Air District Hearing Boards*.

The next meeting of the Community Equity, Health & Justice Committee will be held on Thursday, June 2, 2022, at 9:30 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021). This concludes the Chair Report of the Community Equity, Health & Justice Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Community Equity, Health and Justice Committee May 5, 2022 Meeting Memorandums

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Davina Hurt and Members
of the Community Equity, Health and Justice Committee

From: Alexander Crockett
Interim Executive Officer/APCO

Date: May 5, 2022

Re: Community Perspectives

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Community Equity, Health and Justice Committee provides local and regional community environmental justice advocates and local leaders a platform to present and share their expertise and/or lived experiences. Specific subjects/topics will vary based upon each community perspective member's unique experience.

The Marie Harrison Community Foundation works on behalf of the residents of Bayview Hunters Point to advocate for environmental and social justice while providing resources to the community. The foundation continues the legacy of Marie Harrison. Marie Harrison spent decades working to bring environmental, health and social justice to the Bayview Hunters Point community in San Francisco. She passed away in May 2019. Her actions inspired environmental justice communities throughout the Bay Area and California.

DISCUSSION

Arieann Harrison, Executive Director of the Marie Harrison Community Foundation, holds a seat on the Air District's Community Advisory Council. Ms. Harrison collaborates with City of San Francisco government departments and local community-based organizations to find solutions to a myriad of social and environmental justice issues faced by impacted Bayview Hunters Point residents. In addition to her leadership role at the Marie Harrison Community Foundation, she is also well known in the Bayview Hunters Point community for her work at United Council for Human Services. Locally known as Mother Brown's, the namesake of its founder, it has served as a community touchstone and resource hub for over 35 years.

Ms. Harrison works closely with Air District staff on the development of the Marie Harrison Scholarship. A trailblazing program supported by the Air District, the Marie Harrison Scholarship will provide financial support to college students from environmental justice communities attending school beginning in the Fall of 2022. This scholarship will support those who demonstrate a passion for improving environmental health and air quality in the overburdened frontline communities of the Bay Area.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander Crockett
Interim Executive Officer/APCO

Prepared by: Joshua Abraham
Reviewed by: Suma Peesapati & Veronica Eady

ATTACHMENTS:

None

COMMUNITY EQUITY, HEALTH
AND JUSTICE COMMITTEE
MEETING OF 05/05/2022

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Davina Hurt and Members
of the Community Equity, Health and Justice Committee

From: Alexander Crockett
Interim Executive Officer/APCO

Date: May 5, 2022

Re: Appointment of City of San Pablo Representative to Assembly Bill (AB) 617 Path to
Clean Air Emission Reduction Plan Steering Committee

RECOMMENDED ACTION

The Community Equity, Health and Justice Committee will consider recommending appointment of a representative from the City of San Pablo to the Path to Clean Air Community Emissions Reduction Plan (CERP) Community Steering Committee for Board of Directors' consideration and approval.

BACKGROUND

On March 3, 2022, Amanda Booth, the Senior Planner representing the City of San Pablo on the CERP Steering Committee notified staff their intention to step down and be replaced. The City of San Pablo has asked for Elizabeth "Libby" Tyler, the City's Community Development Director to replace the member who is stepping down. Libby Tyler's application and conflict of interest forms have been submitted as additional attachments for the Committee's review.

This will be the second time the Committee has been requested to replace a member in a seat set aside for a formal stakeholder designation – the first being the appointment of Luz Gomez on April 1, 2021.

DISCUSSION

The Community Equity, Health and Justice Committee shall review the application and Conflict of Interest form for the City of San Pablo Services representative to determine whether to appoint them to the Path to Clean Air Steering Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander Crockett
Interim Executive Officer/APCO

Prepared by: Kevin Olp
Reviewed by: Veronica Eady

ATTACHMENTS:

1. Application for City of San Pablo Representative
2. Financial Disclosure Form for City of San Pablo Representative

COMMUNITY EQUITY, HEALTH
AND JUSTICE COMMITTEE
MEETING OF 05/05/2022

The Steering Committee is a community group that will direct the process of discussing and developing a Community Emissions and Exposure Reduction Plan. The CARB Blueprint for AB 617 states that the Air District will convene a community steering committee using an open and transparent nomination process. The final community steering committee membership should reflect the diverse makeup of the Richmond-North Richmond-San Pablo Area and should bring together an inclusive group with a range of knowledge and expertise. In order for your application to be considered, you must complete the Path to Clean Air Conflict of Interest and Financial Disclosure Form.

* 1. Please share your name and contact information.

Name	Elizabeth H. Tyler
Address	[REDACTED]
City/Town	Albany
ZIP/Postal Code	94706
Email Address	[REDACTED]
Phone Number	[REDACTED]

2. Were you a member of the Path to Clean Air Steering Committee?

- Yes
 No
 I'm not sure

The next set of questions asks about the Path to Clean Air Study Area. Please see the map on the final page of this application - the area within the boundary line in the map highlights the area we are referring to.

Path to Clean Air Study Area

3. Do you live in the Path to Clean Air Study Area?

- Yes
 No

4. If you live in the Path to Clean Air Study Area, what is the name of the neighborhood or community you reside in?

5. Do you work in the Path to Clean Air Study Area?

- Yes
 No

6. If you work in the Path to Clean Air Study Area, please share the name and address of your place of work.

7. Do you own a business in the Path to Clean Air Study Area?

- Yes
 No

8. If you own a business in the Path to Clean Air Study Area, please share the name and address of your business.

9. If you are a part of the Path to Clean Air Study Area area in any other way, please specify (for example: volunteer, committee membership, clubs etc.).

10. We all wear many hats, please select the sector you would represent on the Steering Committee:

- | | |
|--|--|
| <input type="radio"/> Faith Leader | <input type="radio"/> Industry/business |
| <input type="radio"/> Community serving organization | <input type="radio"/> Neighborhood group |
| <input type="radio"/> Education provider | <input type="radio"/> Youth |
| <input checked="" type="radio"/> Government | <input type="radio"/> Senior |
| <input type="radio"/> Health care provider | <input type="radio"/> People who live in the Richmond San Pablo Area |
| <input type="radio"/> Other (please specify) | |

11. If you selected Government, what area of government best represents your primary focus?

- Air Quality
- Land Use
- Transportation
- Public Health
- Sustainability
- Other (please specify)

12. Do you have decision making power for your organization, agency, group, or company?

- Yes
- No
- I don't know
- Other (please explain)

Please share more information about your experiences in the community.

13. What are your community interests and your experiences with air quality in the Path to Clean Air Study Area? How do you see these interests and experiences contributing to the Steering Committee?

I serve as the Community Development Director for the City of San Pablo. I have over 40 years of experience in environmental and land use planning and am well aware of how important air quality is to community health and wellness, equity, and long-term sustainability.

14. Why do you want to join the Path to Clean Air Steering Committee?

I am interested in offering my expertise as a land use and environmental planner and to provide information and perspective on the San Pablo community

15. A Community Emissions and Exposure Reduction Program may include many strategies. Choose the **TOP THREE (3)** areas that you are most excited to work in.

- Public Health
- Land use
- Public Transportation/Transit
- Active Transportation/Bike/Walk
- Parks/Openspace
- Environmental Conservation
- Goods Movement
- Utilities
- Energy
- Ports/Marine Terminal
- Water Vessels
- Health Protection
- Climate
- Other (please specify)

A little more about you

Please tell us a little more about yourself. These questions are completely optional.

16. What is your gender?

- Female
- Male
- Non binary / Third gender
- I prefer to not say
- I prefer to self describe:

17. What is your ethnicity? [Choose all that apply]

- Asian
- Black/African
- Hispanic/Latino
- Native American
- Pacific Islander
- Caucasian/White
- I prefer not to say
- I prefer to self identify:

18. Do you, or someone in your household, experience health conditions that can be impacted by poor air quality?

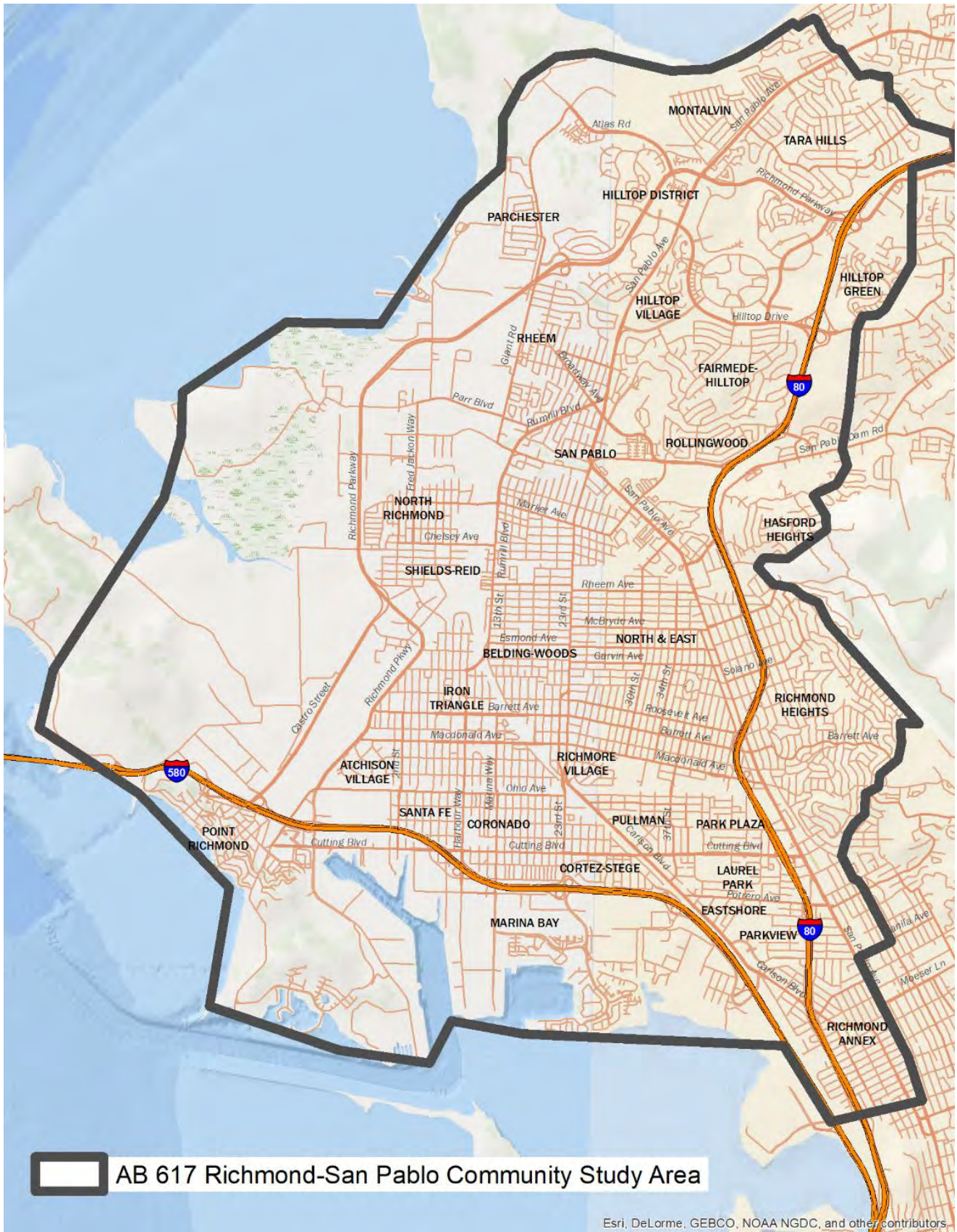
- Yes
- No
- I don't know
- I prefer not to say

Thank you!

Thank you for taking the time to complete this application. In order for your application to be considered, you must complete the Path to Clean Air Conflict of Interest and Financial Disclosure Form. Please know that your application may or may not be selected. If selected, any false or misleading information may result in your release as a member of the Steering Committee. If you have any questions or need a copy of the Conflict of Interest and Financial Disclosure Form, please contact Elinor Mattern at emattern@baaqmd.gov or Kelly Malinowski kmalinowski@baaqmd.gov.

Map of the AB 617 Richmond-North Richmond-San Pablo Community Study Area

Mapa del área de estudio para el Proyecto de Ley AB 617 en Richmond-North Richmond-San Pablo





**Conflict of Interest Disclosure Form for the
Path to Clean Air in the Richmond-North Richmond-San Pablo Area**

Name: Elizabeth H. Tyler
First Middle Initial Last

Mailing Address: [REDACTED]

Phone: [REDACTED] Email: [REDACTED]

Job Title: Community Development Director Employer: City of San Pablo

Do you live in the Richmond-North Richmond-San Pablo Area? No Yes

Transparency related to members’ financial, material, and vested interests is essential to ensuring public trust and building strong programs. Those seeking to serve on the Committee must disclose any actual, potential, or perceived conflicts of interest in their applications. Committee members must disclose such conflicts on an ongoing basis and failure to do so may result in dismissal from the Steering Committee.

“Interest” as used in this Conflict of Interest Disclosure Forum means a substantial financial, material, or vested interest in a business or organization that may be impacted by the work of this Committee. To avoid an actual, potential or perceived conflict of interest, a person who serves on the Richmond CERP Steering Committee that works for, is employed by, receives compensation from or serves on the Board of Directors or as an officer of an organization that receives funding, in-kind services or volunteers from an entity that is required to report emissions to or regulated by BAAQMD or CARB, must disclose said conflict.

A conflict of interest occurs when an individual’s personal or professional interests and affiliations – family, friendships, financial, or social factors – could compromise his or her judgment, decisions, or actions as a member of the Steering Committee. Conflicts of interest can be differentiated between actual, potential, and perceived conflicts of interest. An **actual conflict** exists if an action taken by a member **will** result in a financial or personal gain or loss to the member or to the member’s relative or any business/organization in which they have a material interest. A **potential conflict** exists if an action taken by a member **may** result in a financial or personal gain or loss to the member or to the member’s Relative or any business/organization in which they have a material interest. A **perceived conflict** exists when the public or a third party could form the view that a member’s private or professional interests could improperly influence their decisions or actions, now or in the future.

List all names under which you or members of your household do any business which may be impacted by the Path to Clean Air in Richmond-North Richmond-San Pablo Steering Committee decisions. Include the business address and a brief description of the business. (If you need more space, please use a Word document to submit additional information.)

Name	Business Name & Address	Description

Approved by Richmond/San Pablo CERP Community Design Team on 10/27/20

If you, a member of your household, or the business/organization you own or work for has engaged or intends to engage in any financial transactions with businesses or organizations that may be impacted by the Path to Clean Air in Richmond-North Richmond-San Pablo Steering Committee decisions, please describe the nature of the transactions and the amount of money involved. A business or organization is "impacted" if it is subject to additional emission reduction requirements, or if it is otherwise affected in a substantial way. For example, include professional or service contracts, grants awarded, and provisions of materials or supplies. (If you need more space, please use a Word document to submit additional information.)

Name of Business	Type of Transaction	Amount of Transaction

Do you, or a member of your household have, or think you may have, any **actual conflicts of interest** relative to your role on the committee? NO YES

If YES, please describe:

Do you or a member of your household have, or think you may have, any **potential conflicts of interest** relative to your role on the committee? NO YES

If YES, please describe:

Are you aware of any situations that **might give the appearance of a conflict of interest** – even if it may not be a potential or actual conflict of interest – relative to your role on the committee? NO YES

If YES, please describe:

My signature on this document affirms that all information I have supplied for this form is true and complete to the best of my knowledge and that I will update this information on an ongoing basis should any relevant situation(s) arise. I understand that failure to disclose conflicts may result in dismissal from the Committee.

Signature: Elizabeth Tyler Date: April 18, 2022

(Digital or wet signatures are accepted)

Approved by Richmond/San Pablo CERP Community Design Team on 10/27/20

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Davina Hurt and Members
of the Community Equity, Health and Justice Committee

From: Alexander Crockett
Interim Executive Officer/APCO

Date: May 5, 2022

Re: Overview of the Hearing Board of the Bay Area Air Quality Management District

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Hearing Board is established by state law and consists of five members and their alternates. Membership is composed of an attorney, a professional engineer, a member from the medical profession and two members of the public. The Hearing Board is a quasi-judicial body that rules on particular cases that affect only individual facilities. It is authorized to hear requests for variance relief, permit revocation, abatement orders, and appeals by permit applicants, or by interested third parties, concerning the issuance or denial of permits.

Air District legal counsel will provide an overview of the Hearing Board and its authorities.

DISCUSSION

The Hearing Board acts like an Administrative Law board of judges, hears appeals of Air District permit decisions, and issues variances and orders of abatement. The Hearing Board has limited authority. The Hearing Board can issue an Abatement Order to require a facility to comply with a state, local or Air District regulation or law; however, the Hearing Board cannot issue an Abatement Order to bring a facility into compliance with any federal law or regulation unless that federal law is incorporated into a state law.

Within its legal framework, the Hearing Board hears both proposed stipulated Abatement Orders and contested Abatement Orders. The Hearing Board has the power to subpoena witnesses and take evidence. The Hearing Board can also take written and oral testimony from the public. The Hearing Board takes public comments and testimony after the parties' opening statements and presentation of evidence through witnesses or exhibits, and before the parties' closing statements.

The Hearing Board cannot impose any financial penalties or fines on any facility because fines are outside the Hearing Board’s legal authority.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander Crockett
Interim Executive Officer/APCO

Prepared by: Joel Freid
Reviewed by: Adan Schwartz

ATTACHMENTS:

None

COMMUNITY EQUITY, HEALTH
AND JUSTICE COMMITTEE
MEETING OF 05/05/2022

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Report of the Legislative Committee Meeting of May 9, 2022

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

The Legislative Committee met on Monday, May 9, 2022, and approved the minutes of April 11, 2022. This meeting was conducted under procedures in accordance with Assembly Bill 361. Members of the Committee participated by teleconference.

The Committee then received and discussed an oral presentation from Alan Abbs, Legislative Officer, summarizing bills that are being sponsored by the Air District. These bills included:

- Assembly Bill 1897 (Wicks) - Nonvehicular air pollution control: refineries: penalties;
- Assembly Bill 2214 (C. Garcia) - California Environmental Quality Act: schoolsites: acquisition of property;
- Assembly Bill 2721 (Lee) - Bay Area Air Quality Management District: district board: compensation and expenses; and
- Assembly Bill 2836 (E. Garcia) - Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.

The Committee then received status updates for the following bills during staff's oral report *State Legislative Update*:

- Assembly Bill (AB) 1944 (Lee) - Local government: open and public meetings.
- AB 2141 (E. Garcia) - Greenhouse Gas Reduction Fund: community projects: funding.
- AB 2206 (Lee) - Nonattainment basins: employee parking: parking cash-out program.

- AB 2563 (Quirk) - Air pollution: permits: mobile fueling on-demand tank vehicles.
- AB 2816 (Ting) - State Air Resources Board: zero-emission incentive programs: requirements.
- AB 2910 (Santiago) - Nonvehicular air pollution: civil penalties.
- Senate Bill (SB) 1235 (Borgeas) - Air pollution: portable equipment: emergency events.
- SB 1382 (Gonzalez) - Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.
- SB 1393 (Archuleta) - Energy: appliances: local requirements

The next meeting of this Committee will be held on Monday, June 13, 2022, at 1:00 p.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021). This concludes the Chair’s Report of the Legislative Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Legislative Committee May 9, 2022 Meeting Memorandums

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Pauline Russo Cutter and Members
of the Legislative Committee

From: Alexander Crockett
Interim Executive Officer/APCO

Date: May 9, 2022

Re: Air District-Sponsored Bills

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

This year, the Air District is sponsoring the following three bills:

- Assembly Bill (AB) 1897 (Wicks) – Nonvehicular air pollution control: civil penalties: refineries.
- AB 2214 (C. Garcia and Lee) – California Environmental Quality Act: schoolsites: acquisition of property: school districts, charter schools, and private schools.
- AB 2721 (Lee) – Bay Area Air Quality Management District: district board: compensation.

The Air District is also co-sponsoring the following bills:

- AB 2836 (E. Garcia) – Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.

DISCUSSION

Staff will provide the Legislative Committee with a summary and status of the three Air District-sponsored bills and one co-sponsored bill.

AB 1897 (Wicks) - Nonvehicular air pollution control: civil penalties: refineries.

CapitolTrack Bill Summary: Current law prohibits a person from discharging from nonvehicular sources air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property. Under current law, a person who violates this

provision, or any other statute, rule, regulation, permit, or order, as provided, is strictly liable for a civil penalty of not more than \$10,000, unless that person alleges by affirmative defense and establishes that the act was not the result of intentional or negligent conduct, in which case the person is strictly liable for a civil penalty of not more than \$5,000. A violator who acts negligently, knowingly, willfully and intentionally, or with reckless disregard, is liable for a civil penalty in a greater amount, as specified. Current law requires the civil penalties to be assessed and recovered in a court of competent jurisdiction through a civil action brought by the Attorney General, a district attorney, or the attorney for the district in which the violation occurs. Current law precludes prosecution under specified statutes if civil penalties are recovered for the same offense. This bill would make a person who violates the above provision liable for a civil penalty of not more than \$30,000 if the violation results from a discharge from a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act, and the stationary source is a refinery, as defined, the discharge results in a disruption to the community, and the discharge contains or includes one or more toxic air contaminants, as specified.

Current Status: AB 1897 was introduced by Assemblymember Wicks on February 9, 2022. This bill was double-referred, and it received a vote in favor of 8-2 in Assembly Natural Resources on April 18, 2022. The bill was then heard in Assembly Judiciary where it received a vote in favor of 7-2 on April 26, 2022. The bill has been referred to the Assembly Appropriations Committee – the hearing has not yet been scheduled.

AB 2214 (C. Garcia and Lee) - California Environmental Quality Act: schoolsites: acquisition of property: school districts, charter schools, and private schools.

CapitolTrack Bill Summary: Current law requires the governing board of a school district, before acquiring title to property for a new schoolsite or for an addition to a present schoolsite, to give notice in writing of the proposed acquisition to the planning commission. Current law requires the planning commission to investigate the proposed site and submit a written report to the governing board of the school district, as provided. Current law prohibits the governing board from acquiring title to the property until the report of the planning commission has been received. This bill would impose those prohibitions, and related requirements, on the governing body of a charter school and the governing body of a private school, and would make the provisions relating to school districts also applicable to charter schools and private schools, as provided. The bill would apply the Phase I environmental assessment requirements to charter schools and private schools, without conditioning the requirements on the receipt of state funds.

Current Status: AB 2214 was introduced by Assembly Members Cristina Garcia and Alex Lee on February 15, 2022. This bill was double-referred, and it received a vote in favor 5-1 in Assembly Education on April 20, 2022. The bill was then heard in Assembly Environmental Safety and Toxic Materials where it received a vote in favor of 6-3 on April 26, 2022. The bill has been referred to the Assembly Appropriations Committee – the hearing has not yet been scheduled.

AB 2721 (Lee) - Bay Area Air Quality Management District: district board: compensation.

CapitolTrack Bill Summary: Current law establishes a district board to govern the Bay Area Air Quality Management District and prescribes the membership of the district board. Current law authorizes the district board to provide, by ordinance, compensation not to exceed \$100 per day

for board members for attending meetings of the board or committees of the board or while on official business of the district and not to exceed \$6,000 per year. Existing law also requires board members to receive actual and necessary expenses incurred in the performance of their duties. This bill would revise the amount of compensation that a member of the board may receive for attending a meeting of the board or attending a meeting while on official business of the district to an amount not to exceed \$100 per meeting and \$200 per day. The bill would also authorize a member of the board to receive compensation for active transportation travel to one of these meetings and would subject this compensation to the \$6,000 total annual compensation limit.

Current Status: AB 2721 was introduced by Assemblymember Lee on February 18, 2022. This bill was single-referred, and it received a vote in favor of 10-0 in Assembly Natural Resources on April 4, 2022, and passed the Assembly Floor with a 66-3 vote on April 18, 2022. With the first house completed, AB 2721 was ordered to the Senate and is pending referral.

AB 2836 (E. Garcia) - Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.

CapitolTrack Summary: Current law, beginning January 1, 2024, limits the Carl Moyer Program to funding projects that reduce emissions of oxides of nitrogen (NOx) from covered sources. Current law, until January 1, 2024, defines covered source for purposes of the Carl Moyer Program to include any marine vessel and any other category necessary for the state and air districts to meet air quality goals. This bill would extend the current authorization for the Carl Moyer Program to fund a broader range of projects that reduce emissions from covered sources until January 1, 2033.

Current Status: AB 2836 was introduced by Assemblymember Eduardo Garcia on February 18, 2022. This bill was doubled-referred, and it received a vote in favor of 12-0 in Assembly Transportation on April 18, 2022. The bill was then heard in Assembly Natural Resources where it received a vote in favor of 9-0 on April 25, 2022. The bill has been referred to the Assembly Appropriations Committee – the hearing has not yet been scheduled.

The Board of Directors approved the Air District being added on as a co-sponsor at their April 6, 2022 Board meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander Crockett
Interim Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Alexander Crockett

ATTACHMENTS:

1. AB 1897 (Wicks) - Bill Text - As Amended on April 27, 2022
2. AB 2214 (C. Garcia and Lee) - Bill Text - As Amended on April 25, 2022
3. AB 2721 (Lee) - Bill Text - As Amended on March 10, 2022
4. AB 2836 (E. Garcia) - Bill Text - As Amended on March 30, 2022

LEGISLATIVE COMMITTEE
MEETING OF 05/09/2022

AMENDED IN ASSEMBLY APRIL 27, 2022

AMENDED IN ASSEMBLY APRIL 20, 2022

AMENDED IN ASSEMBLY APRIL 7, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1897

Introduced by Assembly Member Wicks

February 9, 2022

An act to amend Sections 42400.7, 42402, 42402.1, 42402.2, 42402.3, and 42403 of, and to add ~~Section~~ Sections 42402.6 and 42412 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as amended, Wicks. Nonvehicular air pollution control: civil penalties: refineries.

Existing law prohibits a person from discharging from nonvehicular sources air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property. Under existing law, a person who violates this provision is guilty of a misdemeanor, as specified, or provision, or any other statute, rule, regulation, permit, or order, as provided, is strictly liable for a civil penalty of not more than \$10,000, unless that person alleges by affirmative defense and establishes that the act was not the result of intentional or negligent conduct, in which case the person is strictly liable for a civil penalty of not more than \$5,000. A person who violates this provision and violator who acts negligently, knowingly, willfully and intentionally, or with

reckless disregard, is liable for a civil penalty in a greater amount, as specified. *Existing law requires the civil penalties to be assessed and recovered in a court of competent jurisdiction through a civil action brought by the Attorney General, a district attorney, or the attorney for the district in which the violation occurs.* Existing law precludes prosecution under specified statutes if civil penalties are recovered pursuant to the above provisions for the same offense.

This bill would make a person who violates ~~this~~ *the above* provision liable for a civil penalty of not more than \$30,000 if the violation results from a discharge from a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act, and the stationary source is a refinery, as defined, the discharge results in a disruption to the community, and the discharge contains or includes one or more toxic air contaminants, as specified. The bill would additionally make a person who violates this provision liable for a civil penalty of not more than \$100,000 for a subsequent violation within a 12-month period. The bill would require civil penalties collected pursuant to this provision, above the costs of prosecution, to be expended to mitigate the effects of air pollution in communities affected by the violation. The bill would prohibit this provision from applying if the violation is caused by unforeseen and unforeseeable criminal acts, acts of war, acts of terrorism, or civil unrest. The bill would additionally preclude prosecution under specified statutes if civil penalties are recovered pursuant to this provision. *The bill would authorize the Attorney General, a district attorney, or an attorney for the district in which the violation occurs who prevails in a civil action for a violation of the above provisions, or any other statute, rule, regulation, permit, or order, as provided, to recover the actual costs of investigation, expert witness fees, and reasonable attorney's fees.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 42400.7 of the Health and Safety Code
2 is amended to read:
3 42400.7. (a) The recovery of civil penalties pursuant to
4 Section 39674, 42401, 42402, 42402.1, 42402.2, 42402.3, 42402.4,
5 or 42402.6 precludes prosecution under Section 42400, 42400.1,
6 42400.2, 42400.3, 42400.3.5, or 42400.4 for the same offense.

1 When a district refers a violation to a prosecuting agency, the filing
2 of a criminal complaint is grounds requiring the dismissal of a
3 civil action brought pursuant to this article for the same offense.

4 (b) If the pending civil action described in subdivision (a)
5 includes a request for injunctive relief, that portion of the civil
6 action shall not be dismissed upon the filing of a criminal complaint
7 for the same offense.

8 SEC. 2. Section 42402 of the Health and Safety Code is
9 amended to read:

10 42402. (a) Except as provided in Sections 42402.1, 42402.2,
11 42402.3, 42402.4, and 42402.6, a person who violates this part,
12 an order issued pursuant to Section 42316, or a rule, regulation,
13 permit, or order of a district, including a district hearing board, or
14 of the state board issued pursuant to Part 1 (commencing with
15 Section 39000) to Part 4 (commencing with Section 41500),
16 inclusive, is strictly liable for a civil penalty of not more than five
17 thousand dollars (\$5,000).

18 (b) (1) A person who violates a provision of this part, an order
19 issued pursuant to Section 42316, or a rule, regulation, permit, or
20 order of a district, including a district hearing board, or of the state
21 board issued pursuant to Part 1 (commencing with Section 39000)
22 to Part 4 (commencing with Section 41500), inclusive, is strictly
23 liable for a civil penalty of not more than ten thousand dollars
24 (\$10,000).

25 (2) (A) If a civil penalty in excess of five thousand dollars
26 (\$5,000) for each day in which a violation occurs is sought, there
27 is no liability under this subdivision if the person accused of the
28 violation alleges by affirmative defense and establishes that the
29 violation was caused by an act that was not the result of intentional
30 conduct or negligent conduct.

31 (B) Subparagraph (A) does not apply to a violation of a federally
32 enforceable requirement that occurs at a Title V source in a district
33 in which a Title V permit program has been fully approved.

34 (C) Subparagraph (A) does not apply to a person who is
35 determined to have violated an annual facility emissions cap
36 established pursuant to a market-based incentive program adopted
37 by a district pursuant to subdivision (b) of Section 39616.

38 (c) A person who owns or operates a source of air contaminants
39 in violation of Section 41700 that causes actual injury, as defined
40 in subdivision (d) of Section 42400, to the health and safety of a

1 considerable number of persons or the public, is liable for a civil
2 penalty of not more than fifteen thousand dollars (\$15,000).

3 (d) Each day during a portion of which a violation occurs is a
4 separate offense.

5 SEC. 3. Section 42402.1 of the Health and Safety Code is
6 amended to read:

7 42402.1. (a) Except as provided in Section 42402.6, a person
8 who negligently emits an air contaminant in violation of this part
9 or a rule, regulation, permit, or order of the state board or of a
10 district, including a district hearing board, pertaining to emission
11 regulations or limitations is liable for a civil penalty of not more
12 than twenty-five thousand dollars (\$25,000).

13 (b) A person who negligently emits an air contaminant in
14 violation of Section 41700 that causes great bodily injury, as
15 defined in subdivision (f) of Section 12022.7 of the Penal Code,
16 to a person or that causes the death of a person, is liable for a civil
17 penalty of not more than one hundred thousand dollars (\$100,000).

18 (c) Each day during a portion of which a violation occurs is a
19 separate offense.

20 SEC. 4. Section 42402.2 of the Health and Safety Code is
21 amended to read:

22 42402.2. (a) Except as provided in Section 42402.6, a person
23 who emits an air contaminant in violation of a provision of this
24 part, or a rule, regulation, permit, or order of the state board or of
25 a district, including a district hearing board, pertaining to emission
26 regulations or limitations, and who knew of the emission and failed
27 to take corrective action, as defined in subdivision (b) of Section
28 42400.2, within a reasonable period of time under the
29 circumstances, is liable for a civil penalty of not more than forty
30 thousand dollars (\$40,000).

31 (b) A person who owns or operates a source of air contaminants
32 in violation of Section 41700 that causes great bodily injury, as
33 defined in subdivision (f) of Section 12022.7 of the Penal Code,
34 to a person or that causes the death of a person, and who knew of
35 the emission and failed to take corrective action, as defined in
36 subdivision (b) of Section 42400.2, within a reasonable period of
37 time under the circumstances, is liable for a civil penalty not to
38 exceed two hundred fifty thousand dollars (\$250,000).

39 (c) Each day during a portion of which a violation occurs is a
40 separate offense.

1 SEC. 5. Section 42402.3 of the Health and Safety Code is
2 amended to read:

3 42402.3. (a) Except as provided in Section 42402.6, a person
4 who willfully and intentionally emits an air contaminant in
5 violation of this part or a rule, regulation, permit, or order of the
6 state board, or of a district, including a district hearing board,
7 pertaining to emission regulations or limitations, is liable for a
8 civil penalty of not more than seventy-five thousand dollars
9 (\$75,000).

10 (b) A person who willfully and intentionally, or with reckless
11 disregard for the risk of great bodily injury, as defined in
12 subdivision (f) of Section 12022.7 of the Penal Code, to, or death
13 of, a person, emits an air contaminant in violation of Section 41700
14 that results in an unreasonable risk of great bodily injury to, or
15 death of, a person, is liable for a civil penalty of not more than one
16 hundred twenty-five thousand dollars (\$125,000). If the violator
17 is a corporation, the maximum penalty may be up to five hundred
18 thousand dollars (\$500,000).

19 (c) A person who willfully and intentionally, or with reckless
20 disregard for the risk of great bodily injury, as defined in
21 subdivision (f) of Section 12022.7 of the Penal Code, to, or death
22 of, a person, emits an air contaminant in violation of Section 41700
23 that causes great bodily injury, as defined in subdivision (f) of
24 Section 12022.7 of the Penal Code, to a person or that causes the
25 death of a person, is liable for a civil penalty of not more than two
26 hundred fifty thousand dollars (\$250,000). If the violator is a
27 corporation, the maximum penalty may be up to one million dollars
28 (\$1,000,000).

29 (d) Each day during a portion of which a violation occurs is a
30 separate offense.

31 SEC. 6. Section 42402.6 is added to the Health and Safety
32 Code, to read:

33 42402.6. (a) (1) A person is liable for a civil penalty of not
34 more than thirty thousand dollars (\$30,000) if the person violates
35 Section 41700 and all of the following occur:

36 (A) (i) The discharge is from a Title V source that is a refinery.

37 (ii) For purposes of this subparagraph, “refinery” means an
38 establishment that is located on one or more contiguous or adjacent
39 properties that produces gasoline, diesel fuel, aviation fuel,
40 lubricating oil, asphalt, petrochemical feedstock, or other similar

1 product through the processing of crude oil or alternative feedstock,
2 redistillation of unfinished petroleum derivatives, cracking, or
3 other processes.

4 (B) The discharge results in a disruption to the community,
5 including, but not limited to, residential displacement, shelter in
6 place, evacuation, or destruction of property.

7 (C) The discharge contains or includes one or more toxic air
8 contaminants, as identified by the state board pursuant to Section
9 39657.

10 (2) A person shall be liable for a civil penalty of not more than
11 one hundred thousand dollars (\$100,000) for a discharge subject
12 to paragraph (1) if that discharge occurs within 12 months of a
13 prior discharge subject to paragraph (1).

14 (b) Except as provided in subdivision (b) of Section 42402.2 or
15 subdivision (b) or (c) of Section 42402.3, a civil penalty described
16 in subdivision (a) shall apply on the initial date of a violation.

17 (c) If a violation of subdivision (a) continues to occur subsequent
18 to the initial date of the violation, the civil penalty described in
19 Section 42402, 42402.1, 42402.2, or 42402.3 shall apply to those
20 subsequent days.

21 (d) The civil penalty described in paragraphs (1) and (2) of
22 subdivision (a) shall not apply if the violation is caused by
23 unforeseen and unforeseeable criminal acts, acts of war, acts of
24 terrorism, or civil unrest.

25 (e) Civil penalties collected pursuant to this section above the
26 costs of prosecution shall be expended to mitigate the effects of
27 air pollution in communities affected by the violation.

28 SEC. 7. Section 42403 of the Health and Safety Code is
29 amended to read:

30 42403. (a) The civil penalties prescribed in Sections 39674,
31 42401, 42402, 42402.1, 42402.2, 42402.3, and 42402.6 shall be
32 assessed and recovered in a civil action brought in the name of the
33 people of the State of California by the Attorney General, by a
34 district attorney, or by the attorney for the district in which the
35 violation occurs in a court of competent jurisdiction.

36 (b) In determining the amount of the civil penalty assessed, the
37 court, or in reaching a settlement, the district, shall take into
38 consideration all relevant circumstances, including, but not limited
39 to, the following:

40 (1) The extent of harm caused by the violation.

- 1 (2) The nature and persistence of the violation.
- 2 (3) The length of time over which the violation occurs.
- 3 (4) The frequency of past violations.
- 4 (5) The record of maintenance.
- 5 (6) The unproven or innovative nature of the control equipment.
- 6 (7) Action, if any, taken by the defendant, including the nature,
- 7 extent, and time of response of the cleanup and construction
- 8 undertaken, to mitigate the violation.
- 9 (8) The financial burden to the defendant.
- 10 *SEC. 8. Section 42412 is added to the Health and Safety Code,*
- 11 *to read:*
- 12 *42412. In any action brought pursuant to this article, a*
- 13 *prevailing plaintiff may recover its actual costs of investigation,*
- 14 *expert witness fees, and reasonable attorney's fees.*

LEGISLATIVE COMMITTEE
MEETING OF 05/09/2022

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AMENDED IN ASSEMBLY APRIL 25, 2022

AMENDED IN ASSEMBLY MARCH 31, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2214

Introduced by Assembly Members Cristina Garcia and Lee

February 15, 2022

An act to amend Sections 17212, 17213.1, and 17251 of, and to add Article 3 (commencing with Section 17235) to Chapter 1 of Part 10.5 of Division 1 of Title 1 of, the Education Code, and to amend Sections ~~21084, 21151.2, 21151.2~~ and 21151.8 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2214, as amended, Cristina Garcia. California Environmental Quality Act: schoolsites: acquisition of property: school districts, charter schools, and private schools.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA prohibits an environmental impact report or negative declaration from being approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless certain conditions are met relating to, among other things, hazardous emissions or substances safety considerations, as provided.

Existing law requires the governing board of a school district, as a condition of receiving state funding under the Leroy F. Greene School Facilities Act of 1998, to conduct a Phase I environmental assessment of a proposed schoolsite before acquiring the site, as provided.

Existing law requires the State Department of Education, upon the request of the governing board of a school district, to advise the governing board on the acquisition of new schoolsites, as specified.

Existing law requires the governing board of a school district, before acquiring title to property for a new schoolsite or for an addition to a present schoolsite, to give notice in writing of the proposed acquisition to the planning commission. Existing law requires the planning commission to investigate the proposed site and submit a written report to the governing board of the school district, as provided. Existing law prohibits the governing board from acquiring title to the property until the report of the planning commission has been received.

This bill would impose those prohibitions, and related requirements, on the governing body of a charter school and the governing body of a private school, and would make the provisions relating to school districts also applicable to charter schools and private schools, as provided. The bill would apply the Phase I environmental assessment requirements to school districts, charter schools, *charter schools* and private schools, without conditioning the requirements on the receipt of state funds. By imposing new requirements on school districts, charter schools, lead agencies, cities, and counties, the bill would impose a state-mandated local program.

~~(2) Under existing law, CEQA requires the Office of Planning and Research to prepare and adopt guidelines to implement CEQA, and requires those guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that are required to be exempt from CEQA.~~

~~This bill would prohibit a project that involves demolition, construction, or alteration of a public school, including a charter school, or a private school from being exempted from CEQA pursuant to those guidelines.~~

~~(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 17212 of the Education Code is amended
2 to read:
3 17212. (a) (1) The governing board of a school district, or the
4 governing body of a charter school, before acquiring any site on
5 which it proposes to construct any school building as defined in
6 Section 17283 shall have the site, or sites, under consideration
7 investigated by competent personnel to ensure that the final site
8 selection is determined by an evaluation of all factors affecting
9 the public interest and is not limited to selection on the basis of
10 raw land cost only. If the prospective schoolsite is located within
11 the boundaries of any special studies zone or within an area
12 designated as geologically hazardous in the safety element of the
13 local general plan as provided in subdivision (g) of Section 65302
14 of the Government Code, the investigation shall include any
15 geological and soil engineering studies by competent personnel
16 needed to provide an assessment of the nature of the site and
17 potential for earthquake or other geologic hazard damage.
18 (2) The geological and soil engineering studies of the site shall
19 be of a nature that will preclude siting of a school in any location
20 where the geological and site characteristics are such that the
21 construction effort required to make the school building safe for
22 occupancy is economically unfeasible. No studies are required to
23 be made if the site or sites under consideration have been the
24 subject of adequate prior studies. The evaluation shall also include
25 location of the site with respect to population, transportation, water
26 supply, waste disposal facilities, utilities, traffic hazards, surface
27 drainage conditions, and other factors affecting the operating costs,
28 as well as the initial costs, of the total project.
29 (b) For the purposes of this article, “special studies zone” means
30 an area that is identified as a special studies zone on any map, or
31 maps, compiled by the State Geologist pursuant to Chapter 7.5

1 (commencing with Section 2621) of Division 2 of the Public
2 Resources Code.

3 SEC. 2. Section 17213.1 of the Education Code is amended to
4 read:

5 ~~17213.1. The governing board of a school district, the~~
6 ~~governing~~

7 *17213.1. As a condition of receiving state funding pursuant to*
8 *Chapter 12.5 (commencing with Section 17070.10), the governing*
9 *board of a school district shall comply with subdivision (a), and*
10 *is not required to comply with subdivision (a) of Section 17213,*
11 *before acquiring a schoolsite, or if the school district owns or*
12 *leases a schoolsite, before the construction of a project. The*
13 *governing body of a charter school, school or the governing body*
14 *of a private school shall comply with subdivision (a), before*
15 *acquiring a schoolsite, or if the school district, charter school,*
16 *charter school or private school owns or leases a schoolsite, before*
17 *the construction of a project.*

18 (a) Before acquiring a schoolsite, the governing board or body
19 shall contract with an environmental assessor to supervise the
20 preparation of, and sign, a Phase I environmental assessment of
21 the proposed schoolsite unless the governing board or body decides
22 to proceed directly to a preliminary endangerment assessment, in
23 which case it shall comply with paragraph (4).

24 (1) The Phase I environmental assessment shall contain one of
25 the following recommendations:

26 (A) A further investigation of the site is not required.

27 (B) A preliminary endangerment assessment is needed, including
28 sampling or testing, to determine the following:

29 (i) If a release of hazardous material has occurred and, if so, the
30 extent of the release.

31 (ii) If there is the threat of a release of hazardous materials.

32 (iii) If a naturally occurring hazardous material is present.

33 (2) If the Phase I environmental assessment concludes that
34 further investigation of the site is not required, the signed
35 assessment, proof that the environmental assessor meets the
36 qualifications specified in subdivision (b) of Section 17210, and
37 the renewal fee shall be submitted to the Department of Toxic
38 Substances Control. The Department of Toxic Substances Control
39 shall conduct its review and approval, within 30 calendar days of
40 its receipt of that assessment, proof of qualifications, and the

1 renewal fee. In those instances in which the Department of Toxic
2 Substances Control requests additional information after receipt
3 of the Phase I environmental assessment pursuant to paragraph
4 (3), the Department of Toxic Substances Control shall conduct its
5 review and approval within 30 calendar days of its receipt of the
6 requested additional information. If the Department of Toxic
7 Substances Control concurs with the conclusion of the Phase I
8 environmental assessment that a further investigation of the site
9 is not required, the Department of Toxic Substances Control shall
10 approve the Phase I environmental assessment and shall notify, in
11 writing, the State Department of Education and the governing
12 board of the school district, the governing body of the charter
13 school, or the governing body of the private school of the approval.

14 (3) If the Department of Toxic Substances Control determines
15 that the Phase I environmental assessment is not complete or
16 disapproves the Phase I environmental assessment, the department
17 shall inform the school district, charter school, or private school
18 of the decision, the basis for the decision, and actions necessary
19 to secure department approval of the Phase I environmental
20 assessment. The school district, charter school, or private school
21 shall take actions necessary to secure the approval of the Phase I
22 environmental assessment, elect to conduct a preliminary
23 endangerment assessment, or elect not to pursue the acquisition
24 or the construction project. To facilitate completion of the Phase
25 I environmental assessment, the information required by this
26 paragraph may be provided by telephonic or electronic means.

27 (4) (A) If the Department of Toxic Substances Control
28 concludes after its review of a Phase I environmental assessment
29 pursuant to this section that a preliminary endangerment assessment
30 is needed, the Department of Toxic Substances Control shall notify,
31 in writing, the State Department of Education and the governing
32 board of the school district, the governing body of the charter
33 school, or the governing body of the private school of that decision
34 and the basis for that decision. The school district, charter school,
35 or private school shall submit to the State Department of Education
36 the Phase I environmental assessment and requested additional
37 information, if any, that was reviewed by the Department of Toxic
38 Substances Control pursuant to that subparagraph. Submittal of
39 the Phase I assessment and additional information, if any, to the
40 State Department of Education shall be before the State Department

1 of Education issuance of final site or plan approvals affected by
2 that Phase I assessment.

3 (B) If the Phase I environmental assessment concludes that a
4 preliminary endangerment assessment is needed, or if the
5 Department of Toxic Substances Control concludes after it reviews
6 a Phase I environmental assessment pursuant to this section that
7 a preliminary endangerment assessment is needed, the school
8 district, charter school, or private school shall either contract with
9 an environmental assessor to supervise the preparation of, and
10 sign, a preliminary endangerment assessment of the proposed
11 schoolsite and enter into an agreement with the Department of
12 Toxic Substances Control to oversee the preparation of the
13 preliminary endangerment assessment or elect not to pursue the
14 acquisition or construction project. The agreement entered into
15 with the Department of Toxic Substances Control may be entitled
16 an “Environmental Oversight Agreement” and shall reference this
17 paragraph. A school district, charter school, or private school may,
18 with the concurrence of the Department of Toxic Substances
19 Control, enter into an agreement with the Department of Toxic
20 Substances Control to oversee the preparation of a preliminary
21 endangerment assessment without first having prepared a Phase I
22 environmental assessment. Upon request from the school district,
23 charter school, or private school, the Director of Toxic Substances
24 Control shall exercise its authority to designate a person to enter
25 the site and inspect and obtain samples pursuant to Section 25358.1
26 of the Health and Safety Code, if the director determines that the
27 exercise of that authority will assist in expeditiously completing
28 the preliminary endangerment assessment. The preliminary
29 endangerment assessment shall contain one of the following
30 conclusions:

31 (i) A further investigation of the site is not required.

32 (ii) A release of hazardous materials has occurred, and if so, the
33 extent of the release, that there is the threat of a release of
34 hazardous materials, or that a naturally occurring hazardous
35 material is present, or any combination thereof.

36 (5) The school district, charter school, or private school shall
37 submit the preliminary endangerment assessment to the Department
38 of Toxic Substances Control for its review and approval and to
39 the State Department of Education for its files. The school district,
40 charter school, or private school may entitle a document that is

1 meant to fulfill the requirements of a preliminary endangerment
2 assessment a “preliminary environmental assessment” and that
3 document shall be deemed to be a preliminary endangerment
4 assessment if it specifically refers to the statutory provisions whose
5 requirements it intends to meet and the document meets the
6 requirements of a preliminary endangerment assessment.

7 (6) At the same time a school district, charter school, or private
8 school submits a preliminary endangerment assessment to the
9 Department of Toxic Substances Control pursuant to paragraph
10 (5), the school district, charter school, or private school shall
11 publish a notice that the assessment has been submitted to the
12 department in a local newspaper of general circulation, and shall
13 post the notice in a prominent manner at the proposed schoolsite
14 that is the subject of that notice. The notice shall state the school
15 district’s, charter school’s, or private school’s determination to
16 make the preliminary endangerment assessment available for public
17 review and comment pursuant to subparagraph (A) or ~~(B)~~: (C):

18 (A) If the school district, charter school, or private school
19 chooses to make the assessment available for public review and
20 comment pursuant to this subparagraph, it shall offer to receive
21 written comments for a period of at least 30 calendar days after
22 the assessment is submitted to the Department of Toxic Substances
23 Control, commencing on the date the notice is originally published,
24 and shall hold a public hearing to receive further comments. The
25 school district, charter school, or private school shall make all of
26 the following documents available to the public upon request
27 through the time of the public hearing:

- 28 (i) The preliminary endangerment assessment.
29 (ii) The changes requested by the Department of Toxic
30 Substances Control for the preliminary endangerment assessment,
31 if any.
32 (iii) Any correspondence between the school district, charter
33 school, or private school, and the Department of Toxic Substances
34 Control that relates to the preliminary endangerment assessment.

35 ~~For the~~
36 (B) *For the purposes of this subparagraph, subparagraph (A),*
37 *the notice of the public hearing shall include the date and location*
38 *of the public hearing, and the location where the public may review*
39 *the documents described in clauses (i) to (iii), inclusive. inclusive,*
40 *of subparagraph (A).* If the preliminary endangerment assessment

1 is revised or altered following the public hearing, the school
2 district, charter school, or private school shall make those revisions
3 or alterations available to the public. The school district, charter
4 school, or private school shall transmit a copy of all public
5 comments received by the school district, charter school, or private
6 school on the preliminary endangerment assessment to the
7 Department of Toxic Substances Control. The Department of Toxic
8 Substances Control shall complete its review of the preliminary
9 endangerment assessment and public comments received thereon
10 and shall either approve or disapprove the assessment within 30
11 calendar days of the close of the public review period. If the
12 Department of Toxic Substances Control determines that it is likely
13 to disapprove the assessment prior to its receipt of the public
14 comments, it shall inform the school district, charter school, or
15 private school of that determination and of any action that the
16 school district, charter school, or private school is required to take
17 for the Department of Toxic Substances Control to approve the
18 assessment.

19 ~~(B)~~

20 (C) If the school district, charter school, or private school
21 chooses to make the preliminary endangerment assessment
22 available for public review and comment pursuant to this
23 subparagraph, the Department of Toxic Substances Control shall
24 complete its review of the assessment within 60 calendar days of
25 receipt of the assessment and shall either return the assessment to
26 the school district, charter school, or private school with comments
27 and requested modifications or requested further assessment or
28 concur with the adequacy of the assessment pending review of
29 public comment. If the Department of Toxic Substances Control
30 concurs with the adequacy of the assessment, and the school
31 district, charter school, or private school proposes to proceed with
32 site acquisition or a construction project, the school district, charter
33 school, or private school shall make the assessment available to
34 the public on the same basis and at the same time it makes available
35 the draft environmental impact report or negative declaration
36 pursuant to the California Environmental Quality Act (Division
37 13 (commencing with Section 21000) of the Public Resources
38 Code) for the site, unless the document developed pursuant to the
39 California Environmental Quality Act (Division 13 (commencing
40 with Section 21000) of the Public Resources Code) will not be

1 made available until more than 90 days after the assessment is
2 approved, in which case the school district, charter school, or
3 private school shall, within 60 days of the approval of the
4 assessment, separately publish a notice of the availability of the
5 assessment for public review in a local newspaper of general
6 circulation. The school district, charter school, or private school
7 shall hold a public hearing on the preliminary endangerment
8 assessment and the draft environmental impact report or negative
9 declaration at the same time, pursuant to the California
10 Environmental Quality Act (Division 13 (commencing with Section
11 21000) of the Public Resources Code). All public comments
12 pertaining to the preliminary endangerment assessment shall be
13 forwarded to the Department of Toxic Substances Control
14 immediately. The Department of Toxic Substances Control shall
15 review the public comments forwarded by the school district,
16 charter school, or private school, and shall approve or disapprove
17 the preliminary endangerment assessment within 30 days of the
18 district's, charter school's, or private school's approval action of
19 the environmental impact report or the negative declaration.

20 (7) The school district, charter school, or private school shall
21 comply with the public participation requirements of Sections
22 25358.7 and 25358.7.1 of the Health and Safety Code and other
23 applicable provisions of the state act with respect to those response
24 actions only if further response actions beyond a preliminary
25 endangerment assessment are required and the school district,
26 charter school, or private school determines that it will proceed
27 with the acquisition or construction project.

28 (8) If the Department of Toxic Substances Control disapproves
29 the preliminary endangerment assessment, it shall inform the school
30 district, charter school, or private school of the decision, the basis
31 for the decision, and actions necessary to secure the Department
32 of Toxic Substances Control approval of the assessment. The
33 school district, charter school, or private school shall take actions
34 necessary to secure the approval of the Department of Toxic
35 Substances Control of the preliminary endangerment assessment
36 or elect not to pursue the acquisition or construction project.

37 (9) If the preliminary endangerment assessment determines that
38 a further investigation of the site is not required and the Department
39 of Toxic Substances Control approves this determination, it shall
40 notify the State Department of Education and the school district,

1 charter school, or private school of its approval. The school district,
2 charter school, or private school may then proceed with the
3 acquisition or construction project.

4 (10) If the preliminary endangerment assessment determines
5 that a release of hazardous material has occurred, that there is the
6 threat of a release of hazardous materials, that a naturally occurring
7 hazardous material is present, or any combination thereof, that
8 requires further investigation, and the Department of Toxic
9 Substances Control approves this determination, the school district,
10 charter school, or private school may elect not to pursue the
11 acquisition or construction project. If the school district, charter
12 school, or private school elects to pursue the acquisition or
13 construction project, it shall do all of the following:

14 (A) Prepare a financial analysis that estimates the cost of
15 response action that will be required at the proposed schoolsite.

16 (B) Assess the benefits that accrue from using the proposed
17 schoolsite when compared to the use of alternative schoolsites, if
18 any.

19 (C) Obtain the approval of the State Department of Education
20 that the proposed schoolsite meets the schoolsite selection standards
21 adopted by the State Department of Education pursuant to
22 subdivision (b) of Section 17251.

23 (D) Evaluate the suitability of the proposed schoolsite in light
24 of the recommended alternative schoolsite locations in order of
25 merit if the school district has requested the assistance of the State
26 Department of Education, based upon the standards of the State
27 Department of Education, pursuant to subdivision (a) of Section
28 17251.

29 (11) The school district, charter school, or private school shall
30 reimburse the Department of Toxic Substances Control for all of
31 the department's response costs.

32 (b) The costs incurred by the school districts when complying
33 with this section are allowable costs for purposes of an applicant
34 under Chapter 12.5 (commencing with Section 17070.10) of Part
35 10 and may be reimbursed in accordance with Section 17072.13.

36 (c) A school district, charter school, or private school that
37 releases a Phase I environmental assessment, a preliminary
38 endangerment assessment, or information concerning either of
39 these assessments, any of which is required by this section, may
40 not be held liable in any action filed against the school district,

1 charter school, or private school for making either of these
2 assessments available for public review.

3 (d) The changes made to this section by the act amending this
4 section during the 2001 portion of the 2001–02 Regular Session
5 do not apply to a schoolsite acquisition project or a school
6 construction project, if either of the following occurred on or before
7 the effective date of the act amending this section during the 2001
8 portion of the 2001–02 Regular Session:

9 (1) The final preliminary endangerment assessment for the
10 project was approved by the Department of Toxic Substances
11 Control pursuant to this section as this section read on the date of
12 the approval.

13 (2) The school district seeking state funding for the project
14 completed a public hearing for the project pursuant to this section,
15 as this section read on the date of the hearing.

16 ~~(e) The changes made to this section by Assembly Bill 2214 of~~
17 ~~the 2021–22 Regular Session apply to a schoolsite acquisition~~
18 ~~project or a schoolsite construction project pending approval before~~
19 ~~a local or state agency on or before January 1, 2023, in addition~~
20 ~~to a new schoolsite acquisition project or a schoolsite construction~~
21 ~~project on or after January 1, 2023.~~

22 SEC. 3. Article 3 (commencing with Section 17235) is added
23 to Chapter 1 of Part 10.5 of Division 1 of Title 1 of the Education
24 Code, to read:

25

26 Article 3. Charter School and Private School Schoolsites

27

28 17235. (a) For purposes of this section, the following
29 definitions apply:

30 (1) “Administering agency” means an agency authorized
31 pursuant to Section 25502 of the Health and Safety Code to
32 implement and enforce Chapter 6.95 (commencing with Section
33 25500) of Division 20 of the Health and Safety Code.

34 (2) “Extremely hazardous substance” has the same meaning as
35 defined in paragraph (2) of subdivision (i) of Section 25532 of the
36 Health and Safety Code.

37 (3) “Facilities” means a source with a potential to use, generate,
38 emit, or discharge hazardous air pollutants, including, but not
39 limited to, pollutants that meet the definition of a hazardous
40 substance, and whose process or operation is identified as an

1 emission source pursuant to the most recent list of source categories
2 published by the State Air Resources Board.

3 (4) “Freeway or other busy traffic corridor” means those
4 roadways that, on an average day, have traffic in excess of 50,000
5 vehicles in a rural area, as defined in Section 50101 of the Health
6 and Safety Code, and 100,000 vehicles in an urban area, as defined
7 in Section 50104.7 of the Health and Safety Code.

8 (5) “Handle” has the same meaning as defined in Section 25501
9 of the Health and Safety Code.

10 (6) “Hazardous air emissions” means emissions into the ambient
11 air of air contaminants that have been identified as a toxic air
12 contaminant by the State Air Resources Board or by the air
13 pollution control officer for the jurisdiction in which the project
14 is located. As determined by the air pollution control officer,
15 hazardous air emissions also means emissions into the ambient air
16 from any substances identified in subdivisions (a) to (f), inclusive,
17 of Section 44321 of the Health and Safety Code.

18 (7) “Hazardous substance” has the same meaning as defined in
19 Section 25316 of the Health and Safety Code.

20 (8) “Hazardous waste” has the same meaning as defined in
21 Section 25117 of the Health and Safety Code.

22 (9) “Hazardous waste disposal site” has the same meaning as
23 “disposal site,” as defined in Section 25114 of the Health and
24 Safety Code.

25 (b) The governing body of a charter school or the governing
26 board of a private school shall not approve the acquisition or
27 purchase of a schoolsite, or the construction of a new elementary
28 or secondary school, by, or for use by, a charter school or a private
29 school unless all of the following occur:

30 (1) The city or county determines that the property proposed to
31 be acquired or purchased, or to be constructed upon, is not any of
32 the following:

33 (A) The site of a current or former hazardous waste disposal
34 site or solid waste disposal site, unless, if the site was a former
35 solid waste disposal site, the city or county concludes that the
36 wastes have been removed.

37 (B) A hazardous substance release site identified by the
38 Department of Toxic Substances Control in a current list adopted
39 pursuant to Section 25356 of the Health and Safety Code for

1 removal or remedial action pursuant to Chapter 6.8 (commencing
2 with Section 25300) of Division 20 of the Health and Safety Code.

3 (C) A site that contains one or more pipelines, situated
4 underground or aboveground, that carry hazardous substances,
5 extremely hazardous substances, or hazardous wastes, unless the
6 pipeline is a natural gas line that is used only to supply natural gas
7 to that school or neighborhood, or other nearby schools.

8 (2) (A) The governing body or board has notified in writing
9 and consulted with the administering agency in which the proposed
10 schoolsite is located, and with any air pollution control district or
11 air quality management district having jurisdiction in the area, to
12 identify both permitted and nonpermitted facilities within that
13 district's authority, including, but not limited to, freeways or other
14 busy traffic corridors, large agricultural operations, and railyards,
15 within one-fourth of one mile of the proposed schoolsite, that might
16 reasonably be anticipated to emit hazardous emissions or handle
17 hazardous or extremely hazardous substances or waste. The
18 notification by the governing body or board shall include a list of
19 the locations for which information is sought.

20 (B) Each administering agency, air pollution control district, or
21 air quality management district receiving written notification from
22 a governing body or board to identify facilities pursuant to
23 subparagraph (A) shall provide the requested information and
24 provide a written response to the governing body or board within
25 30 days of receiving the notification.

26 (3) The city or county makes one of the following written
27 findings:

28 (A) Consultation identified no facilities of the type specified in
29 paragraph (2) or other significant pollution sources.

30 (B) One or more facilities specified in paragraph (2) or other
31 pollution sources exist, but one of the following conditions applies:

32 (i) The health risks from the facilities or other pollution sources
33 do not and will not constitute an actual or potential endangerment
34 of public health to persons who would attend or be employed at
35 the proposed school.

36 (ii) Corrective measures required under an existing order by
37 another agency having jurisdiction over the facilities or other
38 pollution sources will, before the school is occupied, result in the
39 mitigation of all chronic or accidental hazardous air emissions to
40 levels that do not constitute an actual or potential endangerment

1 of public health to persons who would attend or be employed at
2 the proposed school. If the city or county makes a finding pursuant
3 to this clause, it shall also make a subsequent finding, before
4 occupancy of the school, that the emissions have been so mitigated.

5 (iii) For a schoolsite with a boundary that is within 500 feet of
6 the edge of the closest traffic lane of a freeway or other busy traffic
7 corridor, the city or county determines, through analysis pursuant
8 to paragraph (2) of subdivision (b) of Section 44360 of the Health
9 and Safety Code, based on appropriate air dispersion modeling,
10 and after considering any potential mitigation measures, that the
11 air quality at the proposed site is such that neither short-term nor
12 long-term exposure poses significant health risks to pupils.

13 (C) One or more facilities specified in paragraph (2) or other
14 pollution sources exist, but conditions in clause (i), (ii), or (iii) of
15 subparagraph (B) cannot be met, and the charter school or private
16 school is unable to locate an alternative site that is suitable due to
17 a severe shortage of sites that meet the requirements in this section.

18 SEC. 4. Section 17251 of the Education Code is amended to
19 read:

20 17251. The department shall:

21 (a) Upon the request of the governing board of a school district
22 or the governing body of a charter school, advise the governing
23 board of the school district or the governing body of the charter
24 school on the acquisition of new schoolsites and, after a review of
25 available plots, give the governing board of the school district or
26 the governing body of the charter school in writing a list of the
27 recommended locations in the order of their merit, considering
28 especially the matters of educational merit, safety, reduction of
29 traffic hazards, and conformity to the land use element in the
30 general plan of the city, county, or city and county having
31 jurisdiction. The governing board of the school district or the
32 governing body of the charter school may purchase a site deemed
33 unsuitable for school purposes by the department only after
34 reviewing the report of the department on proposed sites at a public
35 hearing. The department shall charge the school district or charter
36 school a reasonable fee for each schoolsite reviewed not to exceed
37 the actual administrative costs incurred for that purpose.

38 (b) Develop standards for use by a school district or charter
39 school in the selection of schoolsites, in accordance with the
40 objectives set forth in subdivision (a). The department shall

1 investigate complaints of noncompliance with site selection
2 standards, and shall notify the governing board of the school district
3 or the governing body of the charter school of the results of the
4 investigation. If that notification is received before the acquisition
5 of the site, the governing board of the school district or the
6 governing body of the charter school shall discuss the findings of
7 the investigation in a public hearing.

8 (c) Establish standards for use by school districts and charter
9 schools to ensure that the design and construction of school
10 facilities are educationally appropriate, promote school safety, and
11 provide school districts and charter schools with flexibility in
12 designing instructional facilities.

13 (d) Upon the request of the governing board of a school district
14 or the governing body of a charter school, review plans and
15 specifications for school buildings in the school district or charter
16 school. The department shall charge the school district or charter
17 school, for the review of plans and specifications, a reasonable fee
18 not to exceed the actual administrative costs incurred for that
19 purpose.

20 (e) Upon the request of the governing board of a school district
21 or the governing body of a charter school, make a survey of the
22 building needs of the school district or charter school, advise the
23 governing board of the school district or the governing body of
24 the charter school concerning the building needs, and suggest plans
25 for financing a building program to meet the needs. The department
26 shall charge the school district or charter school, for the cost of
27 the survey, a reasonable fee not to exceed the actual administrative
28 costs incurred for that purpose.

29 (f) Provide information relating to the impact or potential impact
30 upon a schoolsite of hazardous substances, solid waste, safety,
31 hazardous air emissions, and other information as the department
32 may deem appropriate.

33 (g) (1) Develop strategies to assist small school districts with
34 technical assistance relating to school construction and the funding
35 of school facilities. The strategies may include informing those
36 small school districts of how to receive the approval required for
37 school construction, including the requirements of the Division of
38 the State Architect, and how to secure state funding, including
39 from the state bond funds made available pursuant to the Leroy F.

1 Greene School Facilities Act of 1998 (Chapter 12.5 (commencing
2 with Section 17070.10) of Part 10).

3 (2) For purposes of this subdivision, “small school district”
4 means a school district with fewer than 2,501 units of average
5 daily attendance.

6 ~~SEC. 5. Section 21084 of the Public Resources Code is~~
7 ~~amended to read:~~

8 ~~21084. (a) The guidelines prepared and adopted pursuant to~~
9 ~~Section 21083 shall include a list of classes of projects that have~~
10 ~~been determined not to have a significant effect on the environment~~
11 ~~and that shall be exempt from this division. In adopting the~~
12 ~~guidelines, the Secretary of the Natural Resources Agency shall~~
13 ~~make a finding that the listed classes of projects referred to in this~~
14 ~~section do not have a significant effect on the environment.~~

15 ~~(b) A project’s greenhouse gas emissions shall not, in and of~~
16 ~~themselves, be deemed to cause an exemption adopted pursuant~~
17 ~~to subdivision (a) to be inapplicable if the project complies with~~
18 ~~all applicable regulations or requirements adopted to implement~~
19 ~~statewide, regional, or local plans consistent with Section 15183.5~~
20 ~~of Title 14 of the California Code of Regulations.~~

21 ~~(c) A project that may result in damage to scenic resources,~~
22 ~~including, but not limited to, trees, historic buildings, rock~~
23 ~~outcroppings, or similar resources, within a highway designated~~
24 ~~as an official state scenic highway, pursuant to Article 2.5~~
25 ~~(commencing with Section 260) of Chapter 2 of Division 1 of the~~
26 ~~Streets and Highways Code, shall not be exempted from this~~
27 ~~division pursuant to subdivision (a). This subdivision does not~~
28 ~~apply to improvements as mitigation for a project for which a~~
29 ~~negative declaration has been approved or an environmental impact~~
30 ~~report has been certified.~~

31 ~~(d) A project located on a site that is included on any list~~
32 ~~compiled pursuant to Section 65962.5 of the Government Code~~
33 ~~shall not be exempted from this division pursuant to subdivision~~
34 ~~(a).~~

35 ~~(e) A project that may cause a substantial adverse change in the~~
36 ~~significance of a historical resource, as specified in Section~~
37 ~~21084.1, shall not be exempted from this division pursuant to~~
38 ~~subdivision (a).~~

39 ~~(f) A project that involves demolition, construction, or alteration~~
40 ~~of a public school, including a charter school, or a private school~~

1 shall not be exempted from this division pursuant to subdivision
2 (a):

3 ~~SEC. 6:~~

4 *SEC. 5.* Section 21151.2 of the Public Resources Code is
5 amended to read:

6 21151.2. (a) To promote the health and safety of pupils and
7 comprehensive community planning, the governing board or body
8 of each school district, charter school, or private school shall,
9 before acquiring title to property for a new schoolsite or for an
10 addition to a present schoolsite, give the planning commission
11 having jurisdiction notice in writing of the proposed acquisition.

12 (b) The planning commission shall investigate the proposed site
13 and within 30 days after receipt of the notice shall submit to the
14 governing board or body of the school district, charter school, or
15 private school a written report of the investigation and its
16 recommendations concerning acquisition of the site.

17 (c) The governing board or body of the school district, charter
18 school, or private school shall not acquire title to the property until
19 the report of the planning commission has been received.

20 (d) If the report does not favor the acquisition of the property
21 for a schoolsite, or for an addition to a present schoolsite, the
22 governing board or body of the school district, charter school, or
23 private school shall not acquire title to the property until 30 days
24 after the commission's report is received.

25 ~~SEC. 7:~~

26 *SEC. 6.* Section 21151.8 of the Public Resources Code is
27 amended to read:

28 21151.8. (a) A lead agency shall not certify an environmental
29 impact report or approve a negative declaration for a project
30 involving the purchase of a schoolsite or the construction of a new
31 elementary or secondary school by a school district, a charter
32 school, or a private school unless all of the following occur:

33 (1) The environmental impact report or negative declaration
34 includes information that is needed to determine if the property
35 proposed to be purchased, or to be constructed upon, is any of the
36 following:

37 (A) The site of a current or former hazardous waste disposal
38 site or solid waste disposal site and, if so, whether the wastes have
39 been removed.

1 (B) A hazardous substance release site identified by the
2 Department of Toxic Substances Control in a current list adopted
3 pursuant to Section 25356 of the Health and Safety Code for
4 removal or remedial action pursuant to Chapter 6.8 (commencing
5 with Section 25300) of Division 20 of the Health and Safety Code.

6 (C) A site that contains one or more pipelines, situated
7 underground or aboveground, that carries hazardous substances,
8 extremely hazardous substances, or hazardous wastes, unless the
9 pipeline is a natural gas line that is used only to supply natural gas
10 to that school or neighborhood, or other nearby schools.

11 (D) A site that is within 500 feet of the edge of the closest traffic
12 lane of a freeway or other busy traffic corridor.

13 (2) (A) The lead agency in preparing the environmental impact
14 report or negative declaration has notified in writing and consulted
15 with the administering agency in which the proposed schoolsite
16 is located, pursuant to Section 2735.3 of Title 19 of the California
17 Code of Regulations, and with any air pollution control district or
18 air quality management district having jurisdiction in the area, to
19 identify both permitted and nonpermitted facilities within that
20 district's authority, including, but not limited to, freeways or other
21 busy traffic corridors, large agricultural operations, and railyards,
22 within one-fourth of one mile of the proposed schoolsite, that might
23 reasonably be anticipated to emit hazardous emissions or handle
24 hazardous or extremely hazardous substances or waste. The
25 notification by the lead agency shall include a list of the locations
26 for which information is sought.

27 (B) Each administering agency, air pollution control district, or
28 air quality management district receiving written notification from
29 a lead agency to identify facilities pursuant to subparagraph (A)
30 shall provide the requested information and provide a written
31 response to the lead agency within 30 days of receiving the
32 notification. The environmental impact report or negative
33 declaration shall be conclusively presumed to comply with
34 subparagraph (A) as to the area of responsibility of an agency that
35 does not respond within 30 days.

36 (C) If the lead agency has carried out the consultation required
37 by subparagraph (A), the environmental impact report or the
38 negative declaration shall be conclusively presumed to comply
39 with subparagraph (A), notwithstanding any failure of the

1 consultation to identify an existing facility or other pollution source
2 specified in subparagraph (A).

3 (3) The lead agency makes one of the following written findings:

4 (A) Consultation identified no facilities of this type or other
5 significant pollution sources specified in paragraph (2).

6 (B) The facilities or other pollution sources specified in
7 paragraph (2) exist, but one of the following conditions applies:

8 (i) The health risks from the facilities or other pollution sources
9 do not and will not constitute an actual or potential endangerment
10 of public health to persons who would attend or be employed at
11 the proposed school.

12 (ii) Corrective measures required under an existing order by
13 another agency having jurisdiction over the facilities or other
14 pollution sources will, before the school is occupied, result in the
15 mitigation of all chronic or accidental hazardous air emissions to
16 levels that do not constitute an actual or potential endangerment
17 of public health to persons who would attend or be employed at
18 the proposed school. If the lead agency makes a finding pursuant
19 to this clause, it shall also make a subsequent finding, before
20 occupancy of the school, that the emissions have been so mitigated.

21 (iii) For a schoolsite with a boundary that is within 500 feet of
22 the edge of the closest traffic lane of a freeway or other busy traffic
23 corridor, the lead agency determines, through analysis pursuant to
24 paragraph (2) of subdivision (b) of Section 44360 of the Health
25 and Safety Code, based on appropriate air dispersion modeling,
26 and after considering any potential mitigation measures, that the
27 air quality at the proposed site is such that neither short-term nor
28 long-term exposure poses significant health risks to pupils.

29 (C) The facilities or other pollution sources specified in
30 paragraph (2) exist, but conditions in clause (i), (ii), or (iii) of
31 subparagraph (B) cannot be met, and the lead agency is unable to
32 locate an alternative site that is suitable due to a severe shortage
33 of sites that meet the requirements in subdivision (a) of Section
34 17213 of the Education Code. If the lead agency makes this finding,
35 the lead agency shall adopt a statement of overriding considerations
36 pursuant to Section 15093 of Title 14 of the California Code of
37 Regulations.

38 (b) For purposes of this section, the following definitions apply:

39 (1) “Administering agency” means an agency authorized
40 pursuant to Section 25502 of the Health and Safety Code to

1 implement and enforce Chapter 6.95 (commencing with Section
2 25500) of Division 20 of the Health and Safety Code.

3 (2) “Extremely hazardous substances” means an extremely
4 hazardous substance, as defined pursuant to paragraph (2) of
5 subdivision (i) of Section 25532 of the Health and Safety Code.

6 (3) “Facilities” means a source with a potential to use, generate,
7 emit, or discharge hazardous air pollutants, including, but not
8 limited to, pollutants that meet the definition of a hazardous
9 substance, and whose process or operation is identified as an
10 emission source pursuant to the most recent list of source categories
11 published by the State Air Resources Board.

12 (4) “Freeway or other busy traffic corridor” means those
13 roadways that, on an average day, have traffic in excess of 50,000
14 vehicles in a rural area, as defined in Section 50101 of the Health
15 and Safety Code, and 100,000 vehicles in an urban area, as defined
16 in Section 50104.7 of the Health and Safety Code.

17 (5) “Handle” means handle as defined in Article 1 (commencing
18 with Section 25500) of Chapter 6.95 of Division 20 of the Health
19 and Safety Code.

20 (6) “Hazardous air emissions” means emissions into the ambient
21 air of air contaminants that have been identified as a toxic air
22 contaminant by the State Air Resources Board or by the air
23 pollution control officer for the jurisdiction in which the project
24 is located. As determined by the air pollution control officer,
25 hazardous air emissions also means emissions into the ambient air
26 from any substances identified in subdivisions (a) to (f), inclusive,
27 of Section 44321 of the Health and Safety Code.

28 (7) “Hazardous substance” means a substance defined in Section
29 25316 of the Health and Safety Code.

30 (8) “Hazardous waste” means a waste defined in Section 25117
31 of the Health and Safety Code.

32 (9) “Hazardous waste disposal site” means a site defined in
33 Section 25114 of the Health and Safety Code.

34 ~~SEC. 8.~~

35 *SEC. 7.* No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 a local agency or school district has the authority to levy service
38 charges, fees, or assessments sufficient to pay for the program or
39 level of service mandated by this act, within the meaning of Section
40 17556 of the Government Code.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

LEGISLATIVE COMMITTEE
MEETING OF 05/09/2022

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AMENDED IN ASSEMBLY MARCH 10, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2721

Introduced by Assembly Member Lee

February 18, 2022

An act to amend Section 40227 of the Health and Safety Code, relating to the Bay Area Air Quality Management District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2721, as amended, Lee. Bay Area Air Quality Management District: district board: ~~compensation and expenses.~~ *compensation.*

Existing law establishes the Bay Area Air Quality Management District, which is vested with the authority to regulate air emissions located in the boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara and portions of the Counties of Solano and Sonoma. Existing law establishes a district board to govern the district and prescribes the membership of the district board. Existing law authorizes the district board to provide, by ordinance, compensation *not to exceed \$100 per day* for board members for attending meetings *of the board or committees of the board* or while on official business of the ~~district and~~ *district and not to exceed \$6,000 per year.* Existing law also requires board members to receive actual and necessary expenses incurred in the performance of their ~~duties, as specified.~~ *duties.*

This bill would ~~state the intent of the Legislature to enact subsequent legislation that would make changes to the compensation and expenses that members of the district board receive in the performance of their board duties.~~ *revise the amount of compensation that a member of the board may receive for attending a meeting of the board or attending a*

meeting while on official business of the district to an amount not to exceed \$100 per meeting and \$200 per day. The bill would also authorize a member of the board to receive compensation for active transportation travel to one of these meetings and would subject this compensation to the \$6,000 total annual compensation limit.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 40227 of the Health and Safety Code is
2 amended to read:

3 40227. (a) Each member of the bay district board shall receive
4 actual and necessary expenses incurred in the performance of board
5 duties, and board duties.

6 (b) Each member of the bay district board may receive
7 compensation, to be determined by the bay district board, not to
8 exceed one hundred dollars (\$100) for each day attending the
9 meetings board subject to subdivision (c), for any of the following:

10 (1) Attending a meeting of the bay district board and or a
11 committee meetings thereof, or, of the bay district board.

12 (2) Attending a meeting, upon authorization of the bay district
13 board, while on official business of the bay district, but the district.

14 (3) Active transportation travel to a meeting described in
15 paragraph (1) or (2).

16 (c) The compensation provided for attending a meeting pursuant
17 to paragraph (1) or (2) of subdivision (b) shall not exceed one
18 hundred dollars (\$100) for each meeting and shall not exceed two
19 hundred dollars (\$200) per day. The compensation provided
20 pursuant to subdivision (b) shall not exceed six thousand dollars
21 (\$6,000) in any one year. Compensation

22 (d) Compensation pursuant to this section shall be fixed by
23 ordinance.

24 SECTION 1. In order to promote active transportation, reduce
25 air pollution, and protect public health in the bay area region, it is
26 the intent of the Legislature to enact subsequent legislation that
27 would make changes to the compensation and expenses that

- 1 ~~members of the board of the Bay Area Air Quality Management~~
- 2 ~~District receive in the performance of their board duties.~~

LEGISLATIVE COMMITTEE
MEETING OF 05/09/2022

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AMENDED IN ASSEMBLY MARCH 30, 2022

AMENDED IN ASSEMBLY MARCH 24, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2836

Introduced by Assembly Member Eduardo Garcia

February 18, 2022

An act to amend Sections 40612, 41081, 44225, 44229, 44275, 44280, 44281, 44282, 44283, and 44287 of the Health and Safety Code, to amend Sections 42885 and 42889 of the Public Resources Code, and to amend Section 9250.2 of the Vehicle Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2836, as amended, Eduardo Garcia. Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.

(1) Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), which is administered by the State Air Resources Board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from sources in the state and for funding a fueling infrastructure demonstration program and technology development efforts. Existing law, beginning January 1, 2024, limits the Carl Moyer Program to funding projects that reduce emissions of oxides of nitrogen (NOx) from covered sources. Existing law, until January 1, 2024, defines covered source for purposes of the Carl Moyer Program to include any marine vessel and any other category necessary for the state and air districts to meet air quality goals.

This bill would extend the current authorization for the Carl Moyer Program to fund a broader range of projects that reduce emissions from covered sources until January 1, ~~2038~~. 2033.

(2) Existing law authorizes the Sacramento Metropolitan Air Quality Management District to adopt a surcharge on motor vehicle registration fees applicable to all motor vehicles registered in counties within the district. Existing law, until January 1, 2024, raises the limit on the amount of that surcharge from \$4 to \$6 and requires that \$2 of the surcharge be used to implement the Carl Moyer Program, among other programs. Existing law requires the Department of Motor Vehicles to collect that surcharge if requested by the district, and requires the department, after deducting its administrative costs, to distribute the revenues to the district. Beginning January 1, 2024, existing law returns the surcharge limit to its previous amount of \$4.

This bill would extend the authorization to increase the surcharge to \$6 until January 1, ~~2038~~. 2033.

(3) Existing law authorizes an air pollution control or air quality management district, except the Sacramento district, to levy a surcharge on the registration fees for motor vehicles registered in the air district, as specified by the governing body of the air district. Existing law requires the Department of Motor Vehicles to collect that surcharge if requested by an air district, and requires the department, after deducting its administrative costs, to distribute the revenues to the air districts. Existing law, until January 1, 2024, raises the limit on the amount of that surcharge from \$4 to \$6 and requires that \$2 of the surcharge be used to implement the Carl Moyer Program, among other programs. Beginning January 1, 2024, existing law returns the surcharge limit to its previous amount of \$4. Existing law authorizes the San Joaquin Valley Unified Air Pollution Control District to increase the surcharge up to, but not exceeding, \$30 for incentive-based programs to achieve surplus emissions reductions, as specified, and authorizes an adopted increased surcharge to be charged in any fiscal years 2009–10 to 2023–24, inclusive.

This bill would extend the authorization to increase the surcharge to \$6 until January 1, ~~2038~~. 2033. The bill would also extend the authorization for the San Joaquin Valley Unified Air Pollution Control District to charge an adopted increased surcharge up to, but not exceeding, \$30, through fiscal year ~~2037–38~~. 2032–33.

(4) Existing law imposes, until January 1, 2024, a California tire fee of \$1.75 per tire on a person who purchases a new tire, with the revenues

generated to be allocated for prescribed purposes related to disposal and use of used tires. Existing law requires that \$0.75 per tire on which the fee is imposed be deposited in the Air Pollution Control Fund with these moneys to be available upon appropriation by the Legislature for use by the state board and air districts for specified purposes. Existing law reduces the tire fee to \$0.75 per tire on and after January 1, 2024.

This bill would extend the collection of the tire fee at \$1.75 per tire until January 1, ~~2038~~, 2033, and would therefore impose a tax.

(5) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 40612 of the Health and Safety Code is
2 amended to read:
3 40612. (a) In order to provide funding for air pollution control
4 programs needed to achieve and maintain state and federal air
5 quality, the district may do both of the following:
6 (1) Notwithstanding the limits on the amount of the motor
7 vehicle fee specified in Sections 44223 and 44225, increase the
8 fee established pursuant to these sections to up to, but not
9 exceeding, thirty dollars (\$30) per motor vehicle per year for the
10 purposes of establishing and implementing incentive-based
11 programs to achieve surplus emissions reductions that the district
12 determines are needed to remediate air pollution harms created by
13 motor vehicles on which the fee is imposed and that are intended
14 to achieve and maintain state and federal ambient air quality
15 standards required by the federal Clean Air Act (42 U.S.C. Sec.
16 7401 et seq.). Except for the amount of the fee, any increase shall
17 be subject to Chapter 7 (commencing with Section 44220) of Part
18 5, including, but not limited to, the adoption of a resolution
19 providing for both the fee increase and a corresponding program
20 for expenditure of the moneys raised by the increased fees for the
21 reduction of mobile source emissions.

1 (2) Notwithstanding Section 40717.9, adopt rules and regulations
2 to reduce vehicle trips in order to reduce air pollution from
3 vehicular sources.

4 (b) Fees adopted pursuant to this section are in addition to any
5 other fees imposed by the district, and may be charged in any of
6 fiscal years 2009–10 to ~~2037–38~~, 2032–33, inclusive. Fees may
7 be assessed after the 2012–13 fiscal year only if the United States
8 Environmental Protection Agency approves the district’s proposed
9 reclassification of its nonattainment status for ozone from severe
10 to extreme. The fees adopted pursuant to this section are for the
11 district portion of the total amount needed to achieve and maintain
12 state and federal ambient air quality standards. At least ten million
13 dollars (\$10,000,000) shall be used to mitigate the impacts of air
14 pollution on public health and the environment in
15 disproportionately impacted environmental justice communities
16 in the San Joaquin Valley. The district board shall convene an
17 environmental justice advisory committee, selected from a list
18 given to the board by environmental justice groups from the San
19 Joaquin Valley, to recommend the neighborhoods in the district
20 that constitute environmental justice communities, and how to
21 expend funds within these communities.

22 (c) (1) The fees adopted pursuant to this section shall become
23 effective after the state board makes both of the following findings:

24 (A) The district has undertaken all feasible measures to reduce
25 nonattainment air pollutants from sources within the district’s
26 jurisdiction and regulatory control.

27 (B) The district has notified the state board that fees have been
28 adopted pursuant to this section and provided the state board with
29 an estimate of the total funds that will be provided annually by
30 each of those fees.

31 (2) The state board shall file a written copy of its findings made
32 pursuant to this subdivision with the Secretary of State within two
33 days of its determination.

34 (3) The fees adopted pursuant to this section shall be collected
35 nine months after the requirements of paragraph (2) are met.

36 SEC. 2. Section 41081 of the Health and Safety Code, as
37 amended by Section 2 of Chapter 401 of the Statutes of 2013, is
38 amended to read:

39 41081. (a) Subject to Article 3.7 (commencing with Section
40 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the

1 Government Code, or with the approval of the board of supervisors
2 of each county included, in whole or in part, within the Sacramento
3 district, the Sacramento district board may adopt a surcharge on
4 the motor vehicle registration fees applicable to all motor vehicles
5 registered in those counties within the Sacramento district whose
6 boards of supervisors have adopted a resolution approving the
7 surcharge. The surcharge shall be collected by the Department of
8 Motor Vehicles and, after deducting the department's
9 administrative costs, the remaining funds shall be transferred to
10 the Sacramento district. Before the adoption of any surcharge
11 pursuant to this subdivision, the district board shall make a finding
12 that any funds allocated to the district as a result of the adoption
13 of a county transportation sales and use tax are insufficient to carry
14 out the purposes of this chapter.

15 (b) The surcharge shall not exceed four dollars (\$4).

16 (c) After consulting with the Department of Motor Vehicles on
17 the feasibility thereof, the Sacramento district board may provide,
18 in the surcharge adopted pursuant to subdivision (a), to exempt
19 from all or part of the surcharge any category of low-emission
20 motor vehicle.

21 (d) Funds received by the Sacramento district pursuant to this
22 section shall be used to implement the strategy with respect to the
23 reduction in emissions from vehicular sources, including, but not
24 limited to, a clean fuels program and motor vehicle use reduction
25 measures. Not more than 5 percent of the funds collected pursuant
26 to this section shall be used by the district for administrative
27 expenses.

28 (e) This section shall become operative on January 1, ~~2038~~
29 2033.

30 SEC. 3. Section 41081 of the Health and Safety Code, as
31 amended by Section 1 of Chapter 610 of the Statutes of 2015, is
32 amended to read:

33 41081. (a) Subject to Article 3.7 (commencing with Section
34 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the
35 Government Code, or with the approval of the board of supervisors
36 of each county included, in whole or in part, within the Sacramento
37 district, the Sacramento district board may adopt a surcharge on
38 the motor vehicle registration fees applicable to all motor vehicles
39 registered in those counties within the Sacramento district whose
40 boards of supervisors have adopted a resolution approving the

1 surcharge. The surcharge shall be collected by the Department of
2 Motor Vehicles and, after deducting the department's
3 administrative costs, the remaining funds shall be transferred to
4 the Sacramento district. Before the adoption of any surcharge
5 pursuant to this subdivision, the district board shall make a finding
6 that any funds allocated to the district as a result of the adoption
7 of a county transportation sales and use tax are insufficient to carry
8 out the purposes of this chapter.

9 (b) The surcharge shall not exceed six dollars (\$6).

10 (c) After consulting with the Department of Motor Vehicles on
11 the feasibility thereof, the Sacramento district board may provide,
12 in the surcharge adopted pursuant to subdivision (a), to exempt
13 from all or part of the surcharge any category of low-emission
14 motor vehicle.

15 (d) Funds received by the Sacramento district pursuant to this
16 section shall be used by that district as follows:

17 (1) The revenues resulting from the first four dollars (\$4) of
18 each surcharge shall be used to implement reductions in emissions
19 from vehicular sources, including, but not limited to, a clean fuels
20 program and motor vehicle use reduction measures.

21 (2) The revenues resulting from the next two dollars (\$2) of
22 each surcharge shall be used to implement the following programs
23 that achieve emission reductions from vehicular sources and
24 off-road engines, to the extent that the district determines the
25 program remediates air pollution harms created by motor vehicles
26 on which the surcharge is imposed:

27 (A) Projects eligible for grants under the Carl Moyer Memorial
28 Air Quality Standards Attainment Program (Chapter 9
29 (commencing with Section 44275) of Part 5).

30 (B) The new purchase, retrofit, repower, or add-on of equipment
31 for previously unregulated agricultural sources of air pollution, as
32 defined in Section 39011.5, within the Sacramento district, for a
33 minimum of three years from the date of adoption of an applicable
34 rule or standard, or until the compliance date of that rule or
35 standard, whichever is later, if the state board has determined that
36 the rule or standard complies with Sections 40913, 40914, and
37 41503.1, after which period of time, a new purchase, retrofit,
38 repower, or add-on of equipment shall not be funded pursuant to
39 this chapter. The district shall follow any guidelines developed

1 under subdivision (a) of Section 44287 for awarding grants under
2 this program.

3 (C) The purchase of new schoolbuses or the repower or retrofit
4 of emissions control equipment for existing schoolbuses pursuant
5 to the Lower-Emission School Bus Program adopted by the state
6 board.

7 (D) An accelerated vehicle retirement or repair program that is
8 adopted by the state board pursuant to authority granted hereafter
9 by the Legislature by statute.

10 (E) The replacement of onboard natural gas fuel tanks on
11 schoolbuses that are 14 years or older or the enhancement of
12 deteriorating natural gas fueling dispensers of fueling infrastructure,
13 pursuant to the Lower-Emission School Bus Program adopted by
14 the state board.

15 (F) The funding of alternative fuel and electric infrastructure
16 projects solicited and selected through a competitive bid process.

17 (e) Not more than 6.25 percent of the funds collected pursuant
18 to this section shall be used by the district for administrative
19 expenses.

20 (f) A project funded by the program shall not be used for credit
21 under any state or federal emissions averaging, banking, or trading
22 program. An emission reduction generated by the program shall
23 not be used as marketable emission reduction credits or to offset
24 any emission reduction obligation of any person or entity. Projects
25 involving new engines that would otherwise generate marketable
26 credits under state or federal averaging, banking, and trading
27 programs shall include transfer of credits to the engine end user
28 and retirement of those credits toward reducing air emissions in
29 order to qualify for funding under the program. A purchase of a
30 low-emission vehicle or of equipment pursuant to a corporate or
31 a controlling board's policy, but not otherwise required by law,
32 shall generate surplus emissions reductions and may be funded by
33 the program.

34 (g) This section shall remain in effect only until January 1, ~~2038~~,
35 2033, and as of that date is repealed, unless a later enacted statute,
36 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
37 that date.

38 SEC. 4. Section 44225 of the Health and Safety Code, as
39 amended by Section 7 of Chapter 401 of the Statutes of 2013, is
40 amended to read:

1 44225. (a) A district may increase the fee established under
2 Section 44223 to up to four dollars (\$4). A district may increase
3 the fee only if both of the following conditions are met:

4 (1) A resolution providing for both the fee increase and a
5 corresponding program for expenditure of the increased fees for
6 the reduction of air pollution from motor vehicles pursuant to, and
7 for related planning, monitoring, enforcement, and technical studies
8 necessary for the implementation of, the California Clean Air Act
9 of 1988 (Chapter 1568 of the Statutes of 1988) is adopted and
10 approved by the governing board of the district.

11 (2) In districts with nonelected officials on their governing
12 boards, the resolution shall be adopted and approved by both a
13 majority of the governing board and a majority of the board
14 members who are elected officials.

15 (b) An increase in fees established pursuant to this section shall
16 become effective on either April 1 or October 1, as provided in
17 the resolution adopted by the board pursuant to subdivision (a).

18 (c) This section shall become operative on January 1, ~~2038~~.
19 2033.

20 SEC. 5. Section 44225 of the Health and Safety Code, as
21 amended by Section 3 of Chapter 610 of the Statutes of 2015, is
22 amended to read:

23 44225. (a) A district may increase the fee established under
24 Section 44223 to up to six dollars (\$6). A district may increase the
25 fee only if both of the following conditions are met:

26 (1) A resolution providing for both the fee increase and a
27 corresponding program for expenditure of the increased fees for
28 the reduction of air pollution from motor vehicles pursuant to, and
29 for related planning, monitoring, enforcement, and technical studies
30 necessary for the implementation of, the California Clean Air Act
31 of 1988 (Chapter 1568 of the Statutes of 1988), or for the
32 attainment or maintenance of state or federal ambient air quality
33 standards or the reduction of toxic air contaminant emissions from
34 motor vehicles, is adopted and approved by the governing board
35 of the district.

36 (2) In districts with nonelected officials on their governing
37 boards, the resolution shall be adopted and approved by both a
38 majority of the governing board and a majority of the board
39 members who are elected officials.

1 (b) An increase in fees established pursuant to this section shall
2 become effective on either April 1 or October 1, as provided in
3 the resolution adopted by the board pursuant to subdivision (a).

4 (c) This section shall remain in effect only until January 1, ~~2038~~,
5 2033, and as of that date is repealed, unless a later enacted statute,
6 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
7 that date.

8 SEC. 6. Section 44229 of the Health and Safety Code, as
9 amended by Section 9 of Chapter 401 of the Statutes of 2013, is
10 amended to read:

11 44229. (a) After deducting all administrative costs it incurs
12 through collection of fees pursuant to Section 44227, the
13 Department of Motor Vehicles shall distribute the revenues to
14 districts, which shall use the fees to reduce air pollution from motor
15 vehicles and to carry out related planning, monitoring, enforcement,
16 and technical studies necessary for implementation of the California
17 Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988). Fees
18 collected by the Department of Motor Vehicles pursuant to this
19 chapter shall be distributed to districts based upon the amount of
20 fees collected from motor vehicles registered within each district.

21 (b) The Department of Motor Vehicles may annually expend
22 not more than the following percentages of the fees collected
23 pursuant to Section 44227 on administrative costs:

24 (1) During the first year after the operative date of this chapter,
25 not more than 5 percent of the fees collected may be used for
26 administrative costs.

27 (2) During the second year after the operative date of this
28 chapter, not more than 3 percent of the fees collected may be used
29 for administrative costs.

30 (3) During any year subsequent to the second year after the
31 operative date of this chapter, not more than 1 percent of the fees
32 collected may be used for administrative costs.

33 (c) This section shall become operative on January 1, ~~2038~~.
34 2033.

35 SEC. 7. Section 44229 of the Health and Safety Code, as
36 amended by Section 4 of Chapter 610 of the Statutes of 2015, is
37 amended to read:

38 44229. (a) After deducting all administrative costs it incurs
39 through collection of fees pursuant to Section 44227, the
40 Department of Motor Vehicles shall distribute the revenues to

1 districts, which shall use the revenues resulting from the first four
2 dollars (\$4) of each fee imposed to reduce air pollution from motor
3 vehicles and to carry out related planning, monitoring, enforcement,
4 and technical studies necessary for implementation of the California
5 Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988). Fees
6 collected by the Department of Motor Vehicles pursuant to this
7 chapter shall be distributed to districts based upon the amount of
8 fees collected from motor vehicles registered within each district.

9 (b) Notwithstanding Sections 44241 and 44243, a district shall
10 use the revenues resulting from the next two dollars (\$2) of each
11 fee imposed pursuant to Section 44227 to implement the following
12 programs that the district determines remediate air pollution harms
13 created by motor vehicles on which the surcharge is imposed:

14 (1) Projects eligible for grants under the Carl Moyer Memorial
15 Air Quality Standards Attainment Program (Chapter 9
16 (commencing with Section 44275) of Part 5).

17 (2) The new purchase, retrofit, repower, or add-on equipment
18 for previously unregulated agricultural sources of air pollution, as
19 defined in Section 39011.5, for a minimum of three years from
20 the date of adoption of an applicable rule or standard, or until the
21 compliance date of that rule or standard, whichever is later, if the
22 state board has determined that the rule or standard complies with
23 Sections 40913, 40914, and 41503.1, after which period of time,
24 a new purchase, retrofit, repower, or add-on of equipment shall
25 not be funded pursuant to this chapter. The districts shall follow
26 any guidelines developed under subdivision (a) of Section 44287
27 for awarding grants under this program.

28 (3) The purchase of new schoolbuses or the repower or retrofit
29 of emissions control equipment for existing schoolbuses pursuant
30 to the Lower-Emission School Bus Program adopted by the state
31 board.

32 (4) An accelerated vehicle retirement or repair program that is
33 adopted by the state board pursuant to authority granted hereafter
34 by the Legislature by statute.

35 (5) The replacement of onboard natural gas fuel tanks on
36 schoolbuses that are 14 years or older or the enhancement of
37 deteriorating natural gas fueling dispensers of fueling infrastructure,
38 pursuant to the Lower-Emission School Bus Program adopted by
39 the state board.

1 (6) The funding of alternative fuel and electric infrastructure
2 projects solicited and selected through a competitive bid process.

3 (c) The Department of Motor Vehicles may annually expend
4 not more than 1 percent of the fees collected pursuant to Section
5 44227 on administrative costs.

6 (d) A project funded by the program shall not be used for credit
7 under any state or federal emissions averaging, banking, or trading
8 program. An emission reduction generated by the program shall
9 not be used as marketable emission reduction credits or to offset
10 any emission reduction obligation of any person or entity. Projects
11 involving new engines that would otherwise generate marketable
12 credits under state or federal averaging, banking, and trading
13 programs shall include transfer of credits to the engine end user
14 and retirement of those credits toward reducing air emissions in
15 order to qualify for funding under the program. A purchase of a
16 low-emission vehicle or of equipment pursuant to a corporate or
17 a controlling board's policy, but not otherwise required by law,
18 shall generate surplus emissions reductions and may be funded by
19 the program.

20 (e) This section shall remain in effect only until January 1, ~~2038~~,
21 2033, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
23 that date.

24 SEC. 8. Section 44275 of the Health and Safety Code, as
25 amended by Section 1 of Chapter 634 of the Statutes of 2017, is
26 amended to read:

27 44275. (a) As used in this chapter, the following terms have
28 the following meanings:

29 (1) [Reserved]

30 (2) "Btu" means British thermal unit.

31 (3) "Commission" means the State Energy Resources
32 Conservation and Development Commission.

33 (4) "Cost-effectiveness" means dollars provided to a project
34 pursuant to subdivision (d) of Section 44283 for each ton of
35 covered emission reduction attributed to a project or to the program
36 as a whole. In calculating cost-effectiveness, one-time grants of
37 funds made at the beginning of a project shall be annualized using
38 a time value of public funds or discount rate determined for each
39 project by the state board, taking into account the interest rate on
40 bonds, interest earned by state funds, and other factors as

1 determined appropriate by the state board. Cost-effectiveness shall
2 be calculated by dividing annualized costs by average annual
3 emissions reduction. The state board, in consultation with the
4 districts and concerned members of the public, shall establish
5 appropriate cost-effective limits for oxides of nitrogen, particulate
6 matter, and reactive organic gases and a reasonable system for
7 comparing the cost-effectiveness of proposed projects as described
8 in subdivision (a) of Section 44283.

9 (5) “Covered emissions” include emissions of oxides of nitrogen,
10 particulate matter, and reactive organic gases from any covered
11 source.

12 (6) “Covered engine” includes any internal combustion engine
13 or electric motor and drive powering a covered source.

14 (7) “Covered source” includes onroad vehicles, off-road
15 nonrecreational equipment and vehicles, locomotives, marine
16 vessels, agricultural sources of air pollution, as defined in Section
17 39011.5, stationary irrigation or water conveyance engines, and,
18 as determined by the state board, other categories necessary for
19 the state and districts to meet air quality goals.

20 (8) “Covered vehicle” includes any vehicle or piece of
21 equipment powered by a covered engine.

22 (9) “District” means a county air pollution control district or an
23 air quality management district.

24 (10) “Fund” means the Air Pollution Control Fund established
25 pursuant to Section 43015.

26 (11) “Incremental cost” means the cost of the project less a
27 baseline cost that would otherwise be incurred by the applicant in
28 the normal course of business. Incremental costs may include
29 added lease, energy, or fuel costs pursuant to Section 44283 as
30 well as incremental capital costs.

31 (12) “Liquidated” means that all moneys for a specified fiscal
32 year have been spent by a district to reimburse grantees for valid
33 and eligible project invoices and district administrative costs.
34 Payments withheld from the grantee by a district until all
35 contractual reporting requirements are met may be excluded from
36 these amounts for purposes of liquidation.

37 (13) “Mobile Source Air Pollution Reduction Review
38 Committee” means the Mobile Source Air Pollution Reduction
39 Review Committee created by Section 44244.

1 (14) “New very low emission vehicle” means a heavy-duty
2 vehicle that qualifies as a very low emission vehicle when it is a
3 new vehicle, where new vehicle has the same meaning as defined
4 in Section 430 of the Vehicle Code, or that is modified with the
5 approval and warranty of the original equipment manufacturer to
6 qualify as a very low emission vehicle within 12 months of delivery
7 to an owner for private or commercial use.

8 (15) “NO_x” means oxides of nitrogen.

9 (16) “Program” means the Carl Moyer Memorial Air Quality
10 Standards Attainment Program created by subdivision (a) of
11 Section 44280.

12 (17) “Recaptured” means those moneys that are returned to a
13 district or the state board by a grantee because that grantee did not
14 meet contractual obligations.

15 (18) “Repower” means replacing an engine with a different
16 engine. The term repower, as used in this chapter, generally refers
17 to replacing an older, uncontrolled engine with a new,
18 emissions-certified engine, although replacing an older
19 emissions-certified engine with a newer engine certified to lower
20 emissions standards may be eligible for funding under this program.

21 (19) “Retrofit” means making modifications to the engine and
22 fuel system so that the retrofitted engine does not have the same
23 specifications as the original engine.

24 (20) “Returned” means those moneys sent by a district to the
25 state board for reallocation because those moneys are not liquidated
26 by a liquidation deadline.

27 (21) “Schoolbus project” means the purchase of new schoolbuses
28 or the repower or retrofit of emissions control equipment for
29 existing schoolbuses.

30 (22) “Very low emission vehicle” means a heavy-duty vehicle
31 with emissions significantly lower than otherwise applicable
32 baseline emission standards or uncontrolled emission levels
33 pursuant to Section 44282.

34 (b) This section shall remain in effect only until January 1, ~~2038~~,
35 2033, and as of that date is repealed, unless a later enacted statute,
36 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
37 that date.

38 SEC. 9. Section 44275 of the Health and Safety Code, as
39 amended by Section 2 of Chapter 634 of the Statutes of 2017, is
40 amended to read:

- 1 44275. (a) As used in this chapter, the following terms have
2 the following meanings:
- 3 (1) [Reserved]
- 4 (2) “Btu” means British thermal unit.
- 5 (3) “Commission” means the State Energy Resources
6 Conservation and Development Commission.
- 7 (4) “Cost-effectiveness” means dollars provided to a project
8 pursuant to subdivision (d) of Section 44283 for each ton of NO_x
9 reduction attributed to a project or to the program as a whole. In
10 calculating cost-effectiveness, one-time grants of funds made at
11 the beginning of a project shall be annualized using a time value
12 of public funds or discount rate determined for each project by the
13 state board, taking into account the interest rate on bonds, interest
14 earned by state funds, and other factors as determined appropriate
15 by the state board. Cost-effectiveness shall be calculated by
16 dividing annualized costs by average annual emissions reduction
17 of NO_x in this state.
- 18 (5) “Covered engine” includes any internal combustion engine
19 or electric motor and drive powering a covered source.
- 20 (6) “Covered source” includes onroad vehicles of 14,000 pounds
21 gross vehicle weight rating (GVWR) or greater, off-road
22 nonrecreational equipment and vehicles, locomotives, diesel marine
23 vessels, stationary agricultural engines, stationary irrigation or
24 water conveyance engines, and, as determined by the state board,
25 other high-emitting diesel engine categories.
- 26 (7) “Covered vehicle” includes any vehicle or piece of
27 equipment powered by a covered engine.
- 28 (8) “District” means a county air pollution control district or an
29 air quality management district.
- 30 (9) “Fund” means the Air Pollution Control Fund established
31 pursuant to Section 43015.
- 32 (10) “Incremental cost” means the cost of the project less a
33 baseline cost that would otherwise be incurred by the applicant in
34 the normal course of business. Incremental costs may include
35 added lease or fuel costs pursuant to Section 44283 as well as
36 incremental capital costs.
- 37 (11) “Liquidated” means that all moneys for a specified fiscal
38 year have been spent by a district to reimburse grantees for valid
39 and eligible project invoices and district administrative costs.
40 Payments withheld from the grantee by a district until all

1 contractual reporting requirements are met may be excluded from
2 these amounts for purposes of liquidation.

3 (12) “Mobile Source Air Pollution Reduction Review
4 Committee” means the Mobile Source Air Pollution Reduction
5 Review Committee created by Section 44244.

6 (13) “New very low emission vehicle” means a vehicle that
7 qualifies as a very low emission vehicle when it is a new vehicle,
8 where new vehicle has the same meaning as defined in Section
9 430 of the Vehicle Code, or that is modified with the approval and
10 warranty of the original equipment manufacturer to qualify as a
11 very low emission vehicle within 12 months of delivery to an
12 owner for private or commercial use.

13 (14) “NO_x” means oxides of nitrogen.

14 (15) “Program” means the Carl Moyer Memorial Air Quality
15 Standards Attainment Program created by subdivision (a) of
16 Section 44280.

17 (16) “Recaptured” means those moneys that are returned to a
18 district or the state board by a grantee because that grantee did not
19 meet contractual obligations.

20 (17) “Repower” means replacing an engine with a different
21 engine. The term repower, as used in this chapter, generally refers
22 to replacing an older, uncontrolled engine with a new,
23 emissions-certified engine, although replacing an older
24 emissions-certified engine with a newer engine certified to lower
25 emissions standards may be eligible for funding under this program.

26 (18) “Retrofit” means making modifications to the engine and
27 fuel system such that the retrofitted engine does not have the same
28 specifications as the original engine.

29 (19) “Returned” means those moneys sent by a district to the
30 state board for reallocation because those moneys are not liquidated
31 by a liquidation deadline.

32 (20) “Schoolbus project” means the purchase of new schoolbuses
33 or the repower or retrofit of emissions control equipment for
34 existing schoolbuses.

35 (21) “Very low emission vehicle” means a vehicle with
36 emissions significantly lower than otherwise applicable baseline
37 emission standards or uncontrolled emission levels pursuant to
38 Section 44282.

39 (b) This section shall become operative on January 1, ~~2038~~
40 2033.

1 SEC. 10. Section 44280 of the Health and Safety Code, as
2 amended by Section 17 of Chapter 401 of the Statutes of 2013, is
3 amended to read:

4 44280. (a) There is hereby created the Carl Moyer Memorial
5 Air Quality Standards Attainment Program. The program shall be
6 administered by the state board in accordance with this chapter.
7 The administration of the program may be delegated to the districts.

8 (b) The program shall provide grants to offset the incremental
9 cost of projects that reduce covered emissions from covered sources
10 in the state. Eligibility for grant awards shall be determined by the
11 state board, in consultation with the districts, in accordance with
12 this chapter.

13 (c) The program shall also provide funding for a fueling
14 infrastructure demonstration program and for technology
15 development efforts that are expected to result in commercially
16 available technologies in the near-term that would improve the
17 ability of the program to achieve its goals. The infrastructure
18 demonstration and technology development portions of the program
19 shall be managed by the commission, in consultation with the state
20 board.

21 (d) This section shall remain in effect only until January 1, ~~2038,~~
22 ~~2033,~~ and as of that date is repealed, unless a later enacted statute,
23 that is enacted before January 1, ~~2038,~~ ~~2033,~~ deletes or extends
24 that date.

25 SEC. 11. Section 44280 of the Health and Safety Code, as
26 amended by Section 18 of Chapter 401 of the Statutes of 2013, is
27 amended to read:

28 44280. (a) There is hereby created the Carl Moyer Memorial
29 Air Quality Standards Attainment Program. The program shall be
30 administered by the state board in accordance with this chapter.
31 The administration of the program may be delegated to the districts.

32 (b) The program shall provide grants to offset the incremental
33 cost of projects that reduce emissions of NO_x from covered sources
34 in the state. Eligibility for grant awards shall be determined by the
35 state board, in consultation with the districts, in accordance with
36 this chapter.

37 (c) The program shall also provide funding for a fueling
38 infrastructure demonstration program and for technology
39 development efforts that are expected to result in commercially
40 available technologies in the near-term that would improve the

1 ability of the program to achieve its goals. The infrastructure
2 demonstration and technology development portions of the program
3 shall be managed by the commission, in consultation with the state
4 board.

5 (d) This section shall become operative on January 1, ~~2038~~.
6 2033.

7 SEC. 12. Section 44281 of the Health and Safety Code, as
8 amended by Section 20 of Chapter 401 of the Statutes of 2013, is
9 amended to read:

10 44281. (a) Eligible projects are any of the following:

11 (1) Purchase of new very low or zero-emission covered vehicles
12 or covered engines.

13 (2) Emission-reducing retrofit of covered engines, or
14 replacement of old engines powering covered sources with newer
15 engines certified to more stringent emissions standards than the
16 engine being replaced, or with electric motors or drives.

17 (3) Purchase and use of emission-reducing add-on equipment
18 for covered vehicles.

19 (4) Development and demonstration of practical, low-emission
20 retrofit technologies, repower options, and advanced technologies
21 for covered engines and vehicles with very low emissions of NO_x.

22 (b) No new purchase, retrofit, repower, or add-on equipment
23 shall be funded under this chapter if it is required by any local,
24 state, or federal statute, rule, regulation, memoranda of agreement
25 or understanding, or other legally binding document, except that
26 an otherwise qualified project may be funded even if the state
27 implementation plan assumes that the change in equipment,
28 vehicles, or operations will occur, if the change is not required by
29 a statute, regulation, or other legally binding document in effect
30 as of the date the grant is awarded. No project funded by the
31 program shall be used for credit under any state or federal
32 emissions averaging, banking, or trading program. No emission
33 reduction generated by the program shall be used as marketable
34 emission reduction credits or to offset any emission reduction
35 obligation of any entity. Projects involving new engines that would
36 otherwise generate marketable credits under state or federal
37 averaging, banking, and trading programs shall include transfer
38 of credits to the engine end user and retirement of those credits
39 toward reducing air emissions in order to qualify for funding under
40 the program. A purchase of a low-emission vehicle or of equipment

1 pursuant to a corporate or a controlling board's policy, but not
2 otherwise required by law, shall generate surplus emissions
3 reductions and may be funded by the program.

4 (c) The program may also provide funding toward installation
5 of fueling or electrification infrastructure as provided in Section
6 44284.

7 (d) Eligible applicants may be any individual, company, or
8 public agency that owns one or more covered vehicles that operate
9 primarily in the state or otherwise contribute substantially to the
10 NO_x emissions inventory in the state.

11 (e) It is the intent of the Legislature that all emission reductions
12 generated by this chapter shall contribute to public health by
13 reducing, for the life of the vehicle being funded, the total amount
14 of emissions in the state.

15 (f) This section shall become operative on January 1, ~~2038~~
16 2033.

17 SEC. 13. Section 44281 of the Health and Safety Code, as
18 amended by Section 8 of Chapter 610 of the Statutes of 2015, is
19 amended to read:

20 44281. (a) Eligible projects include, but are not limited to, any
21 of the following:

22 (1) Purchase of new very low or zero-emission covered vehicles
23 or covered heavy-duty engines.

24 (2) Emission-reducing retrofit of covered engines, or
25 replacement of old engines powering covered sources with newer
26 engines certified to more stringent emissions standards than the
27 engine being replaced, or with electric motors or drives.

28 (3) Purchase and use of emission-reducing add-on equipment
29 that has been verified by the state board for covered vehicles.

30 (4) Development and demonstration of practical, low-emission
31 retrofit technologies, repower options, and advanced technologies
32 for covered engines and vehicles with very low emissions of NO_x.

33 (5) Light- and medium-duty vehicle projects in compliance with
34 guidelines adopted by the state board pursuant to Title 13 of the
35 California Code of Regulations.

36 (b) No project shall be funded under this chapter after the
37 compliance date required by any local, state, or federal statute,
38 rule, regulation, memoranda of agreement or understanding, or
39 other legally binding document, except that an otherwise qualified
40 project may be funded even if the state implementation plan

1 assumes that the change in equipment, vehicles, or operations will
2 occur, if the change is not required by the compliance date of a
3 statute, regulation, or other legally binding document in effect as
4 of the date the grant is awarded. No project funded by the program
5 shall be used for credit under any state or federal emissions
6 averaging, banking, or trading program. No covered emission
7 reduction generated by the program shall be used as marketable
8 emission reduction credits or to offset any emission reduction
9 obligation of any person or entity. Projects involving new engines
10 that would otherwise generate marketable credits under state or
11 federal averaging, banking, and trading programs shall include
12 transfer of credits to the engine end user and retirement of those
13 credits toward reducing air emissions in order to qualify for funding
14 under the program. A purchase of a low-emission vehicle or of
15 equipment pursuant to a corporate or a controlling board's policy,
16 but not otherwise required by law, shall generate surplus emissions
17 reductions and may be funded by the program.

18 (c) The program may also provide funding toward the
19 installation of fueling or energy infrastructure to fuel or power
20 covered sources.

21 (d) Eligible applicants may be any individual, company, or
22 public agency that owns one or more covered vehicles that operate
23 primarily in the state or otherwise contribute substantially to the
24 NO_x, particulate matter (PM), or reactive organic gas (ROG)
25 emissions inventory in the state.

26 (e) It is the intent of the Legislature that all emission reductions
27 generated by this chapter shall contribute to public health by
28 reducing, for the life of the vehicle being funded, the total amount
29 of emissions in the state.

30 (f) This section shall remain in effect only until January 1, ~~2038~~,
31 2033, and as of that date is repealed, unless a later enacted statute,
32 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
33 that date.

34 SEC. 14. Section 44282 of the Health and Safety Code, as
35 amended by Section 8 of Chapter 748 of the Statutes of 2021, is
36 amended to read:

37 44282. The following criteria apply to all projects to be funded
38 through the program except for projects funded through the
39 infrastructure demonstration program and infrastructure projects,
40 pursuant to subdivision (c) of Section 44281 and Section 44284:

- 1 (a) The state board may establish project criteria, including
2 minimum project life for source categories, in the guidelines
3 described in Section 44287. For previously unregulated source
4 categories, project criteria shall consider the timing of newly
5 established regulatory requirements.
- 6 (b) To be eligible, projects shall meet the cost-effectiveness per
7 ton of covered emissions reduced requirements of Section 44283.
- 8 (c) To be eligible, retrofits, repowers, and installation of add-on
9 equipment for covered vehicles shall be performed, or new covered
10 vehicles delivered to the end user, or covered vehicles scrapped
11 on or after the date the program is implemented.
- 12 (d) Retrofit technologies, new engines, and new vehicles shall
13 be certified for sale or under experimental permit for operation in
14 the state.
- 15 (e) Repower projects that replace older, uncontrolled engines
16 with new, emissions-certified engines or that replace
17 emissions-certified engines with new engines certified to a more
18 stringent NO_x emissions standard are approvable subject to the
19 other applicable selection criteria. The state board shall determine
20 appropriate baseline emission levels for the uncontrolled engines
21 being replaced.
- 22 (f) For heavy-duty-vehicle projects, retrofit and add-on
23 equipment projects shall document a NO_x or PM emission
24 reduction of at least 25 percent and no increase in other covered
25 emissions compared to the applicable baseline emissions accepted
26 by the state board for that engine year and application. The state
27 board shall determine appropriate baseline emission levels.
28 Acceptable documentation shall be defined by the state board.
29 After study of available emission reduction technologies and after
30 public notice and comment, the state board may revise the
31 minimum percentage emission reduction criterion for retrofits and
32 add-on equipment provided for in this section to improve the ability
33 of the program to achieve its goals.
- 34 (g) (1) For heavy-duty-vehicle projects involving the purchase
35 of new very low or zero-emission vehicles, engines shall be
36 certified to an optional low NO_x emissions standard established
37 by the state board, except as provided for in paragraph (2).
- 38 (2) For heavy-duty-vehicle projects involving the purchase of
39 new very low or zero-emission covered vehicles for which no
40 optional low NO_x emission standards are available, documentation

1 shall be provided showing that the low or zero-emission engine
2 emits not more than 70 percent of the NO_x or NO_x plus
3 hydrocarbon emissions of a new engine certified to the applicable
4 baseline NO_x or NO_x plus hydrocarbon emission standard for that
5 engine and meets applicable particulate standards. The state board
6 shall specify the documentation required. If no baseline emission
7 standard exists for new vehicles in a particular category, the state
8 board shall determine an appropriate baseline emission level for
9 comparison.

10 (h) For projects other than heavy-duty-vehicle projects, the state
11 board shall determine appropriate criteria under the provisions of
12 Section 44287.

13 (i) Projects using grants, loans, vouchers, or other incentives
14 pursuant to this chapter shall condition eligibility on the
15 requirements of Chapter 3.6 (commencing with Section 39680) of
16 Part 2, as applicable.

17 (j) This section shall remain in effect only until January 1, ~~2038~~,
18 2033, and as of that date is repealed, unless a later enacted statute,
19 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
20 that date.

21 SEC. 15. Section 44282 of the Health and Safety Code, as
22 amended by Section 9 of Chapter 748 of the Statutes of 2021, is
23 amended to read:

24 44282. The following criteria apply to all projects to be funded
25 through the program except for projects funded through the
26 infrastructure demonstration program:

27 (a) Except for projects involving marine vessels, 75 percent or
28 more of vehicle miles traveled or hours of operation shall be
29 projected to be in the state for at least five years following the
30 grant award. Projects involving marine vessels and engines shall
31 be limited to those that spend enough time operating in air basins
32 in the state over the lifetime of the project to meet the
33 cost-effectiveness criteria based on NO_x reductions in the state, as
34 provided in Section 44283.

35 (b) To be eligible, projects shall meet cost-effectiveness per ton
36 of NO_x reduced requirements of Section 44283.

37 (c) To be eligible, retrofits, repowers, and installation of add-on
38 equipment for covered vehicles shall be performed, or new covered
39 vehicles delivered to the end user, on or after the date the program
40 is implemented.

1 (d) Retrofit technologies, new engines, and new vehicles shall
2 be certified for sale or under experimental permit for operation in
3 the state.

4 (e) Repower projects that replace older, uncontrolled engines
5 with new, emissions-certified engines or that replace
6 emissions-certified engines with new engines certified to a more
7 stringent NO_x emissions standard are approvable subject to the
8 other applicable selection criteria. The state board shall determine
9 appropriate baseline emission levels for the uncontrolled engines
10 being replaced.

11 (f) Retrofit and add-on equipment projects shall document a
12 NO_x emission reduction of at least 25 percent and no increase in
13 particulate emissions compared to the applicable baseline emissions
14 accepted by the state board for that engine year and application.
15 The state board shall determine appropriate baseline emission
16 levels. Acceptable documentation shall be defined by the state
17 board. After study of available emission reduction technologies
18 and after public notice and comment, the state board may revise
19 the minimum percentage NO_x reduction criterion for retrofits and
20 add-on equipment provided for in this section to improve the ability
21 of the program to achieve its goals.

22 (g) (1) For projects involving the purchase of new very low or
23 zero-emission vehicles, engines shall be certified to an optional
24 low NO_x emissions standard established by the state board, except
25 as provided for in paragraph (2).

26 (2) For projects involving the purchase of new very low or
27 zero-emission covered vehicles for which no optional low NO_x
28 emission standards are available, documentation shall be provided
29 showing that the low- or zero-emission engine emits not more than
30 70 percent of the NO_x or NO_x plus hydrocarbon emissions of a
31 new engine certified to the applicable baseline NO_x or NO_x plus
32 hydrocarbon emission standard for that engine and meets applicable
33 particulate standards. The state board shall specify the
34 documentation required. If no baseline emission standard exists
35 for new vehicles in a particular category, the state board shall
36 determine an appropriate baseline emission level for comparison.

37 (h) Projects using grants, loans, vouchers, or other incentives
38 pursuant to this chapter shall condition eligibility on the
39 requirements of Chapter 3.6 (commencing with Section 39680) of
40 Part 2, as applicable.

1 (i) This section shall become operative on January 1, ~~2038~~
2 2033.

3 SEC. 16. Section 44283 of the Health and Safety Code, as
4 amended by Section 24 of Chapter 401 of the Statutes of 2013, is
5 amended to read:

6 44283. (a) Grants shall not be made for projects with a
7 cost-effectiveness, calculated in accordance with this section, of
8 more than twelve thousand dollars (\$12,000) per ton of NO_x
9 reduced in the state or a higher value that reflects state consumer
10 price index adjustments on or after January 1, ~~2038~~, 2033, as
11 determined by the state board.

12 (b) Only NO_x reductions occurring in this state shall be included
13 in the cost-effectiveness determination. The extent to which
14 emissions generated at sea contribute to air quality in nonattainment
15 areas in the state shall be incorporated into these methodologies
16 based on a reasonable assessment of currently available information
17 and modeling assumptions.

18 (c) The state board shall develop protocols for calculating the
19 surplus NO_x reductions in the state from representative project
20 types over the life of the project.

21 (d) The cost of the NO_x reduction is the amount of the grant
22 from the program, including matching funds provided pursuant to
23 subdivision (e) of Section 44287, plus any other state funds, or
24 funds under the district's budget authority or fiduciary control,
25 provided toward the project, not including funds described in
26 paragraphs (1) and (2) of subdivision (a) of Section 44287.2. The
27 state board shall establish reasonable methodologies for evaluating
28 project cost-effectiveness, consistent with the definition contained
29 in paragraph (4) of subdivision (a) of Section 44275, and with
30 accepted methods, taking into account a fair and reasonable
31 discount rate or time value of public funds.

32 (e) A grant shall not be made that, net of taxes, provides the
33 applicant with funds in excess of the incremental cost of the project.
34 Incremental lease costs may be capitalized according to guidelines
35 adopted by the state board so that these incremental costs may be
36 offset by a one-time grant award.

37 (f) Funds under a district's budget authority or fiduciary control
38 may be used to pay for the incremental cost of liquid or gaseous
39 fuel, other than standard gasoline or diesel, which is integral to a
40 NO_x reducing technology that is part of a project receiving grant

1 funding under the program. The fuel shall be approved for sale by
2 the state board. The incremental fuel cost over the expected lifetime
3 of the vehicle may be offset by the district if the project as a whole,
4 including the incremental fuel cost, meets all of the requirements
5 of this chapter, including the maximum allowed cost-effectiveness.
6 The state board shall develop an appropriate methodology for
7 converting incremental fuel costs over the vehicle lifetime into an
8 initial cost for purposes of determining project cost-effectiveness.
9 Incremental fuel costs shall not be included in project costs for
10 fuels dispensed from any facility that was funded, in whole or in
11 part, from the fund.

12 (g) For purposes of determining any grant amount pursuant to
13 this chapter, the incremental cost of any new purchase, retrofit,
14 repower, or add-on equipment shall be reduced by the value of
15 any current financial incentive that directly reduces the project
16 price, including any tax credits or deductions, grants, or other
17 public financial assistance, not including funds described in
18 paragraphs (1) and (2) of subdivision (a) of Section 44287.2.
19 Project proponents applying for funding shall be required to state
20 in their application any other public financial assistance to the
21 project.

22 (h) For projects that would repower off-road equipment by
23 replacing uncontrolled diesel engines with new, certified diesel
24 engines, the state board may establish maximum grant award
25 amounts per repower. A repower project shall also be subject to
26 the incremental cost maximum pursuant to subdivision (e).

27 (i) After study of available emission reduction technologies and
28 costs and after public notice and comment, the state board may
29 reduce the values of the maximum grant award criteria stated in
30 this section to improve the ability of the program to achieve its
31 goals. Every year the state board shall adjust the maximum
32 cost-effectiveness amount established in subdivision (a) and any
33 per-project maximum set by the state board pursuant to subdivision
34 (h) to account for inflation.

35 (j) This section shall become operative on January 1, ~~2038~~.
36 ~~2033~~.

37 SEC. 17. Section 44283 of the Health and Safety Code, as
38 amended by Section 10 of Chapter 610 of the Statutes of 2015, is
39 amended to read:

1 44283. (a) (1) For all projects funded pursuant to this chapter,
2 except for an infrastructure project described in subdivision (c) of
3 Section 44281, the following cost-effectiveness criteria shall apply:
4 (A) (i) Project grants shall not be made that exceed
5 cost-effectiveness values calculated in accordance with this section.
6 (ii) The state board, in collaboration with the districts, shall
7 establish cost-effectiveness values in the guidelines issued pursuant
8 to Section 44287, taking into consideration factors, including, but
9 not limited to, the following:
10 (I) The cost of emission control technologies identified in
11 Section 44281.
12 (II) The cost-effectiveness values for NO_x, particulate matter,
13 or reactive organic gases for any adopted rule or control measure
14 in any district's approved state implementation plan, or rule
15 adopted by the state board.
16 (iii) A grant for a schoolbus project shall not exceed the cost
17 caps established in the Lower-Emission School Bus Program and
18 consistent with Section 44299.901. The cost-effectiveness value
19 for these projects shall be set forth in the guidelines issued pursuant
20 to Section 44287.
21 (B) For projects obtaining reactive organic gas and particulate
22 matter reductions, the state board shall determine appropriate
23 adjustment factors to calculate a weighted cost-effectiveness value.
24 (2) When a district board approves funding for a project or
25 project category, the district board shall include, in its agenda or
26 supporting materials for the meeting approving funding for the
27 project or project category, a brief statement of the rationale for
28 funding that source category, including the basis for selection and
29 the importance of that project type.
30 (b) Only covered emission reductions occurring in this state
31 shall be included in the cost-effectiveness determination. The
32 extent to which emissions generated at sea contribute to air quality
33 in nonattainment areas in the state shall be incorporated into these
34 methodologies based on a reasonable assessment of currently
35 available information and modeling assumptions.
36 (c) The state board shall develop protocols for calculating the
37 surplus covered emission reductions in the state from representative
38 project types over the life of the project.
39 (d) The cost of the covered emission reduction is the amount
40 of the grant from the program, including matching funds provided

1 pursuant to subdivision (e) of Section 44287, or funding provided
2 pursuant to paragraph (2) of subdivision (d) of Section 41081 or
3 subdivision (b) of Section 44229, not including funds described
4 in subdivision (a) of Section 44287.2. The state board shall
5 establish reasonable methodologies for evaluating project
6 cost-effectiveness, consistent with the definition contained in
7 paragraph (4) of subdivision (a) of Section 44275, and with
8 accepted methods, taking into account a fair and reasonable
9 discount rate or time value of public funds.

10 (e) A grant shall not be made that, net of taxes, provides the
11 applicant with funds in excess of the incremental cost of the project.
12 Incremental lease costs may be capitalized according to guidelines
13 adopted by the state board so that these incremental costs may be
14 offset by a one-time grant award.

15 (f) Funds under a district's budget authority or fiduciary control
16 may be used to pay for the incremental cost of energy or liquid or
17 gaseous fuel, other than standard gasoline or diesel, which is
18 integral to a covered emission reducing technology that is part of
19 a project receiving grant funding under the program. The fuel shall
20 be approved for sale in the state. The incremental energy or fuel
21 cost over the expected lifetime of the vehicle may be offset by the
22 district if the project as a whole, including the incremental energy
23 or fuel cost, meets all of the requirements of this chapter, including
24 the maximum allowed cost-effectiveness. The state board shall
25 develop an appropriate methodology for converting incremental
26 energy or fuel costs over the vehicle lifetime into an initial cost
27 for purposes of determining project cost-effectiveness. Incremental
28 energy or fuel costs shall not be included in project costs for fuels
29 dispensed from any facility that was funded, in whole or in part,
30 from the fund.

31 (g) For purposes of determining any grant amount pursuant to
32 this chapter, project proponents applying for funding shall be
33 required to state in their application any other public financial
34 assistance to the project.

35 (h) For projects that would repower off-road equipment by
36 replacing uncontrolled diesel engines with new, certified diesel
37 engines, the state board may establish maximum grant award
38 amounts per repower. A repower project shall also be subject to
39 the incremental cost maximum pursuant to subdivision (e).

1 (i) After study of available emission reduction technologies and
2 costs and after public notice and comment, the state board may
3 adjust the values of the maximum grant award criteria stated in
4 this section to improve the ability of the program to achieve its
5 goals. Every year the state board shall adjust the maximum
6 cost-effectiveness amount established in subdivision (a) and any
7 per-project maximum set by the state board pursuant to subdivision
8 (h) to account for inflation and other factors as authorized by this
9 section.

10 (j) This section shall remain in effect only until January 1, ~~2038~~,
11 2033, and as of that date is repealed, unless a later enacted statute,
12 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
13 that date.

14 SEC. 18. Section 44287 of the Health and Safety Code, as
15 amended by Section 26 of Chapter 401 of the Statutes of 2013, is
16 amended to read:

17 44287. (a) The state board shall establish grant criteria and
18 guidelines consistent with this chapter for covered vehicle projects
19 as soon as practicable, but not later than January 1, 2000. The
20 adoption of guidelines is exempt from the rulemaking provisions
21 of the Administrative Procedure Act, Chapter 3.5 (commencing
22 with Section 11340) of Part 1 of Division 3 of Title 2 of the
23 Government Code. The state board shall solicit input and comment
24 from the districts during the development of the criteria and
25 guidelines and shall make every effort to develop criteria and
26 guidelines that are compatible with existing district programs that
27 are also consistent with this chapter. Guidelines shall include
28 protocols to calculate project cost-effectiveness. The grant criteria
29 and guidelines shall include safeguards to ensure that the project
30 generates surplus emissions reductions. Guidelines shall enable
31 and encourage districts to cofund projects that provide emissions
32 reductions in more than one district. The state board shall make
33 draft criteria and guidelines available to the public 45 days before
34 final adoption, and shall hold at least one public meeting to
35 consider public comments before final adoption.

36 (b) The state board, in consultation with the participating
37 districts, may propose revisions to the criteria and guidelines
38 established pursuant to subdivision (a) as necessary to improve
39 the ability of the program to achieve its goals. A proposed revision
40 shall be made available to the public 45 days before final adoption

1 of the revision and the state board shall hold at least one public
2 meeting to consider public comments before final adoption of the
3 revision.

4 (c) The state board shall reserve funds for, and disburse funds
5 to, districts from the fund for administration pursuant to this section
6 and Section 44299.1.

7 (d) The state board shall develop guidelines for a district to
8 follow in applying for the reservation of funds, in accordance with
9 this chapter. It is the intent of the Legislature that district
10 administration of any reserved funds be in accordance with the
11 project selection criteria specified in Sections 44281, 44282, and
12 44283 and all other provisions of this chapter. The guidelines shall
13 be established and published by the state board as soon as
14 practicable, but not later than January 1, 2000.

15 (e) Funds shall be reserved by the state board for administration
16 by a district that adopts an eligible program pursuant to this chapter
17 and offers matching funds at a ratio of one dollar (\$1) of matching
18 funds committed by the district or the Mobile Source Air Pollution
19 Reduction Review Committee for every two dollars (\$2) committed
20 from the fund. Funds available to the Mobile Source Air Pollution
21 Reduction Review Committee may be counted as matching funds
22 for projects in the South Coast Air Basin only if the committee
23 approves the use of these funds for matching purposes. Matching
24 funds may be any funds under the district's budget authority that
25 are committed to be expended in accordance with the program.
26 Funds committed by a port authority or a local government, in
27 cooperation with a district, to be expended in accordance with the
28 program may also be counted as district matching funds. Matching
29 funds provided by a port authority or a local government may not
30 exceed 30 percent of the total required matching funds in any
31 district that applies for more than three hundred thousand dollars
32 (\$300,000) of the state board funds. Only a district, or a port
33 authority or a local government teamed with a district, may provide
34 matching funds.

35 (f) The state board may adjust the ratio of matching funds
36 described in subdivision (e), if it determines that an adjustment is
37 necessary in order to maximize the use of, or the air quality benefits
38 provided by, the program, based on a consideration of the financial
39 resources of the district.

- 1 (g) Notwithstanding subdivision (e), a district need not provide
2 matching funds for state board funds allocated to the district for
3 program outreach activities pursuant to paragraph (4) of subdivision
4 (a) of Section 44299.1.
- 5 (h) A district may include within its matching funds a reasonable
6 estimate of direct or in-kind costs for assistance in providing
7 program outreach and application evaluation. In-kind and direct
8 matching funds shall not exceed 15 percent of the total matching
9 funds offered by a district. A district may also include within its
10 matching funds any money spent on or after February 25, 1999,
11 that would have qualified as matching funds but were not
12 previously claimed as matching funds.
- 13 (i) A district desiring a reservation of funds shall apply to the
14 state board following the application guidelines established
15 pursuant to this section. The state board shall approve or disapprove
16 a district application not later than 60 days after receipt. Upon
17 approval of any district application, the state board shall
18 simultaneously approve a reservation of funding for that district
19 to administer. Reserved funds shall be disbursed to the district so
20 that funding of a district-approved project is not impeded.
- 21 (j) Notwithstanding any other provision of this chapter, districts
22 and the Mobile Source Air Pollution Reduction Review Committee
23 shall not use funds collected pursuant to Section 41081 or Chapter
24 7 (commencing with Section 44220), or pursuant to Section
25 9250.11 of the Vehicle Code, as matching funds to fund a project
26 with stationary or portable engines, locomotives, or marine vessels.
- 27 (k) Any funds reserved for a district pursuant to this section are
28 available to the district for a period of not more than two years
29 from the time of reservation. Funds not expended by June 30 of
30 the second calendar year following the date of the reservation shall
31 revert back to the state board as of that June 30, and shall be
32 deposited in the fund for use by the program. The funds may then
33 be redirected based on applications to the fund. Regardless of any
34 reversion of funds back to the state board, the district may continue
35 to request other reservations of funds for local administration. Each
36 reservation of funds shall be accounted for separately, and unused
37 funds from each application shall revert back to the state board as
38 specified in this subdivision.
- 39 (l) The state board shall specify a date each year when district
40 applications are due. If the eligible applications received in any

1 year oversubscribe the available funds, the state board shall reserve
2 funds on an allocation basis, pursuant to subdivision (b) of Section
3 44299.1. The state board may accept a district application after
4 the due date for a period of months specified by the state board.
5 Funds may be reserved in response to those applications, in
6 accordance with this chapter, out of funds remaining after the
7 original reservation of funds for the year.

8 (m) Guidelines for a district application shall require information
9 from an applicant district to the extent necessary to meet the
10 requirements of this chapter, but shall otherwise minimize the
11 information required of a district.

12 (n) A district application shall be reviewed by the state board
13 immediately upon receipt. If the state board determines that an
14 application is incomplete, the applicant shall be notified within 10
15 working days with an explanation of what is missing from the
16 application. A completed application fulfilling the criteria shall be
17 approved as soon as practicable, but not later than 60 working days
18 after receipt.

19 (o) The state board, in consultation with the districts, shall
20 establish project approval criteria and guidelines for infrastructure
21 projects consistent with Section 44284 as soon as practicable, but
22 not later than February 15, 2000. The commission shall make draft
23 criteria and guidelines available to the public 45 days before final
24 adoption, and shall hold at least one public meeting to consider
25 public comments before final adoption.

26 (p) The state board, in consultation with the participating
27 districts, may propose revisions to the criteria and guidelines
28 established pursuant to subdivision (o) as necessary to improve
29 the ability of the program to achieve its goals. A revision may be
30 proposed at any time, or may be proposed in response to a finding
31 made in the annual report on the program published by the state
32 board pursuant to Section 44295. A proposed revision shall be
33 made available to the public 45 days before final adoption of the
34 revision and the commission shall hold at least one public meeting
35 to consider public comments before final adoption of the revision.

36 (q) This section shall become operative on January 1, ~~2038~~.
37 2033.

38 SEC. 19. Section 44287 of the Health and Safety Code, as
39 amended by Section 12 of Chapter 610 of the Statutes of 2015, is
40 amended to read:

1 44287. (a) The state board shall establish or update grant
2 criteria and guidelines consistent with this chapter for covered
3 vehicle and infrastructure projects as soon as practicable, but not
4 later than July 1, 2017. The adoption of guidelines is exempt from
5 the rulemaking provisions of the Administrative Procedure Act
6 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
7 Division 3 of Title 2 of the Government Code). The state board
8 shall solicit input and comment from the districts during the
9 development of the criteria and guidelines and shall make every
10 effort to develop criteria and guidelines that are compatible with
11 existing district programs that are also consistent with this chapter.
12 Guidelines shall include protocols to calculate project
13 cost-effectiveness. The grant criteria and guidelines shall include
14 safeguards to ensure that the project generates surplus emissions
15 reductions. Guidelines shall enable and encourage districts to
16 cofund projects that provide emissions reductions in more than
17 one district. The state board shall make draft criteria and guidelines
18 available to the public 45 days before final adoption, and shall
19 hold at least one public meeting to consider public comments
20 before final adoption. The state board may develop separate
21 guidelines and criteria for the different types of eligible projects
22 described in subdivision (a) of Section 44281.

23 (b) The state board, in consultation with the participating
24 districts, may propose revisions to the criteria and guidelines
25 established pursuant to subdivision (a) as necessary to improve
26 the ability of the program to achieve its goals. A proposed revision
27 shall be made available to the public 45 days before final adoption
28 of the revision and the state board shall hold at least one public
29 meeting to consider public comments before final adoption of the
30 revision.

31 (c) The state board shall reserve funds for, and disburse funds
32 to, districts from the fund for administration pursuant to this section
33 and Section 44299.1.

34 (d) The state board shall develop guidelines for a district to
35 follow in applying for the reservation of funds, in accordance with
36 this chapter. It is the intent of the Legislature that district
37 administration of any reserved funds be in accordance with the
38 project selection criteria specified in Sections 44281, 44282, and
39 44283 and all other provisions of this chapter. The guidelines shall

1 be established and published by the state board as soon as
2 practicable, but not later than January 1, 2006.

3 (e) Funds shall be reserved by the state board for administration
4 by a district that adopts an eligible program pursuant to this chapter
5 and offers matching funds at a ratio of one dollar (\$1) of matching
6 funds committed by the district or the Mobile Source Air Pollution
7 Reduction Review Committee for every two dollars (\$2) committed
8 from the fund. Funds available to the Mobile Source Air Pollution
9 Reduction Review Committee may be counted as matching funds
10 for projects in the South Coast Air Basin only if the committee
11 approves the use of these funds for matching purposes. Matching
12 funds may be any funds under the district's budget authority that
13 are committed to be expended in accordance with the program.
14 Funds committed by a port authority or a local government, in
15 cooperation with a district, to be expended in accordance with the
16 program may also be counted as district matching funds. Matching
17 funds provided by a port authority or a local government shall not
18 exceed 30 percent of the total required matching funds in any
19 district that applies for more than three hundred thousand dollars
20 (\$300,000) of the state board funds. Only a district, or a port
21 authority or a local government teamed with a district, may provide
22 matching funds.

23 (f) The state board may adjust the ratio of matching funds
24 described in subdivision (e), if it determines that an adjustment is
25 necessary in order to maximize the use of, or the air quality benefits
26 provided by, the program, based on a consideration of the financial
27 resources of the district.

28 (g) Notwithstanding subdivision (e), a district need not provide
29 matching funds for state board funds allocated to the district for
30 program outreach activities pursuant to paragraph (4) of subdivision
31 (a) of Section 44299.1.

32 (h) A district may include within its matching funds a reasonable
33 estimate of direct or in-kind costs for assistance in providing
34 program outreach and application evaluation. In-kind and direct
35 matching funds shall not exceed 15 percent of the total matching
36 funds offered by a district. A district may also include within its
37 matching funds any money spent on or after February 25, 1999,
38 that would have qualified as matching funds but were not
39 previously claimed as matching funds.

- 1 (i) A district desiring a reservation of funds shall apply to the
2 state board following the application guidelines established
3 pursuant to this section. The state board shall approve or disapprove
4 a district application not later than 60 days after receipt. Upon
5 approval of any district application, the state board shall
6 simultaneously approve a reservation of funding for that district
7 to administer. Reserved funds shall be disbursed to the district so
8 that funding of a district-approved project is not impeded.
- 9 (j) Any funds reserved for a district by the state board pursuant
10 to this section are available for disbursement to the district for a
11 period of not more than two years from the time of reservation.
12 Funds not liquidated by a district by June 30 of the fourth calendar
13 year following the date of the reservation shall be returned to the
14 state board within 90 days for future allocation pursuant to this
15 chapter. Each reservation of funds shall be accounted for separately,
16 and unused funds from each application shall revert back to the
17 state board for use pursuant to this chapter as specified in this
18 subdivision.
- 19 (k) The state board shall specify a date each year when district
20 applications are due. If the eligible applications received in any
21 year oversubscribe the available funds, the state board shall reserve
22 funds on an allocation basis, pursuant to Section 44299.2. The
23 state board may accept a district application after the due date for
24 a period of months specified by the state board. Funds may be
25 reserved in response to those applications, in accordance with this
26 chapter, out of funds remaining after the original reservation of
27 funds for the year.
- 28 (l) Guidelines for a district application shall require information
29 from an applicant district to the extent necessary to meet the
30 requirements of this chapter, but shall otherwise minimize the
31 information required of a district.
- 32 (m) A district application shall be reviewed by the state board
33 immediately upon receipt. If the state board determines that an
34 application is incomplete, the applicant shall be notified within 10
35 working days with an explanation of what is missing from the
36 application. A completed application fulfilling the criteria shall be
37 approved as soon as practicable, but not later than 60 working days
38 after receipt.
- 39 (n) The commission, in consultation with the districts, shall
40 establish project approval criteria and guidelines for infrastructure

1 projects consistent with Section 44284 as soon as practicable, but
2 not later than February 15, 2000. The commission shall make draft
3 criteria and guidelines available to the public 45 days before final
4 adoption, and shall hold at least one public meeting to consider
5 public comments before final adoption.

6 (o) The commission, in consultation with the participating
7 districts, may propose revisions to the criteria and guidelines
8 established pursuant to subdivision (n) as necessary to improve
9 the ability of the program to achieve its goals. A revision may be
10 proposed at any time, or may be proposed in response to a finding
11 made in the annual report on the program published by the state
12 board pursuant to Section 44295. A proposed revision shall be
13 made available to the public 45 days before final adoption of the
14 revision and the commission shall hold at least one public meeting
15 to consider public comments before final adoption of the revision.

16 (p) Unclaimed funds will be allocated by the state board in
17 accordance with Section 44299.2.

18 (q) This section shall remain in effect only until January 1, ~~2038~~,
19 2033, and as of that date is repealed, unless a later enacted statute,
20 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
21 that date.

22 SEC. 20. Section 42885 of the Public Resources Code, as
23 amended by Section 31 of Chapter 401 of the Statutes of 2013, is
24 amended to read:

25 42885. (a) For purposes of this section, "California tire fee"
26 means the fee imposed pursuant to this section.

27 (b) (1) A person who purchases a new tire, as defined in
28 subdivision (g), shall pay a California tire fee of one dollar and
29 seventy-five cents (\$1.75) per tire.

30 (2) The retail seller shall charge the retail purchaser the amount
31 of the California tire fee as a charge that is separate from, and not
32 included in, any other fee, charge, or other amount paid by the
33 retail purchaser.

34 (3) The retail seller shall collect the California tire fee from the
35 retail purchaser at the time of sale and may retain 1 ½ percent of
36 the fee as reimbursement for any costs associated with the
37 collection of the fee. The retail seller shall remit the remainder to
38 the state on a quarterly schedule for deposit in the California Tire
39 Recycling Management Fund, which is hereby created in the State
40 Treasury.

1 (c) The department, or its agent authorized pursuant to Section
2 42882, shall be reimbursed for its costs of collection, auditing, and
3 making refunds associated with the California Tire Recycling
4 Management Fund, but not to exceed 3 percent of the total annual
5 revenue deposited in the fund.

6 (d) The California tire fee imposed pursuant to subdivision (b)
7 shall be separately stated by the retail seller on the invoice given
8 to the customer at the time of sale. Any other disposal or
9 transaction fee charged by the retail seller related to the tire
10 purchase shall be identified separately from the California tire fee.

11 (e) A person or business who knowingly, or with reckless
12 disregard, makes a false statement or representation in a document
13 used to comply with this section is liable for a civil penalty for
14 each violation or, for continuing violations, for each day that the
15 violation continues. Liability under this section may be imposed
16 in a civil action and shall not exceed twenty-five thousand dollars
17 (\$25,000) for each violation.

18 (f) In addition to the civil penalty that may be imposed pursuant
19 to subdivision (e), the department may impose an administrative
20 penalty in an amount not to exceed five thousand dollars (\$5,000)
21 for each violation of a separate provision or, for continuing
22 violations, for each day that the violation continues, on a person
23 who intentionally or negligently violates a permit, rule, regulation,
24 standard, or requirement issued or adopted pursuant to this chapter.
25 The department shall adopt regulations that specify the amount of
26 the administrative penalty and the procedure for imposing an
27 administrative penalty pursuant to this subdivision.

28 (g) For purposes of this section, “new tire” means a pneumatic
29 or solid tire intended for use with onroad or off-road motor
30 vehicles, motorized equipment, construction equipment, or farm
31 equipment that is sold separately from the motorized equipment,
32 or a new tire sold with a new or used motor vehicle, as defined in
33 Section 42803.5, including the spare tire, construction equipment,
34 or farm equipment. “New tire” does not include retreaded, reused,
35 or recycled tires.

36 (h) The California tire fee shall not be imposed on a tire sold
37 with, or sold separately for use on, any of the following:

38 (1) A self-propelled wheelchair.

39 (2) A motorized tricycle or motorized quadricycle, as defined
40 in Section 407 of the Vehicle Code.

1 (3) A vehicle that is similar to a motorized tricycle or motorized
2 quadricycle and is designed to be operated by a person who, by
3 reason of the person's physical disability, is otherwise unable to
4 move about as a pedestrian.

5 (i) This section shall remain in effect only until January 1, ~~2038~~,
6 2033, and as of that date is repealed, unless a later enacted statute,
7 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
8 that date.

9 SEC. 21. Section 42885 of the Public Resources Code, as
10 amended by Section 32 of Chapter 401 of the Statutes of 2013, is
11 amended to read:

12 42885. (a) For purposes of this section, "California tire fee"
13 means the fee imposed pursuant to this section.

14 (b) (1) Every person who purchases a new tire, as defined in
15 subdivision (g), shall pay a California tire fee of seventy-five cents
16 (\$0.75) per tire.

17 (2) The retail seller shall charge the retail purchaser the amount
18 of the California tire fee as a charge that is separate from, and not
19 included in, any other fee, charge, or other amount paid by the
20 retail purchaser.

21 (3) The retail seller shall collect the California tire fee from the
22 retail purchaser at the time of sale and may retain 3 percent of the
23 fee as reimbursement for any costs associated with the collection
24 of the fee. The retail seller shall remit the remainder to the state
25 on a quarterly schedule for deposit in the California Tire Recycling
26 Management Fund, which is hereby created in the State Treasury.

27 (c) The department, or its agent authorized pursuant to Section
28 42882, shall be reimbursed for its costs of collection, auditing, and
29 making refunds associated with the California Tire Recycling
30 Management Fund, but not to exceed 3 percent of the total annual
31 revenue deposited in the fund.

32 (d) The California tire fee imposed pursuant to subdivision (b)
33 shall be separately stated by the retail seller on the invoice given
34 to the customer at the time of sale. Any other disposal or
35 transaction fee charged by the retail seller related to the tire
36 purchase shall be identified separately from the California tire fee.

37 (e) Any person or business who knowingly, or with reckless
38 disregard, makes any false statement or representation in any
39 document used to comply with this section is liable for a civil
40 penalty for each violation or, for continuing violations, for each

1 day that the violation continues. Liability under this section may
2 be imposed in a civil action and shall not exceed twenty-five
3 thousand dollars (\$25,000) for each violation.

4 (f) In addition to the civil penalty that may be imposed pursuant
5 to subdivision (e), the department may impose an administrative
6 penalty in an amount not to exceed five thousand dollars (\$5,000)
7 for each violation of a separate provision or, for continuing
8 violations, for each day that the violation continues, on any person
9 who intentionally or negligently violates any permit, rule,
10 regulation, standard, or requirement issued or adopted pursuant to
11 this chapter. The department shall adopt regulations that specify
12 the amount of the administrative penalty and the procedure for
13 imposing an administrative penalty pursuant to this subdivision.

14 (g) For purposes of this section, “new tire” means a pneumatic
15 or solid tire intended for use with onroad or off-road motor
16 vehicles, motorized equipment, construction equipment, or farm
17 equipment that is sold separately from the motorized equipment,
18 or a new tire sold with a new or used motor vehicle, as defined in
19 Section 42803.5, including the spare tire, construction equipment,
20 or farm equipment. “New tire” does not include retreaded, reused,
21 or recycled tires.

22 (h) The California tire fee may not be imposed on any tire sold
23 with, or sold separately for use on, any of the following:

- 24 (1) Any self-propelled wheelchair.
25 (2) Any motorized tricycle or motorized quadricycle, as defined
26 in Section 407 of the Vehicle Code.
27 (3) Any vehicle that is similar to a motorized tricycle or
28 motorized quadricycle and is designed to be operated by a person
29 who, by reason of the person’s physical disability, is otherwise
30 unable to move about as a pedestrian.

31 (i) This section shall become operative on January 1, ~~2038~~
32 ~~2033~~.

33 SEC. 22. Section 42889 of the Public Resources Code, as
34 amended by Section 152 of Chapter 35 of the Statutes of 2014, is
35 amended to read:

36 42889. (a) Of the moneys collected pursuant to Section 42885,
37 an amount equal to seventy-five cents (\$0.75) per tire on which
38 the fee is imposed shall be transferred by the State Board of
39 Equalization to the Air Pollution Control Fund. The state board
40 shall expend those moneys, or allocate those moneys to the districts

1 for expenditure, to fund programs and projects that mitigate or
2 remediate air pollution caused by tires in the state, to the extent
3 that the state board or the applicable district determines that the
4 program or project remediates air pollution harms created by tires
5 upon which the fee described in Section 42885 is imposed.

6 (b) The remaining moneys collected pursuant to Section 42885
7 shall be used to fund the waste tire program, and shall be
8 appropriated to the department in the annual Budget Act in a
9 manner consistent with the five-year plan adopted and updated by
10 the department. These moneys shall be expended for the payment
11 of refunds under this chapter and for the following purposes:

12 (1) To pay the administrative overhead cost of this chapter, not
13 to exceed 6 percent of the total revenue deposited in the fund
14 annually, or an amount otherwise specified in the annual Budget
15 Act.

16 (2) To pay the costs of administration associated with collection,
17 making refunds, and auditing revenues in the fund, not to exceed
18 3 percent of the total revenue deposited in the fund, as provided
19 in subdivision (c) of Section 42885.

20 (3) To pay the costs associated with operating the tire recycling
21 program specified in Article 3 (commencing with Section 42870).

22 (4) To pay the costs associated with the development and
23 enforcement of regulations relating to the storage of waste tires
24 and used tires. The department shall consider designating a city,
25 county, or city and county as the enforcement authority of
26 regulations relating to the storage of waste tires and used tires, as
27 provided in subdivision (c) of Section 42850, and regulations
28 relating to the hauling of waste and used tires, as provided in
29 subdivision (b) of Section 42963. If the department designates a
30 local entity for that purpose, the department shall provide sufficient,
31 stable, and noncompetitive funding to that entity for that purpose,
32 based on available resources, as provided in the five-year plan
33 adopted and updated as provided in subdivision (a) of Section
34 42885.5. The department may consider and create, as appropriate,
35 financial incentives for citizens who report the illegal hauling or
36 disposal of waste tires as a means of enhancing local and statewide
37 waste tire and used tire enforcement programs.

38 (5) To pay the costs of cleanup, abatement, removal, or other
39 remedial action related to waste tire stockpiles throughout the state,
40 including all approved costs incurred by other public agencies

1 involved in these activities by contract with the department. Not
2 less than six million five hundred thousand dollars (\$6,500,000)
3 shall be expended by the department during each of the following
4 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

5 (6) To make studies and conduct research directed at promoting
6 and developing alternatives to the landfill disposal of waste tires.

7 (7) To assist in developing markets and new technologies for
8 used tires and waste tires. The department’s expenditure of funds
9 for purposes of this subdivision shall reflect the priorities for waste
10 management practices specified in subdivision (a) of Section
11 40051.

12 (8) To pay the costs associated with implementing and operating
13 a waste tire and used tire hauler program and manifest system
14 pursuant to Chapter 19 (commencing with Section 42950).

15 (9) To pay the costs to create and maintain an emergency
16 reserve, which shall not exceed one million dollars (\$1,000,000).

17 (10) To pay the costs of cleanup, abatement, or other remedial
18 action related to the disposal of waste tires in implementing and
19 operating the Farm and Ranch Solid Waste Cleanup and Abatement
20 Grant Program established pursuant to Chapter 2.5 (commencing
21 with Section 48100) of Part 7.

22 (11) To fund border region activities specified in paragraph (8)
23 of subdivision (b) of Section 42885.5.

24 (12) For expenditure pursuant to paragraph (3) of subdivision
25 (a) of, and paragraph (3) of subdivision (b) of, Section 17001.

26 (c) This section shall remain in effect only until January 1, ~~2038~~,
27 2033, and as of that date is repealed, unless a later enacted statute
28 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
29 that date.

30 SEC. 23. Section 42889 of the Public Resources Code, as
31 amended by Section 153 of Chapter 35 of the Statutes of 2014, is
32 amended to read:

33 42889. Funding for the waste tire program shall be appropriated
34 to the department in the annual Budget Act. The moneys in the
35 fund shall be expended for the payment of refunds under this
36 chapter and for the following purposes:

37 (a) To pay the administrative overhead cost of this chapter, not
38 to exceed 5 percent of the total revenue deposited in the fund
39 annually, or an amount otherwise specified in the annual Budget
40 Act.

1 (b) To pay the costs of administration associated with collection,
2 making refunds, and auditing revenues in the fund, not to exceed
3 3 percent of the total revenue deposited in the fund, as provided
4 in subdivision (b) of Section 42885.

5 (c) To pay the costs associated with operating the tire recycling
6 program specified in Article 3 (commencing with Section 42870).

7 (d) To pay the costs associated with the development and
8 enforcement of regulations relating to the storage of waste tires
9 and used tires. The department shall consider designating a city,
10 county, or city and county as the enforcement authority of
11 regulations relating to the storage of waste tires and used tires, as
12 provided in subdivision (c) of Section 42850, and regulations
13 relating to the hauling of waste and used tires, as provided in
14 subdivision (b) of Section 42963. If the department designates a
15 local entity for that purpose, the department shall provide sufficient,
16 stable, and noncompetitive funding to that entity for that purpose,
17 based on available resources, as provided in the five-year plan
18 adopted and updated as provided in subdivision (a) of Section
19 42885.5. The department may consider and create, as appropriate,
20 financial incentives for citizens who report the illegal hauling or
21 disposal of waste tires as a means of enhancing local and statewide
22 waste tire and used tire enforcement programs.

23 (e) To pay the costs of cleanup, abatement, removal, or other
24 remedial action related to waste tire stockpiles throughout the state,
25 including all approved costs incurred by other public agencies
26 involved in these activities by contract with the department. Not
27 less than six million five hundred thousand dollars (\$6,500,000)
28 shall be expended by the department during each of the following
29 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

30 (f) To fund border region activities specified in paragraph (8)
31 of subdivision (b) of Section 42885.5.

32 (g) For expenditure pursuant to paragraph (3) of subdivision (a)
33 of, and paragraph (3) of subdivision (b) of, Section 17001.

34 (h) This section shall become operative on January 1, ~~2038~~
35 2033.

36 SEC. 24. Section 9250.2 of the Vehicle Code, as amended by
37 Section 36 of Chapter 401 of the Statutes of 2013, is amended to
38 read:

39 9250.2. (a) The department, if requested by the Sacramento
40 Metropolitan Air Quality Management District pursuant to Section

1 41081 of the Health and Safety Code, shall impose and collect a
2 surcharge on the registration fees for every motor vehicle registered
3 in that district, not to exceed the amount of six dollars (\$6), as
4 specified by the governing body of that district.

5 (b) This section shall remain in effect only until January 1, ~~2038~~,
6 2033, and as of that date is repealed, unless a later enacted statute,
7 that is enacted before January 1, ~~2038~~, 2033, deletes or extends
8 that date.

9 SEC. 25. Section 9250.2 of the Vehicle Code, as amended by
10 Section 37 of Chapter 401 of the Statutes of 2013, is amended to
11 read:

12 9250.2. (a) The department, if requested by the Sacramento
13 Metropolitan Air Quality Management District pursuant to Section
14 41081 of the Health and Safety Code, shall impose and collect a
15 surcharge on the registration fees for every motor vehicle registered
16 in that district, not to exceed four dollars (\$4).

17 (b) This section shall become operative on January 1, ~~2038~~.
18 2033.

O

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Pauline Russo Cutter and Members
of the Legislative Committee

From: Alexander Crockett
Interim Executive Officer/APCO

Date: May 9, 2022

Re: State Legislative Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

May 6, 2022 is the last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house. Assembly and Senate Budget committees continue to schedule hearings in preparation for the Governor's May Revision to the 2022-2023 Budget and final budget negotiations. The "May Revise" is set to be released by the Governor by May 10, 2022.

Below are bills the Air District has taken positions on during the 2022 Legislative Session:

- Assembly Bill (AB) 1944 (Lee) - Local government: open and public meetings.
- AB 2141 (E. Garcia) - Greenhouse Gas Reduction Fund: community projects: funding.
- AB 2206 (Lee) - Nonattainment basins: employee parking: parking cash-out program.
- AB 2563 (Quirk) - Air pollution: permits: mobile fueling on-demand tank vehicles.
- AB 2816 (Ting) - State Air Resources Board: zero-emission incentive programs: requirements.
- AB 2852 (Bloom) - Air pollution control districts and air quality management districts: independent special districts: funding.
- AB 2910 (Santiago) - Nonvehicular air pollution: civil penalties.
- Senate Bill (SB) 1235 (Borgeas) - Air pollution: portable equipment: emergency events.
- SB 1382 (Gonzalez) - Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.
- SB 1393 (Archuleta) - Energy: appliances: local requirements.

DISCUSSION

The Legislative Committee (Committee) will receive an update on recent events of significance in Sacramento. Staff will provide the Committee with a brief summary and status of bills listed on the attached list. Specifically, staff will discuss the following bills:

AB 1944 (Lee) - Local government: open and public meetings.

CapitolTrack Summary: The Ralph M. Brown Act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. 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. This bill would require the agenda to identify any member of the legislative body that will participate in the meeting remotely. The bill would also require an updated agenda reflecting all of the members participating in the meeting remotely to be posted, if a member of the legislative body elects to participate in the meeting remotely after the agenda is posted.

Current Status: Referred to Assembly Local Government – set for hearing on May 4, 2022.

Position: Support

AB 2141 (E. Garcia) - Greenhouse Gas Reduction Fund: community projects: funding.

CapitolTrack Summary: Current law requires that all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism be deposited in the Greenhouse Gas Reduction Fund and be available, upon appropriation by the Legislature, for purposes relating to the reduction of greenhouse gas emissions. Current law continuously appropriates 35% of the annual proceeds of the fund for transit, affordable housing, and sustainable communities programs and 25% of the annual proceeds of the fund for certain components of a specified high-speed rail project. This bill would continuously appropriate to the state board, beginning in the 2023–24 fiscal year, 20% of the annual proceeds of the Greenhouse Gas Reduction Fund, up to \$600,000,000, for allocation to air pollution control districts and air quality management districts for the purpose of supporting community emissions reduction strategies in, and reimbursement for participation by, communities selected by the state board, as specified.

Current Status: Assembly Natural Resources (Ayes 7. Noes 3. – April 25); Referred to Assembly Appropriations – hearing date not set.

Position: Support

AB 2206 (Lee) - Nonattainment basins: employee parking: parking cash-out program.

CapitolTrack Summary: Current law requires, in any air basin designated as nonattainment for certain air quality standards, an employer, defined as an employer of 50 persons or more that provides a parking subsidy to employees, to also offer a parking cash-out program. Current law defines “parking cash-out program” as an employer-funded program under which an employer offers to provide a cash allowance to an employee equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space. Current law defines a “parking subsidy” as the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space. This bill would revise the definitions of “employer,” “parking cash-out program,” and “parking subsidy.” The bill would require a lessor that enters into or renews a lease on or after January 1, 2023, with a lessee that is an employer and that offers parking to the employer to list the market-rate parking costs as a separate line item in the lease, as provided, or to provide a list of parking costs to the employer within 30 days after the lease is entered into or renewed.

Current Status: Assembly Transportation (Ayes 11. Noes 3. – April 18); Ordered to Assembly Third Reading – hearing pending.

Position: Support

AB 2563 (Quirk) - Air pollution: permits: mobile fueling on-demand tank vehicles.

CapitolTrack Summary: Would, except as provided, require air pollution control and air quality management districts to establish a mobile fueling on-demand tank vehicle permit program for mobile fueling on-demand tank vehicle operations, as defined. The bill would require that a mobile fueling on-demand tank vehicle permit program provide, among other things, a consistent permitting process for an operation that requires more than one permit and an expedited permit review and fee schedule. By placing additional duties upon air pollution control and air quality management districts, and expanding the scope of existing crimes, the bill would impose a state-mandated local program.

Current Status: Assembly Transportation (Ayes 9. Noes 1. – April 4); Assembly Natural Resources (Ayes 10. Noes 0. – April 25); Referred to Assembly Appropriations – hearing date not set.

Position: Oppose

AB 2816 (Ting) - State Air Resources Board: zero-emission incentive programs: requirements.

CapitolTrack Summary: Would require the State Air Resources Board to develop a tool to determine the annual average gallons of gasoline or diesel consumed by a particular vehicle and would require the state board to make the tool publicly available on its internet website for use by potential applicants of a ZEV incentive program. To maximize equity benefits, the bill would require the state board to ensure that additional per gallon incentive payments are provided to an applicant of a ZEV incentive program if the applicant is low or moderate income. The bill would require the state board to submit a report to the Legislature on or before January 1, 2024, and every 2 years thereafter, regarding the ZEV incentive programs.

Current Status: Assembly Transportation (Ayes 12. Noes 2. – April 18); Assembly Natural Resources (Ayes 9. Noes 1. – April 25); Referred to Assembly Appropriations – hearing date not set.

Position: Oppose unless amended

AB 2852 (Bloom) - Air pollution control districts and air quality management districts: independent special districts: funding.

CapitolTrack Summary: Current law provides for the establishment of air pollution control districts and air quality management districts. Current law declares a district a body corporate and politic and a public agency of the state, and prescribes the general powers and duties of a district. Current law authorizes a district to receive funding from specified sources, including, but not limited to, grants, permit fees, and penalties. This bill would designate, retroactive to January 1, 2020, a district as an independent special district for purposes of receiving state funds or funds disbursed by the state, including federal funds.

Current Status: Referred to Assembly Local Government – hearing date not set.

Position: Support

AB 2910 (Santiago) - Nonvehicular air pollution: civil penalties.

CapitolTrack Summary: Current law generally designates air pollution control and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Current law establishes maximum civil penalties for any person for violations of air pollution laws from nonvehicular sources. A person who violates these laws and who acts negligently is liable for a civil penalty in a greater amount, as specified. Current law annually adjusts the maximum penalties for violations of these laws based on the California Consumer Price Index. This bill would increase the maximum amount of those civil penalties and would subject those maximum amounts to the annual adjustment based on the California Consumer Price Index, as specified.

Current Status: Assembly Natural Resources (Ayes 8. Noes 2. – April 18); Assembly Judiciary (Ayes 8. Noes 1. – April 26); Referred to Assembly Appropriations – hearing date not set.

Position: Support

SB 1235 (Borgeas) - Air pollution: portable equipment: emergency events.

CapitolTrack Summary: Would codify the State Air Resources Board's regulation authorizing portable equipment to be operated during an emergency event, as defined above, and would also authorize portable equipment to be operated during a public safety power shut-off event. The bill would define "public safety power shut-off event," in part, as a planned power outage undertaken by an electrical corporation to reduce the risk of wildfires caused by utility equipment.

Current Status: Referred to Senate Environmental Quality – April 27, 2022, hearing canceled at the request of the author.

Position: Oppose

SB 1382 (Gonzalez) - Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.

CapitolTrack Summary: Current law establishes the Clean Cars 4 All Program, which is administered by the State Air Resources Board, to focus on achieving reductions in the emissions of greenhouse gases, improvements in air quality, and benefits to low-income state residents through the replacement of high-polluter motor vehicles with cleaner and more efficient motor vehicles or a mobility option. Current law requires the implementing regulations to ensure, among other things, that there is improved coordination, integration, and partnerships with other specified programs that target disadvantaged communities. This bill would require the implementing regulations for the Clean Cars 4 All Program to additionally ensure that the state board coordinates with air quality management districts and local nonprofit and community organizations to identify barriers to accessing the Clean Cars 4 All Program and to develop outreach protocols and metrics to assess the success of outreach across the districts.

Current Status: Heard in Senate Environmental Quality on April 20, 2022, and referred to Governance and Finance (Ayes 4. Noes 1. – April 20); Referred to Senate Appropriations – set for hearing on May 9, 2022.

Position: Support

SB 1393 (Archuleta) - Energy: appliances: local requirements.

CapitolTrack Summary: Current law requires the State Energy Resources Conservation and Development Commission to gather or develop, and publish on its internet website, guidance and best practices to help building owners, the construction industry, and local governments overcome barriers to electrification of buildings and installation of electric vehicle charging equipment that include one or more specified topics. This bill would require the commission to gather or develop, and publish on its internet website, the guidance and best practices by July 1, 2023, and would require the guidance to include all of those specified topics and additional topics. The bill would require the commission to update annually the guidance and best practices. The bill would require a city, including a charter city, or county, when adopting an ordinance requiring the replacement of a fossil fuel-fired appliance with an electric appliance upon the alteration or retrofit of a residential and nonresidential building, to consider the guidance published by the commission.

Current Status: Senate Energy, Utilities and Communications (Ayes 8. Noes 2. – March 28); Governance and Finance (Ayes 3. Noes 2. – April 20); Senate Appropriations – set for hearing on May 9, 2022.

Position: Oppose

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander Crockett
Interim Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Alexander Crockett

ATTACHMENTS:

1. Bills of Interest Matrix - As of May 2, 2022

LEGISLATIVE COMMITTEE
MEETING OF 05/09/2022

Bill #	Author	Subject	Last Amended	Last Status - As of 5/2/2022	Location	Notes	Position	Priority (Low/Medium/High)	Category
AB 1749	Garcia, Cristina	Community Air Protection Blueprint: community emissions reduction programs: toxic air contaminants and criteria air pollutants.	3/14/2022	4/27/2022-In committee: Set, first hearing. Referred to suspense file.	4/27/2022-A. APPR. SUSPENSE FILE			Medium	AB 617
AB 284	Rivas, Robert	California Global Warming Solutions Act of 2006: climate goal: natural and working lands.	7/14/2021	9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/2/2021)(May be acted upon [Jan 2022])	9/10/2021-S. 2 YEAR			Low	Climate Change
AB 1369	Bennett	Buy Clean California Act: eligible materials: product-specific global warming potential emissions.	1/12/2022	2/1/2022-In Senate. Read first time. To Com. on RLS. for assignment.	2/1/2022-S. RLS.			Low	Climate Change
AB 1395	Muratsuchi	The California Climate Crisis Act.	9/3/2021	9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/10/2021)(May be acted upon [Jan 2022])	9/10/2021-S. 2 YEAR			Low	Climate Change
AB 2442	Rivas, Robert	Climate change.	4/5/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 2.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.			Low	Climate Change
AB 2446	Holden	Embodied carbon emissions: construction materials.	4/7/2022	4/27/2022-In committee: Set, first hearing. Referred to suspense file.	4/27/2022-A. APPR. SUSPENSE FILE			Low	Climate Change
AB 2532	Bennett	Scoping plan: state agency, board, and department compliance and implementation: reports.	4/19/2022	4/27/2022-In committee: Set, first hearing. Referred to suspense file.	4/27/2022-A. APPR. SUSPENSE FILE			Low	Climate Change
AB 2578	Cunningham	State Energy Resources Conservation and Development Commission: integrated energy policy report: carbon capture, utilization, and sequestration.	4/27/2022	4/28/2022-Re-referred to Com. on APPR.	4/25/2022-A. APPR.			Low	Climate Change
AB 2674	Villapudua	California Global Warming Solutions Act of 2006: Low Carbon Fuel Standard regulations.	4/18/2022	4/19/2022-Re-referred to Com. on NAT. RES.	3/10/2022-A. NAT. RES.			Low	Climate Change
AB 2700	McCarty	Transportation electrification: electrical distribution grid upgrades.	4/27/2022	4/28/2022-Re-referred to Com. on APPR.	4/26/2022-A. APPR.			Low	Climate Change
AB 2722	Grayson	Greenhouse gases: work-from-home option.	4/6/2022	4/19/2022-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 11. Noes 0.) (April 18). Re-referred to Com. on APPR.	4/18/2022-A. APPR.			Low	Climate Change
AB 2809	Carrillo	Greenhouse gases: refrigerants.		2/19/2022-From printer. May be heard in committee March 21.	2/18/2022-A. PRINT			Low	Climate Change
AB 2944	Petrie-Norris	Greenhouse gases: carbon capture, utilization, and sequestration.	5/2/2022	4/28/2022-From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (April 25). (Amended Text Released 5/2/2022)	4/25/2022-A. APPR.			Low	Climate Change
SB 260	Wiener	Climate Corporate Accountability Act.	1/3/2022	1/26/2022-Read third time. Passed. (Ayes 23. Noes 7.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.	1/26/2022-A. DESK			Medium	Climate Change
SB 852	Dodd	Climate resilience districts: formation: funding mechanisms.	5/2/2022	4/28/2022-From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 1.) (April 26). (Amended Text Released 5/2/2022)	4/26/2022-S. APPR.			Low	Climate Change
SB 905	Skinner	Decarbonized Cement and Geologic Carbon Sequestration Demonstration Act.	4/18/2022	4/22/2022-Set for hearing May 2.	4/20/2022-S. APPR.			Low	Climate Change
SB 989	Hertzberg	Climate Change Preparedness, Resiliency, and Jobs for Communities Program: climate-beneficial projects: grant funding.	4/18/2022	4/29/2022-Set for hearing May 9.	4/27/2022-S. APPR.			Low	Climate Change
SB 1020	Laird	Clean Energy, Jobs, and Affordability Act of 2022.	4/18/2022	4/29/2022-Set for hearing May 9.	4/26/2022-S. APPR.			Low	Climate Change
SB 1068	Laird	Governor's Office of Business and Economic Development: Climate change.	3/15/2022	4/18/2022-April 18 hearing: Placed on APPR suspense file.	4/18/2022-S. APPR. SUSPENSE FILE			Low	Climate Change
SB 1075	Skinner	Hydrogen: green hydrogen: emissions of greenhouse gases.	4/7/2022	4/26/2022-VOTE: Do pass as amended, but first amend, and re-refer to the Committee on [Appropriations] (PASS)	4/26/2022-S. APPR.			Low	Climate Change
SB 1101	Caballero	Carbon sequestration: pore space ownership and Carbon Capture, Utilization, and Storage Program.	5/2/2022	4/28/2022-From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 8. Noes 0.) (April 26). (Amended Text Released 5/2/2022)	4/26/2022-S. APPR.			Low	Climate Change
SB 1136	Portantino	California Environmental Quality Act: expedited environmental review: climate change regulations.	3/16/2022	4/29/2022-Set for hearing May 9.	4/27/2022-S. APPR.			Low	Climate Change
SB 1145	Laird	California Global Warming Solutions Act of 2006: greenhouse gas emissions: dashboard.	3/1/2022	4/18/2022-April 18 hearing: Placed on APPR suspense file.	4/18/2022-S. APPR. SUSPENSE FILE			Low	Climate Change
SB 1206	Skinner	Hydrofluorocarbon gases: sale or distribution.	4/7/2022	4/18/2022-April 18 hearing: Placed on APPR suspense file.	4/18/2022-S. APPR. SUSPENSE FILE			Low	Climate Change
SB 1230	Limón	Zero-emission and near-zero-emission vehicle incentive programs: requirements.	4/28/2022	4/28/2022-Read second time and amended. Re-referred to Com. on APPR.	4/27/2022-S. APPR.			Low	Climate Change
SB 1297	Cortese	Low-embodied carbon building materials: carbon sequestration.	4/27/2022	4/27/2022-Read second time and amended. Re-referred to Com. on APPR.	4/26/2022-S. APPR.			Low	Climate Change
SB 1301	Becker	Corporation Tax Law: Personal Income Tax Law: credits: green energy: manufacturing.	4/28/2022	4/28/2022-From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.	3/23/2022-S. GOV. & F.			Low	Climate Change
SB 1347	Hueso	California Global Warming Solutions Act of 2006: renewable hydrogen production study.	5/2/2022	4/28/2022-From committee: Do pass as amended and re-refer to Com. on APPR with recommendation: To consent calendar. (Ayes 7. Noes 0.) (April 27). (Amended Text Released 5/2/2022)	4/27/2022-S. APPR.			Low	Climate Change
SB 1399	Wieckowski	Carbon Capture Technology Demonstration Project Grant Program.	4/28/2022	4/28/2022-Read second time and amended. Re-referred to Com. on APPR.	4/18/2022-S. APPR.			Low	Climate Change
AB 1814	Grayson	Transportation electrification: community choice aggregators.	3/28/2022	3/31/2022-In committee: Set, first hearing. Hearing canceled at the request of author.	2/18/2022-A. U. & E.			Low	Energy
AB 2075	Ting	Energy: electric vehicle charging standards.	5/2/2022	4/28/2022-From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 12. Noes 0.) (April 27). (Amended Text Released 5/2/2022)	4/27/2022-A. APPR.			Low	Energy

Bill #	Author	Subject	Last Amended	Last Status - As of 5/2/2022	Location	Notes	Position	Priority (Low/Medium/High)	Category
AB 2204	Boerner Horvath	Clean energy: Office of Clean Energy Workforce.		4/21/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 13. Noes 1.) (April 20). Re-referred to Com. on APPR.	4/20/2022-A. APPR.			Low	Energy
AB 2316	Ward	Community Renewable Energy Program.	5/2/2022	4/28/2022-From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 9. Noes 3.) (April 27). (Amended Text Released 5/2/2022)	4/27/2022-A. APPR.			Low	Energy
AB 2587	Garcia, Eduardo	Energy: firm renewable energy resources and firm zero-carbon resources: procurement.	4/18/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 1.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.			Low	Energy
AB 2892	Bigelow	Income taxes: credits: backup electricity generators.	4/18/2022	4/26/2022-In committee: Hearing for testimony only.	3/17/2022-A. REV. & TAX			Low	Energy
SB 1039	Wieckowski	Clean energy and pollution reduction objectives.		2/23/2022-Referred to Com. on RLS.	2/15/2022-S. RLS.			Low	Energy
SB 1063	Skinner	Energy: appliance standards and cost-effective measures.	4/18/2022	4/29/2022-Set for hearing May 9.	4/26/2022-S. APPR.			Low	Energy
SB 1112	Becker	Energy: building decarbonization: notice and recordation of a decarbonization charge.	3/31/2022	4/29/2022-Set for hearing May 9.	4/26/2022-S. APPR.			Low	Energy
SB 1156	Grove	Motor Vehicle Fuel Tax: Diesel Fuel Tax: inflation adjustment.		4/20/2022-Set for hearing May 4.	3/17/2022-S. GOV. & F.			Low	Energy
SB 1291	Archuleta	Hydrogen-fueling stations: administrative approval.	4/5/2022	4/29/2022-Set for hearing May 9.	4/27/2022-S. APPR.			Low	Energy
SB 1332	Becker	Building performance standards.	3/16/2022	3/16/2022-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.	2/18/2022-S. RLS.			Low	Energy
SB 1393	Archuleta	Energy: appliances: local requirements.	4/21/2022	4/29/2022-Set for hearing May 9.	4/20/2022-S. APPR.		Oppose	Medium	Energy
AB 1001	Garcia, Cristina	Environment: mitigation measures for air quality impacts: environmental justice.	3/22/2022	3/22/2022-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.	2/1/2022-S. RLS.			Medium	Environmental Justice
AB 1966	Muratsuchi	Fossil fuel-dependent workers: California Equitable Just Transition Fund.		2/11/2022-From printer. May be heard in committee March 13.	2/10/2022-A. PRINT			Low	Environmental Justice
AB 2419	Bryan	Environmental justice: federal Infrastructure Investment and Jobs Act: Justice40 Oversight Committee.	4/19/2022	4/27/2022-Coauthors revised. From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 2.) (April 26). Re-referred to Com. on APPR.	4/26/2022-A. APPR.			Low	Environmental Justice
AB 1897	Wicks	Nonvehicular air pollution control: civil penalties: refineries.	4/27/2022	4/28/2022-Re-referred to Com. on APPR.	4/26/2022-A. APPR.		Air District-Sponsored	High	General-Air District
AB 2141	Garcia, Eduardo	Greenhouse Gas Reduction Fund: community projects: funding.	4/18/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 3.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.		Support	Medium	General-Air District
AB 2563	Quirk	Air pollution: permits: mobile fueling on-demand tank vehicles.	4/27/2022	4/28/2022-Re-referred to Com. on APPR.	4/25/2022-A. APPR.		Oppose	Medium	General-Air District
AB 2649	Garcia, Cristina	Natural Carbon Sequestration and Resilience Act of 2022.	4/20/2022	4/25/2022-VOTE: Do pass as amended and be re-referred to the Committee on [Appropriations] (PASS)	4/25/2022-A. APPR.			Medium	General-Air District
AB 2721	Lee	Bay Area Air Quality Management District: district board: compensation.	3/10/2022	4/19/2022-In Senate. Read first time. To Com. on RLS. for assignment.	4/19/2022-S. RLS.		Air District-Sponsored	High	General-Air District
AB 2836	Garcia, Eduardo	Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.	3/30/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.		Air-District Co-Sponsor	High	General-Air District
AB 2840	Reyes	Qualifying logistics use projects.	4/21/2022	4/25/2022-Re-referred to Com. on H. & C.D. Re-referred to Com. on APPR. pursuant to Assembly Rule 96.	4/25/2022-A. APPR.			Low	General-Air District
AB 2852	Bloom	Air pollution control districts and air quality management districts: independent special districts: funding.	3/24/2022	3/28/2022-Re-referred to Com. on L. GOV.	3/24/2022-A. L. GOV.		Support	Medium	General-Air District
AB 2910	Santiago	Nonvehicular air pollution: civil penalties.	4/20/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 1.) (April 26). Re-referred to Com. on APPR.	4/26/2022-A. APPR.		Support	Medium	General-Air District
SB 1095	Durazo	Air quality: rules and regulations: socioeconomic impacts assessment.	3/29/2022	4/18/2022-April 18 hearing: Placed on APPR suspense file	4/18/2022-S. APPR. SUSPENSE FILE			Medium	General-Air District
SB 1235	Borgeas	Air pollution: portable equipment: emergency events.		4/21/2022-April 27 set for first hearing canceled at the request of author.	3/2/2022-S. E.Q.		Oppose	Medium	General-Air District
AB 363	Medina	Carl Moyer Memorial Air Quality Standards Attainment Program.	7/5/2021	7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was TRANS. on 6/28/2021)(May be acted upon Jan 2022)	7/14/2021-S. 2 YEAR			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 965	Levine	Building standards: electric vehicle charging infrastructure.	6/29/2021	9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/10/2021)(May be acted upon Jan 2022)	9/10/2021-S. 2 YEAR			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1389	Reyes	Alternative and Renewable Fuel and Vehicle Technology Program.	9/3/2021	9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/7/2021)(May be acted upon Jan 2022)	9/10/2021-S. 2 YEAR			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1644	Flora	Greenhouse Gas Reduction Fund: California Jobs Plan Act of 2021.	3/30/2022	4/21/2022-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (April 20). Re-referred to Com. on APPR.	4/21/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1738	Boerner Horvath	Building standards: installation of electric vehicle charging stations: existing buildings.	4/25/2022	4/26/2022-Re-referred to Com. on APPR.	4/21/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade

Bill #	Author	Subject	Last Amended	Last Status - As of 5/2/2022	Location	Notes	Position	Priority (Low/Medium/High)	Category
AB 1778	Garcia, Cristina	State transportation funding: freeway projects: poverty and pollution: Department of Transportation.	3/24/2022	4/19/2022-Coauthors revised. From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 3.) (April 18). Re-referred to Com. on APPR.	4/19/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1873	Boerner Horvath	Personal Income Tax Law: Corporation Tax Law: credits: electric vehicle charging stations.		3/22/2022-In committee: Hearing for testimony only.	2/18/2022-A. REV. & TAX			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2061	Ting	Transportation electrification: electric vehicle charging infrastructure.	4/18/2022	4/19/2022-Re-referred to Com. on APPR.	4/6/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2074	Gipson	Air Quality Improvement Program: micromobility devices.		4/6/2022-In committee: Set, first hearing. Referred to suspense file.	4/6/2022-A. APPR. SUSPENSE FILE			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2101	Flora	California Carbon Sequestration and Climate Resiliency Project Registry: whole orchard recycling projects.	4/5/2022	4/19/2022-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 11. Noes 0.) (April 18). Re-referred to Com. on APPR.	4/18/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2111	Bigelow	Motor vehicles: air pollution.		2/15/2022-From printer. May be heard in committee March 17.	2/14/2022-A. PRINT			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2197	Mullin	Caltrain electrification project: funding.		2/24/2022-Referred to Com. on TRANS.	2/24/2022-A. TRANS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2350	Grayson	Vehicular air pollution: Zero-Emission Aftermarket Conversion Project.	4/20/2022	4/21/2022-Re-referred to Com. on APPR.	4/18/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2358	O'Donnell	Alternative vehicle and vessel technologies: funding programs: commercial harbor craft.	4/18/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (April 25). Re-referred to Com. on APPR.	4/26/2022-A. APPR.			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2554	O'Donnell	Air pollution: assistance program: drayage vehicles.		4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (April 25). Re-referred to Com. on APPR.	4/26/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2562	Bennett	Clean Transportation Program: hydrogen-fueling stations.	3/21/2022	4/27/2022-In committee: Set, first hearing. Referred to suspense file.	4/27/2022-A. APPR. SUSPENSE FILE			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2622	Mullin	Sales and use taxes: exemptions: California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project: transit buses.	4/7/2022	4/18/2022-Re-referred to Com. on REV. & TAX.	3/10/2022-A. REV. & TAX			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2690	Boerner Horvath	Small passenger vessels: emissions reductions: state funding.	3/24/2022	3/28/2022-Re-referred to Com. on TRANS.	3/24/2022-A. TRANS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2703	Muratsuchi	Electric vehicle charging stations: reliability standards: low-income and disadvantaged community financial assistance.	4/18/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 14. Noes 0.) (April 25). Re-referred to Com. on APPR.	4/26/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2737	Carrillo	Air pollution: purchase of new drayage and short-haul trucks: incentive programs: lessees: labor standards.	4/7/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 15. Noes 0.) (April 25). Re-referred to Com. on APPR.	4/26/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2793	Muratsuchi	Greenhouse gases: market-based compliance mechanism.	3/24/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 3.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2798	Fong	Freight: development projects.	4/21/2022	4/25/2022-Re-referred to Com. on NAT. RES. Re-referred to Com. on APPR. pursuant to Assembly Rule 96.	4/25/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2802	Muratsuchi	Air pollution: carbon tax and dividend.		2/19/2022-From printer. May be heard in committee March 21.	2/18/2022-A. PRINT			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2807	Bonta, Mia	Transportation funding programs: eligibility: public transportation ferries.	4/21/2022	4/25/2022-Re-referred to Com. on APPR.	4/18/2022-A. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2862	Muratsuchi	California Global Warming Solutions Act of 2006: offset credits.		2/19/2022-From printer. May be heard in committee March 21.	2/18/2022-A. PRINT			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2928	Cooper	Personal income taxes: Clean Cars 4 All Program: retirement and replacement.	3/17/2022	4/18/2022-In committee: Hearing postponed by committee.	3/17/2022-A. TRANS.			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2954	Cunningham	Vehicular air pollution: State Air Resources Board: regulations.		2/19/2022-From printer. May be heard in committee March 21.	2/18/2022-A. PRINT			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 45	Portantino	Short-lived climate pollutants: organic waste reduction goals: local jurisdiction assistance.	1/3/2022	1/24/2022-Read third time. Passed. (Ayes 36. Noes 0.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.	1/24/2022-A. DESK			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 542	Limón	Sales and use taxes: exemption: medium- or heavy-duty zero-emission trucks.	5/25/2021	1/18/2022-Read third time. Passed. (Ayes 33. Noes 0.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.	1/18/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 726	Gonzalez	Alternative fuel and vehicle technologies: sustainable transportation.	8/30/2021	9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/7/2021)(May be acted upon Jan 2022)	9/10/2021-A. 2 YEAR			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 894	Jones	Off-highway vehicles.	3/28/2022	4/22/2022-Set for hearing May 2.	4/19/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 922	Wiener	California Environmental Quality Act: exemptions: transportation-related projects.	4/4/2022	4/19/2022-Read second time. Ordered to third reading.	4/19/2022-S. THIRD READING			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 932	Portantino	General plans: circulation element: bicycle and pedestrian plans and traffic calming plans.	3/23/2022	4/26/2022-VOTE: Do pass as amended, but first amend, and re-refer to the Committee on [Appropriations] (PASS)	4/26/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 942	Newman	Low Carbon Transit Operations Program: free or reduced fare transit program.		4/19/2022-Read second time. Ordered to third reading.	4/19/2022-S. THIRD READING			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1010	Skinner	Air pollution: state vehicle fleet: zero-emission vehicles.	4/21/2022	4/29/2022-Set for hearing May 9.	4/20/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1086	Melendez	Greenhouse Gas Reduction Fund: Salton Sea restoration.	3/14/2022	4/13/2022-April 20 set for first hearing canceled at the request of author.	3/23/2022-S. E.Q.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1104	Gonzalez	Governor's Office of Business and Economic Development: Office of Freight.	4/6/2022	4/22/2022-Set for hearing May 2.	4/19/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade

Bill #	Author	Subject	Last Amended	Last Status - As of 5/2/2022	Location	Notes	Position	Priority (Low/Medium/High)	Category
SB 1203	Becker	Zero net emissions of greenhouse gases: state agency operations.	3/24/2022	4/29/2022-Set for hearing May 9.	4/27/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1217	Allen	State-Regional Collaborative for Climate, Equity, and Resilience.		4/29/2022-Set for hearing May 9.	4/27/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1251	Gonzalez	Office of the Zero-Emission Vehicle Equity Advocate.	3/29/2022	4/22/2022-Set for hearing May 2.	4/19/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1258	Allen	Clean Transportation Program: electric vehicle charging: fleet-operated autonomous vehicles.	3/24/2022	4/26/2022-VOTE: Do pass as amended, but first amend, and re-refer to the Committee on [Appropriations] (PASS)	4/26/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1305	Laird	State vehicle fleet: alternative fuel vehicles.	4/19/2022	4/19/2022-Read second time and amended. Ordered to third reading.	4/19/2022-S. THIRD READING			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1329	Newman	Publicly available hydrogen-fueling stations.	3/10/2022	4/26/2022-VOTE: Do pass as amended, but first amend, and re-refer to the Committee on [Appropriations] (PASS)	4/26/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1382	Gonzalez	Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.	4/26/2022	4/29/2022-Set for hearing May 9.	4/25/2022-S. APPR.		Support	Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1391	Kamlager	greenhouse gases: market-based compliance mechanisms: linkages to the state.	3/17/2022	4/29/2022-Set for hearing May 9.	4/27/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1482	Allen	Building standards: electric vehicle charging infrastructure.		4/29/2022-Set for hearing May 9.	4/27/2022-S. APPR.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 983	Garcia, Eduardo	Public contracts: construction projects: community workforce agreements: battery manufacturing and lithium-based technology.	6/15/2021	7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was GOV. & F. on 6/22/2021)(May be acted upon Jan 2022)	7/14/2021-S. 2 YEAR			Low	Other
AB 1240	Ting	Indoor air pollution.	1/24/2022	2/1/2022-In Senate. Read first time. To Com. on RLS. for assignment.	2/1/2022-S. RLS.			Medium	Other
AB 1624	Ting	Budget Act of 2022.		1/20/2022-Referred to Com. on BUDGET.	1/10/2022-A. BUDGET			High	Other
AB 1717	Aguiar-Curry	Public works: definition.		4/27/2022-In committee: Set, first hearing. Referred to suspense file.	4/27/2022-A. APPR. SUSPENSE FILE			Low	Other
AB 1935	Grayson	California Environmental Quality Act: redevelopment: Concord Naval Weapons Station.	4/19/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 10. Noes 0.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.			Low	Other
AB 1944	Lee	Local government: open and public meetings.	4/18/2022	4/26/2022-In committee: Set, first hearing. Hearing canceled at the request of author.	2/18/2022-A. L. GOV.		Support	Medium	Other
AB 2056	Grayson	Bar pilots: pilotage rates: pilot boat surcharge.	3/11/2022	4/7/2022-Read second time. Ordered to third reading.	4/7/2022-A. THIRD READING			Low	Other
AB 2057	Carrillo	Transportation Agency: goods movement data.	3/28/2022	4/21/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 2.) (April 20). Re-referred to Com. on APPR.	4/21/2022-A. APPR.			Low	Other
AB 2076	Rivas, Luz	Extreme Heat and Community Resilience Program: Extreme Heat and Health Reporting System.	4/28/2022	4/28/2022-Read second time and amended.	4/26/2022-A. APPR.			Low	Other
AB 2086	Kiley	Air pollution: small off-road engines.	3/24/2022	3/28/2022-Re-referred to Com. on NAT. RES.	3/24/2022-A. NAT. RES.			Low	Other
AB 2206	Lee	Nonattainment basins: employee parking: parking cash-out program.	4/20/2022	4/21/2022-Read second time. Ordered to third reading.	4/21/2022-A. THIRD READING		Support	Medium	Other
AB 2214	Garcia, Cristina	California Environmental Quality Act: schoolsites: acquisition of property: school districts, charter schools, and private schools.	4/25/2022	4/27/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 3.) (April 26). Re-referred to Com. on APPR.	4/27/2022-A. APPR.		Air District-Sponsored	High	Other
AB 2219	Smith	State Air Resources Board: members.		4/5/2022-In committee: Set, first hearing. Failed passage.	2/24/2022-A. NAT. RES.			Low	Other
AB 2237	Friedman	Transportation planning: regional transportation improvement plan: sustainable communities strategies: climate goals.	4/18/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 3.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.			Low	Other
AB 2449	Rubio, Blanca	Open meetings: local agencies: teleconferences.		3/3/2022-Referred to Com. on L. GOV.	3/3/2022-A. L. GOV.			Low	Other
AB 2620	Valladares	Income taxes: credits: telecommuting: transfer of funds.		4/4/2022-In committee: Hearing for testimony only.	3/10/2022-A. REV. & TAX			Low	Other
AB 2647	Levine	Local government: open meetings.	4/19/2022	4/25/2022-In committee: Hearing postponed by committee.	3/10/2022-A. L. GOV.			Low	Other
AB 2816	Ting	State Air Resources Board: zero-emission incentive programs: requirements.	4/27/2022	4/28/2022-Re-referred to Com. on APPR.	4/25/2022-A. APPR.		Oppose unless amended	Medium	Other
SB 560	Rubio	Climate Pollution Reduction in Homes Initiative: grants.	5/20/2021	1/24/2022-Read third time. Passed. (Ayes 33. Noes 1.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.	1/24/2022-A. DESK			Medium	Other
SB 778	Becker	Buy Clean California Act: Environmental Product Declarations: concrete.	6/21/2021	7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was A. & A.R. on 6/24/2021)(May be acted upon Jan 2022)	7/14/2021-A. 2 YEAR			Low	Other
SB 833	Dodd	Community Energy Resilience Act of 2022.	3/21/2022	4/4/2022-April 4 hearing: Placed on APPR suspense file.	4/4/2022-S. APPR. SUSPENSE FILE			Low	Other
SB 840	Skinner	Budget Act of 2022.		1/11/2022-From printer.	1/10/2022-S. BUDGET & F.R.			High	Other
SB 1100	Cortese	Open meetings: orderly conduct.	4/21/2022	4/21/2022-Read second time and amended. Ordered to third reading.	4/21/2022-S. THIRD READING			Low	Other
SB 1118	Borgeas	California Environmental Quality Act: judicial relief.	4/21/2022	4/26/2022-April 26 set for first hearing canceled at the request of author.	4/20/2022-S. JUD.			Low	Other

Bill #	Author	Subject	Last Amended	Last Status - As of 5/2/2022	Location	Notes	Position	Priority (Low/Medium/High)	Category
SB 1132	Wieckowski	Air quality health planning.		2/23/2022-Referred to Com. on RLS.	2/16/2022-S. RLS.			Low	Other
SB 1314	Limón	Oil and gas: Class II injection wells: enhanced oil recovery.	3/16/2022	4/29/2022-Set for hearing May 9.	4/26/2022-S. APPR.			Low	Other
SB 1319	Grove	Oil imports: air quality emissions data.	5/2/2022	4/28/2022-From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 27). (Amended Text Released 5/2/2022)	4/27/2022-S. APPR.			Low	Other
AB 2070	Bauer-Kahan	Electrical corporations and local publicly owned electric utilities: wildfire mitigation: notice requirements.	4/25/2022	4/26/2022-Re-referred to Com. on APPR.	4/20/2022-A. APPR.			Low	Wildfire/PSPS
AB 2232	McCarty	School facilities: heating, ventilation, and air conditioning systems.		4/20/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 2.) (April 19). Re-referred to Com. on APPR.	4/20/2022-A. APPR.			Medium	Wildfire/PSPS
AB 2243	Garcia, Eduardo	Occupational safety and health standards: heat illness: wildfire smoke.	3/21/2022	3/31/2022-Coauthors revised. From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 2.) (March 30). Re-referred to Com. on APPR.	3/31/2022-A. APPR.			Low	Wildfire/PSPS
AB 2258	Wood	Local government: wildfire safety improvements.	4/21/2022	4/25/2022-Re-referred to Com. on B. & F.	4/20/2022-A. B. & F.			Low	Wildfire/PSPS
AB 2387	Garcia, Eduardo	Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.	3/21/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 2.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.			Low	Wildfire/PSPS
AB 2538	Rivas, Robert	State Warning Center: wildfire smoke notification.	3/28/2022	4/5/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 4). Re-referred to Com. on APPR.	4/4/2022-A. APPR.			Low	Wildfire/PSPS
AB 2550	Arambula	State Air Resources Board: San Joaquin Valley Air Pollution Control District: nonattainment.	4/28/2022	4/28/2022-Read second time and amended.	4/25/2022-A. APPR.			Medium	Wildfire/PSPS
AB 2645	Rodriguez	Local emergency plans: integration of access and functional needs: community resilience centers.	4/18/2022	4/26/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 25). Re-referred to Com. on APPR.	4/25/2022-A. APPR.			Low	Wildfire/PSPS
SB 1264	Dahle	Property Assessed Clean Energy program: wildfire safety improvements.		3/2/2022-Referred to Com. on GOV. & F.	3/2/2022-S. GOV. & F.			Low	Wildfire/PSPS
SB 1266	Borgeas	Income taxes: credits: designated wildfire zones.	4/28/2022	4/28/2022-From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.	3/17/2022-S. GOV. & F.			Low	Wildfire/PSPS
Total	Active	139						Low:	109
								Medium:	24
								High:	6

LEGISLATIVE MEETING OF 05/02/2022

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John Bauters and Members
of the Board of Directors

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Appointment of New Board Secretary for Remainder of 2022 Term

RECOMMENDED ACTION

Consider appointing a new Secretary to serve for the remainder of the 2022 term.

BACKGROUND

There is currently a vacancy in the position of Board Secretary occasioned by Director Bauters, formerly Vice-Chair, becoming Chair, and Director Hurt, formerly Secretary, becoming Vice-Chair, pursuant to Division I, Section 2.1, of the Air District's Administrative Code.

DISCUSSION

The Nominating Committee is scheduled to meet at 8:45 am on May 18, immediately before the Board of Directors meeting, to consider nominating a Board member for the Secretary position. The background materials for the Nominating Committee discussion are attached to this memorandum for reference.

The Board of Directors will receive a report from the Nominating Committee based on its discussion of candidates for Secretary. The Board of Directors will then consider appointing a new Secretary to serve the remainder of the 2022 term.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Nominating Committee May 18, 2022 Meeting Memorandums

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John Bauters and Members
of the Nominating Committee

From: Alexander G. Crockett
Interim Executive Officer/APCO

Date: May 18, 2022

Re: Consideration and Nomination of Board Secretary for the Remainder of the 2022
Term

RECOMMENDED ACTION

Consider recommending Board of Directors' approval of a new Secretary to serve for the remainder of the 2022 term.

BACKGROUND

None.

DISCUSSION

There is currently a vacancy in the position of Board Secretary occasioned by Director Bauters, formerly Vice-Chair, becoming Chair, and Director Hurt, formerly Secretary, becoming Vice-Chair, pursuant to Division I, Section 2.1, of the Air District's Administrative Code. The Nominating Committee will discuss nominating a Board member to recommend to the Board of Directors to fill this vacancy.

Acting Air District Counsel Adan Schwartz has provided the attached memorandum that outlines pertinent provisions from the Air District's Administrative Code and the Board of Directors' Operating Policies and Procedures. The memorandum also discusses the role of the Nominating Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Alexander G. Crockett
Interim Executive Officer/APCO

Prepared by: Vanessa Johnson

ATTACHMENTS:

1. Consideration and Nomination Memo
2. Administrative Code Selected Provisions Section 2 Board of Directors

NOMINATING COMMITTEE
MEETING OF MAY 18, 2022

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

OFFICE OF DISTRICT COUNSEL

MEMORANDUM

DATE: May 13, 2022

TO: John J. Bauters, Chairperson
and Members of the Nominating Committee of the Board of Directors

FROM: Adan Schwartz
Acting District Counsel

SUBJECT: Criteria for Recommendation of Officers of the Board of Directors

The function of the Nominating Committee is “to recommend to the Board the officers for each calendar year.” Bay Area Air Quality Management District Administrative Code (“Admin. Code”), Division I, Section 6.8. In order to assist with this function, this memorandum discusses the criteria to be applied by the Nominating Committee in making its recommendations for officers to the Board.

The Administrative Code contains certain criteria that the Nominating Committee must follow in making its recommendation for officers of the Board.

First, “the Committee shall not be bound by a recommendation of a previous Nominating Committee.” Admin. Code, Div. I, § 6.8.

Second, “[t]he Committee need not follow a strict rule of rotation between supervisor and city members but may take into account their proportionate membership on the Board of Directors.” Admin. Code, Div. I, § 6.8.

Third, Section 6.8 further requires that “the Committee shall take into account the provisions of Section I-2.7.” Admin. Code, Div. I, § 6.8.

Section 2.7 of Division I of the Administrative Code sets forth a policy of the Board to rotate the positions of the Chairperson, Vice Chairperson, and Board Secretary among the members of the Board “in a manner to assure participation in the affairs of the District from a wide representation of the membership.” Admin. Code, Div. I § 2.7. In this regard, Section 2.7 provides that “[I]n making its recommendations, the Nominating Committee shall take into account such factors as representation by those members appointed by Boards of Supervisors, those members appointed by City selection committees, those members from large counties, and those from small counties.” Admin. Code, Div. I § 2.7.

Thus, the Board has expressed a policy of rotating officer positions in order to ensure broad participation by all Board members in the affairs of the Air District. However, the Nominating Committee is not required to follow a strict rule of rotation between supervisor and city members. Nor is the Committee to be bound by the actions of any prior Nominating Committee. Finally, the Nominating Committee must take into account such factors as representation of supervisor and city members on the Board and the representation of members from large and small counties.

For your convenience, attached are copies of the pertinent sections of the Air District's Administrative Code.

NOMINATING COMMITTEE
MEETING OF MAY 18, 2022

ADMINISTRATIVE CODE – SELECTED PROVISIONS

SECTION 2 BOARD OF DIRECTORS, OFFICERS - DUTIES

2.1 OFFICERS OF THE BOARD. (Revised 1/21/04)

The presiding officer of the Board is the Chairperson of the Board of Directors. The Chairperson, Vice Chairperson and Secretary shall, no later than the first meeting in December of each year, be elected by the Board of Directors and assume office January 1, (effective January 1, 2005). The Chairperson shall preserve order and decorum at regular and special meetings of the Board. The Chairperson shall state each question, shall announce the decision, shall decide all questions of order subject to an appeal to the Board. The Chairperson shall vote on all questions, last in order of the roll, and shall sign all ordinances and resolutions adopted by the District Board while the Chairperson presides. (see Section II-4.3)

In the event that the Chairperson is unable, for whatever reason, to fulfill his or her one-year term of office, the Vice-Chairperson shall succeed the Chairperson and the Secretary shall succeed the Vice-Chairperson. Section 2.3 below shall determine the filling of the Secretary vacancy. In any event, no Board Officer shall serve more than three (3) years in any one Board office (Chairperson, Vice-Chairperson, or Secretary).

2.2 CHAIRPERSON. (Revised 1/14/09)

The Chairperson shall take the chair at the hour appointed for the meeting and call the District Board to order. In the absence of the Chairperson, the Vice-Chairperson shall call the Board to order and serve as temporary Chairperson. Upon arrival of the Chairperson, the Vice-Chairperson shall relinquish the chair upon the conclusion of the business then pending before the Board. In the absence, or self-determined inability to act, of the Chairperson, or the Vice-Chairperson when the Chairperson is absent, the Board Secretary shall call the Board to order and serve as temporary Chairperson. Upon arrival of the Chairperson or Vice-Chairperson, the Secretary shall relinquish the Chair upon the conclusion of the business then pending before the Board. In the absence, or self-determined inability to act, of the Chairperson, Vice Chairperson or Secretary, members of the Board of Directors shall, by an order on the Minutes, select one of their members to act as temporary Chairperson. Upon the arrival or resumption of ability to act, the Chairperson or Vice-Chairperson shall resume the Chair, upon the conclusion of the business then pending before the Board. It shall be the duty of the Chairperson to attend all meetings of the Bay Area Air Quality Management District Advisory Council.

2.3 VICE CHAIRPERSON.

If, for any reason, the Chairperson ceases to be a member of the Board, the Vice-Chairperson shall automatically assume the office of Chairperson and the Board Secretary shall automatically assume the office of Vice-Chairperson. If, for any reason, the Vice-Chairperson ceases to be a member of the Board, the Board Secretary shall automatically assume the office of Vice-Chairperson. In either eventuality, the Board Nominating Committee shall, upon the request of the Chairperson, make a recommendation at the Board meeting following such request to fill the office of Board Secretary. An election will then immediately be held for that purpose.

2.4 BOARD SECRETARY.

The Board Secretary shall be official custodian of the Seal of the District and of the official records of the District and shall perform such secretarial duties as may require execution by the Board of Directors. The Board Secretary may delegate any of these duties to the APCO, or to the Clerk of the Boards.

2.5 MEETING ROLL CALL.

Before proceeding with the business of the Board, the Clerk of the Boards shall call the roll of the members, and the names of those present shall be entered in the Minutes. The names of members who arrive after the initial roll call shall be noted in the Minutes at that stage of the Minutes.

2.6 QUORUM.

A majority of the members of the Board constitutes a quorum for the transaction of business, and may act for the Board.

2.7 OFFICER ROTATION.

It is intended that the positions of Chairperson, Vice Chairperson, and Board Secretary be rotated among the members in a manner to assure participation in the affairs of the District from a wide representation of the membership. In making its recommendations, the Nominating Committee shall take into account such factors as representation by those members appointed by Boards of Supervisors, those members appointed by City selection committees, those members from large counties, and those from small counties.

SECTION 6 BOARD OF DIRECTORS, COMMITTEES

6.8 NOMINATING COMMITTEE. (Revised 10/4/95)

The Nominating Committee will consist of the Chairperson of the Board, the past Chairperson of the Board and three (3) appointees of the Chairperson of the Board, or in the event the past Chairperson of the Board is no longer serving on the Board, four (4) appointees of the Chairperson of the Board. The Nominating Committee shall be appointed no later than the second Board Meeting in November of each year and shall serve until the appointment of a new Committee. It is the function of the Nominating Committee to recommend to the Board the officers for each calendar year. In making its recommendation, the Committee shall not be bound by a recommendation of a previous Nominating Committee. The Committee need not follow a strict rule of rotation between supervisor and city members but may take into account their proportionate membership on the Board of Directors. Additionally, the Committee shall take into account the provisions of Section I-2.7.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Members of the Board of Directors

From: John Bauters
Board Chairperson

Date: May 18, 2022

Re: Consider Approving the District Counsel's Employment Agreement

RECOMMENDED ACTION

The Board of Directors will consider approving the attached draft contract which proposes appointing Alexander Crockett as District Counsel for a three-year term with an annual salary of \$291,750 and regular District non-represented Executive Staff employee benefits. The Board will announce a recommended action for approval and a summary of the salary and compensation, and the contract will be approved by the Board pursuant to this agenda item and the Board of Directors will authorize the Chair to execute this amendment.

BACKGROUND

None.

DISCUSSION

Bay Area Air District Outside Counsel, Sloan, Sakai, Yeung & Wong, LLP, has prepared the proposed contract. None.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

John Bauters
Board Chairperson

Prepared by: John Chiladakis

ATTACHMENTS:

1. 5-18-2022 AGENDA Item 17 - FINAL Contract - District Counsel

EMPLOYMENT AGREEMENT

District Counsel

This Employment Agreement (“Agreement”) is made and entered into on this 19th day of May 2022, by and between the **Bay Area Air Quality Management District** (the “District”) and **Alexander Crockett** (“Employee”) for services to be performed by Employee in the position of District Counsel. District and Employee are collectively hereinafter referred to as “Parties.”

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the Parties agree as follows:

1. **Term.**

The District hereby employs Employee as District Counsel of the District and Employee hereby accepts employment for a period of three (3) years commencing on May 23, 2022, and ending on May 31, 2025, subject to the limitations of this Agreement.

2. **Duties.**

District Counsel shall manage the legal affairs of the District under the general direction and authority of the District Board of Directors (“Board”), or the Chief Executive Officer of the District, as the Board in its discretion may elect. Typical responsibilities include those detailed in the class specification of “Counsel” attached hereto as Exhibit A. Employee understands and agrees that these responsibilities are illustrative only and that the District may add, subtract, or change them in its discretion. Employee shall devote himself on a full-time basis to fulfillment of his responsibilities and shall devote such time as may be reasonably necessary for satisfactory performance of his obligations under this Agreement. Employee shall undertake no other professional employment during the term of this Agreement.

3. **Work Product/Attorney-Client Privilege**

Employee agrees that all files, notes, documents, data, specifications, correspondence, drawings, reports and other material prepared by or furnished to Employee in connection with his District employment shall be and remain the sole and exclusive property of the District. Employee acknowledges and agrees to maintain the District’s attorney-client confidences during and after the termination of this Agreement, in accord with the California Rules of Professional Conduct.

4. **Compensation and Benefits.**

a. **Salary**

For services rendered pursuant to this Agreement the District shall pay Employee an annual base salary of \$291,750. Said salary shall be paid on the dates and in the manner consistent with the payroll procedures of the District.

b. **Cost of Living Adjustments**

Employee shall receive an automatic cost of living adjustment on each July 1 during the term of employment equal to the California Consumer Price Index for Urban Wage

Earners and Clerical Workers as calculated for the prior calendar year (“Annual Average”) by the Department of Industrial Relations for the San Francisco Bay Area.

c. Fringe Benefits

Except as otherwise provided in this Agreement, Employee shall receive such employee benefits, including but not limited to pension, health insurance, and vacation benefits, as are payable to that class of District employees designated non-represented District Management Staff. Employee shall be entitled to carry forward his accrued but unused District leave balances (sick leave, vacation, etc.) which existed on the effective date of this Agreement.

d. Life Insurance

In addition to any life insurance benefit provided under Paragraph 4(c) above, the District shall, during the term of this Agreement, provide Employee a portable \$500,000 (five hundred thousand dollar) term life insurance policy, if Employee demonstrates such good health insurability as the insurer may require.

e. Income Tax Liabilities

Employee shall be responsible for all income tax liability assessed under law on account of his Compensation under this Agreement

5. Annual Goals.

Employee shall develop an annual statement of goals and objectives and a progress report for the District and shall present such goals at a regularly called meeting of the Board to be selected each year by the Board Chair in coordination with District Counsel.

6. Annual Performance Evaluation.

Employee shall receive a one-year performance evaluation where the District will consider a salary increase up to five percent (5%). A two-year performance evaluation will be conducted by the District where the District will consider another salary increase up to five percent (5%). The District may, in its sole discretion, use any professional assistance in establishing standards for performance assessment. Nothing in this section shall be construed to require District to grant Employee any pay increases based on the performance standards, if any, mentioned above nor to limit in any manner the discretion of District to grant or not pay increases. Nor shall anything in this Agreement be interpreted to require District to evaluate Employee solely upon the performance standards, nor to limit the discretion of the District to evaluate Employee as it deems necessary in the sole discretion of the District.

7. Termination and Severance.

- a. Employee’s tenure as District Counsel under this Agreement is limited to the contractual term of three (3) years and Employee’s employment as District Counsel will terminate on May 22, 2025 unless the parties agree to extend this Agreement on or before that date.

The Parties agree to meet and confer four (4) months prior to the termination date to discuss whether to extend this Agreement, and if so on what terms.

- b. Moreover, due to the duties of the position and nature of the services provided by Employee to District, the Employee serves at-will at the pleasure of the Board, and nothing herein shall prevent, limit, or otherwise interfere with the right of the Board to terminate Employee with or without cause. Except where the termination is for cause, the District will provide written notice thirty (30) days prior to the termination date. The District may, at its option, relieve Employee of his duties with pay during the notice period. Employee shall have no right to a termination hearing. Employee shall have no "return rights" to any position previously held at the District and shall not be entitled to employment in any other District position upon termination of employment pursuant to this Agreement.
- c. If Employee's employment is terminated, either through expiration of the contractual term pursuant to section 7(a) or through earlier termination by the District pursuant to section 7(b), the District and Employee shall treat such termination as a retirement from District service for purposes of pension, health insurance, and other retirement benefits, unless Employee elects in writing not to have such termination treated as a retirement.
- d. Notwithstanding any other provision of this Agreement, and as required by Government Code Sections 3511.2 and 53260, if Employee is terminated by the District while the Employee is still willing and able to perform the duties of District Counsel, the District agrees to pay Employee a lump sum payment as follows: a cash settlement equal to Employee's monthly Base Salary, as adjusted, multiplied by the number of months left on the unexpired term of the Agreement, up to a maximum of twelve (12) months. Payment of this cash settlement shall not affect any retirement or other post-employment benefits employee may be entitled to under this Agreement or otherwise.
- e. Any severance payment made by the District pursuant to this section shall be contingent on Employee executing and delivering to the District a release in substantially the same form as that attached hereto as Exhibit B.
- f. Notwithstanding section 7(d) above, the District shall not be obligated to pay, and shall not pay any amounts to Employee if Employee is terminated because of:
 - i. the conviction of felony or misdemeanor or plea of nolo contendere to a crime,
 - ii. the conviction of any felony or misdemeanor involving moral turpitude,
 - iii. the willful or persistent material breach of duties or inattention to duties,
 - iv. a violation of statute or law constituting misconduct in office, or
 - v. willful misconduct.
- g. The District shall not be obligated to pay Employee any severance amount under this Agreement if Employee voluntarily retires or resigns in writing prior to termination, or if

employee is terminated at expiration of this agreement. In the event Employee voluntarily retires or resigns, Employee shall provide advance written notice to the District of at least thirty (30) calendar days.

h. This Agreement shall be immediately terminated upon Employee's death or legal incapacity by operation of Labor Code section 2920.

8. **Indemnification and Defense.**

District shall indemnify, defend, and hold Employee harmless from and against all demands, claims, suits, actions, and legal proceedings brought against Employee and arising out of events within the scope of Employee's employment and performance of professional duties as District Counsel, except to the extent that Employee's actions are the result of gross negligence or willful misconduct. Employee shall cooperate in good faith with the District with respect to defense of such claims, demands, or legal actions.

9. **Abuse of Office.**

Any salary provided Employee during an investigation shall be fully reimbursed if the Employee is convicted of a crime involving an abuse of her office or position, as set forth in Government Code sections 53243 and 53243.4, resulting from the investigation. Any funds for the legal criminal defense of the Employee provided by the District shall be fully reimbursed to the District if the Employee is convicted of an abuse of her office or position, as set forth in Government Code sections 53243.1 and 53243.4. Further, regardless of the term of this Agreement, if this Agreement is terminated, any cash settlement or severance related to the termination that the Employee receives from the District shall be fully reimbursed to the District if the Employee is convicted of a crime involving an abuse of her office or position, as set forth in Government Code sections 53243.2 and 53243.4.

10. **Severability.**

If any term of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the District and Employee, the remainder of this Agreement shall remain in full force and effect unless the term or terms held to be illegal or void are wholly inseparable from the remaining provisions of the Agreement.

11. **Governing Law.**

This Agreement shall be governed by the laws of the State of California.

12. **Counterparts.**

This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

13. **Entire Agreement.**

This Agreement is the entire agreement between the parties regarding District's employment of Employee and supersedes all prior oral or written understandings. This Agreement cannot be modified except by a written amendment signed by both Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement which shall be effective upon the commencement date specified in Section 1 herein.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

John Bauters, Chairperson
Board of Directors

EMPLOYEE

Alexander Crockett

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Members of the Board of Directors

From: John Bauters
Board Chairperson

Date: May 18, 2022

Re: Consider Approving the Interim Executive Officer's Employment Agreement

RECOMMENDED ACTION

The Board of Directors will consider the attached Interim Executive Officer's employment contract and authorized labor negotiations in closed session. In the event there is a recommended action to execute the Executive Officer's employment agreement, the candidate's name will be announced at this meeting with a summary of the recommended salary and compensation, and the contract will be approved by the Board pursuant to this agenda item and the Board of Directors will authorize the Chair to execute this amendment.

BACKGROUND

None.

DISCUSSION

Bay Area Air District Outside Counsel, Sloan, Sakai, Yeung & Wong, LLP, has prepared the proposed contract.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

John Bauters
Board Chairperson

Prepared by: John Chiladakis

ATTACHMENTS:

1. Agenda Item 18 Attachment 2022-05-12 Employment Agreement- BAAQMD Interim Executive Officer

EMPLOYMENT AGREEMENT

Interim Executive Officer

This Employment Agreement (“Agreement”) is made and entered into on this 19th day of May 2022, by and between the **Bay Area Air Quality Management District** (the “District”) and **Employee** (“Employee”) for services to be performed by Employee in the position of Interim Executive Officer. District and Employee are collectively hereinafter referred to as “Parties.”

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the Parties agree as follows:

1. **Term.**

The District hereby employs Employee as Interim Executive Officer of the District and Employee hereby accepts employment for a period of nine (9) months commencing on May 23, 2022, and ending on February 23, 2023, subject to the limitations of this Agreement. The Agreement term may be extended by mutual agreement between the Parties.

2. **Duties.**

Employee shall serve as the Interim Executive Officer of the District and shall carry out their duties in a manner consistent with the District’s operating rules and regulations and all applicable laws. The Interim Executive Officer shall further the purposes and goals of the District and shall be responsible to the District Board of Directors (“Board”) for the implementation of Board policy and for efficient and effective administration of all Board affairs.

Typical duties required of the Interim Executive Officer include:

- To attend all regular meetings of the Board and its committees, or assign an appropriate designee to attend, with the right to take part in discussions, but without the power to vote.
- To develop and direct the policies and procedures for program implementation of the goals and objectives of the Board.
- To recommend to the Board for adoption of such measures and resolutions as may be appropriate to support the duties and obligations of the Interim Executive Officer.
- To prepare and submit to the Board for its consideration and approval the proposed annual budget.
- To support the review of administrative activities and provide responsive recommendations to the Board.

Employee understands and agrees that the duties listed in this section are illustrative only and that the District may add, subtract, or change them in its discretion. Employee shall devote themselves on a full-time basis to fulfillment of their responsibilities and shall devote such time as may be reasonably necessary for satisfactory performance of their obligations under this Agreement. Employee shall undertake no other professional employment during the term of this Agreement.

3. Confidentiality

Employee agrees that all files, notes, documents, data, specifications, correspondence, drawings, reports and other material prepared by or furnished to Employee in connection with their District employment shall be and remain the sole and exclusive property of the District. Employee acknowledges and agrees to maintain the District's confidences during and after the termination of this Agreement.

4. Compensation and Benefits.

a. Salary

For services rendered pursuant to this Agreement the District shall pay Employee an annual base salary of \$324,000. Said salary shall be paid on the dates and in the manner consistent with the payroll procedures of the District.

b. Fringe Benefits

Except as otherwise provided in this Agreement, and excepting an automobile allowance not to be included, Employee shall receive such employee benefits, for example, pension, health, and vacation benefits, as are payable to that class of District employees designated non-represented District Executive Staff.

c. Income Tax Liabilities

Employee shall be responsible for all income tax liability assessed under law on account of their Compensation under this Agreement.

5. Goals.

Employee shall develop statement of goals and objectives and a progress report for the Board and shall present such goals at a regularly called meeting of the Board to be selected each year by the Board Chair in coordination with the Executive Officer.

6. Termination

- a. Employee's tenure as Interim Executive Officer under this agreement is limited to the contractual term of nine (9) months and Employee's employment as Interim Executive Officer will terminate on February 23, 2023, unless the Parties agree to extend the term of this agreement on or before that date. Moreover, due to the duties of the position and nature of the services provided by Employee to District, the Employee serves at-will at the pleasure of the Board, and nothing herein shall prevent, limit, or otherwise interfere with the right of the Board to terminate Employee with or without cause. Employee shall have no right to a termination hearing; However, the District will not reasonably deny Employee the opportunity to resign in lieu of termination.
- b. This Agreement shall be immediately terminated upon Employee's death or legal incapacity by operation of Labor Code section 2920.

- c. In the event Employee voluntarily retires or resigns, Employee shall provide advance written notice to the District of at least thirty (30) calendar days.

7. **Indemnification and Defense.**

District shall indemnify, defend, and hold Employee harmless from and against all demands, claims, suits, actions, and legal proceedings brought against Employee and arising out of events within the scope of Employee's employment and performance of professional duties as Interim Executive Officer, except to the extent that Employee's actions are the result of gross negligence or willful misconduct. Employee shall cooperate in good faith with the District with respect to defense of such claims, demands, or legal actions.

8. **Abuse of Office.**

Any salary provided Employee pending an investigation shall be fully reimbursed if the Employee is convicted of a crime involving an abuse of their office or position, as set forth in Government Code sections 53243 and 53243.4. Any funds for the legal criminal defense of the Employee provided by the District shall be fully reimbursed to the District if the Employee is convicted of an abuse of their office or position, as set forth in Government Code sections 53243.1 and 53243.4.

9. **Severability.**

In the event that any term of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the District and Employee, the remainder of this Agreement shall remain in full force and effect unless the term or terms held to be illegal or void are wholly inseparable from the remaining provisions of the Agreement.

10. **Governing Law.**

This Agreement shall be governed by the laws of the State of California.

11. **Counterparts.**

This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

12. **Entire Agreement.**

This Agreement is the entire agreement between the parties regarding District's employment of Employee and supersedes all prior oral or written understandings. This Agreement cannot be modified except by a written amendment signed by both Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement which shall be effective upon the commencement date specified in Section 1 herein.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

John Bauters, Board Chairperson

EMPLOYEE
