



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

**BOARD OF DIRECTORS  
MEETING  
February 1, 2023**

**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: 835 3556 1113**

- **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, FEBRUARY 1, 2023

9:00 AM

Chairperson, John J. 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](http://www.baaqmd.gov/bodagendas) at the time of the meeting. Closed captioning may contain errors and omissions and are not certified for their content or form.*

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

4. **Special Orders of the Day**

*The Board of Directors will recognize Black History Month.*

**CONSENT CALENDAR (Items 5 - 9)**

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

*The Board of Directors will consider approving a resolution authorizing Air District Board and Committee meetings using remote teleconferencing through February 28, 2023.*

6. Board Communications Received from January 25, 2023 through January 31, 2023

*A copy of communications directed to the Board of Directors received by the Air District from January 25, 2023 through January 31, 2023, if any, will be distributed to the Board Members by way of email.*

7. Notice of Proposed Amendments to Section 4.9 and Section 6 of Division I of the Administrative Code Regarding (i) Creation of a New Finance & Administration Committee and (ii) Time Limits for Public Comment

*The Board of Directors will receive notice that it will consider at its next regular meeting revisions to Section 4.9 and Section 6 of Division I of the Administrative Code to (i) combine the existing Administration Committee and Budget & Finance Committee into a new Finance & Administration Committee, and (ii) revise the Administrative Code provision on time limits for public comment.*

8. Authorization to Amend Legal Services Agreement with Shute Mihaly & Weinberger

*The Board of Directors will consider authorizing the Interim Executive Officer/APCO to execute an amendment to the existing "Framework Agreement" with Shute Mihaly & Weinberger LLP (SMW), Contract No. 2022.259, which the Air District entered into on March 8, 2022, for representation and legal advice on an as-requested basis regarding the California Environmental Quality Act (CEQA) and related issues. The proposed amendment would clarify that the Framework Agreement (Contract No. 2022.259) has a fee cap of \$30,000. [This \$30,000 authorized under the Framework Agreement is in addition to another existing contract with SMW for representation in the ongoing litigation regarding Regulation 6-5 (Contract No. 2022.198) in an amount not to exceed \$450,000.] Taking into consideration the fee cap related to each contract as noted above, the total amount shall not exceed \$480,000.*

9. Report of the Community Advisory Council meeting of January 19, 2023

*The Board of Directors will receive a report of the Community Advisory Council meeting of January 19, 2023.*

## **OTHER BUSINESS**

10. 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 five minutes each to address the Board.*

11. 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)*

12. Report of the Interim Executive Officer/APCO

13. Chairperson's Report

14. Time and Place of Next Meeting

*Wednesday, February 15, 2023, at 9:00 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).*

15. Adjournment

*The Board meeting shall be adjourned by the Board Chair.*

**CONTACT:**

**MANAGER, EXECUTIVE OPERATIONS**  
**375 BEALE STREET, SAN FRANCISCO, CA 94105**  
[yjohnson@baaqmd.gov](mailto:yjohnson@baaqmd.gov)

**(415) 749-4941**  
**FAX: (415) 928-8560**  
**BAAQMD homepage:**  
[www.baaqmd.gov](http://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](http://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 [spesapati@baaqmd.gov](mailto:spesapati@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

#### JANUARY 2023

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Advisory Council Meeting	Monday	30	8:30 a.m.	Webcast only pursuant to Assembly Bill 361
Path to Clean Air Community Emissions Reduction Plan Steering Committee	Monday	30	5:30 p.m.	Webcast only pursuant to Assembly Bill 361

#### FEBRUARY 2023

<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.	Webcast only pursuant to Assembly Bill 361
Board of Directors Administration Committee - CANCELLED	Wednesday	1	12:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Budget and Finance Committee	Wednesday	1	1:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Stationary Source and Climate Impacts Committee	Wednesday	8	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee - CANCELLED	Wednesday	8	1:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Meeting	Wednesday	15	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Community Equity, Health and Justice Committee	Wednesday	15	1:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Legislative Committee	Wednesday	15	3:30 p.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

JMB 1/25/2023 – 10:30 a.m.

G/Board/Executive Office/Moncal

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

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

From: Sharon L. Landers  
Interim Executive Officer/APCO

Date: February 1, 2023

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

RECOMMENDED ACTION

Consider approving a resolution reauthorizing Air District Board and Committee meetings using remote teleconferencing through February 28, 2023.

BACKGROUND

AB 361 (R. Rivas 2021) (Open meetings: state and local agencies: teleconferences) allows the Board of Directors, Board committees, and other legislative bodies of the Air District to conduct public meetings using teleconferencing without complying with certain requirements imposed by the Ralph M. Brown Act during the COVID-19 state of emergency proclaimed by Governor Newsom. On January 25, 2023, the Board of Directors adopted Resolution No. 2023-01 authorizing such meetings under AB 361. AB 361 requires the Board to reconsider the state of emergency and adopt further resolutions every 30 days in order to continue conducting such meetings.

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 pandemic. The Governor's executive orders allowed public agencies to meet remotely without requiring physical public access to each board member's remote meeting location. Those executive orders expired on September 30, 2021. AB 361 provides additional flexibility for local agencies looking to meet remotely during a proclaimed state of emergency. Agencies are required to consider and vote on this flexibility every 30 days in order to continue this practice under AB 361.

In order to continue conducting remote meetings without complying with all of the Brown Act's public accessibility requirements while the state of emergency remains active, or while state or local officials have imposed or recommended measures to promote social distancing, the Board of Directors must make the following findings by majority vote:

(A) That the Board has reconsidered the circumstances of the state of emergency; and

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

The circumstances set forth in (B)(ii) are present here, and upon reconsideration of the circumstances of the state of emergency, the Board has grounds to make the requisite AB 361 findings. Public officials continue to impose or recommend measures to promote social distancing, including but not limited to the public health officers of Sonoma and Contra Costa Counties, who reaffirmed on October 28, 2022, and January 5, 2023, respectively, that they recommend and encourage public agencies such as the Air District to practice social distancing and meet remotely to the extent possible. These public health officers made these recommendations because remote meetings present the lowest risk of COVID-19 transmission, among other reasons.

Staff therefore recommend adopting the attached resolution to authorize continued remote meetings under AB 361. Note that the proposed resolution also authorizes hybrid meetings, to the extent they may be appropriate. Hybrid meetings are those where Board and/or Committee members who feel comfortable attending in person can do so, while others who may find the health risks from in-person attendance unreasonably high can participate remotely. Hybrid meetings may be appropriate to the extent the Board finds that the COVID-19 public health emergency has abated sufficiently to allow some members of the Air District's legislative bodies to participate safely in in-person meetings, but the pandemic continues to present imminent risks to the health or safety of other members, including but not limited to those who may have weakened immune systems, those who may have reasons preventing them from being vaccinated, and those who may live in a household in close proximity with such persons. In such cases, a hybrid meeting may be appropriate to allow those members who can participate in person to do so, while still preserving the option for other members who do not feel comfortable doing so to participate remotely.

Governor Newsom has determined that the state of emergency will be terminated as of February 28, 2023. Once the state of emergency ends, AB 361 will no longer authorize remote meetings. The proposed resolution therefore specifies that remote meetings are authorized only until February 28, 2023.

#### BUDGET CONSIDERATION/FINANCIAL IMPACT

None.



Respectfully submitted,

Sharon L. Landers  
Interim Executive Officer/APCO

Prepared by: Alexander G. Crockett

ATTACHMENTS:

1. Draft AB 361 Subsequent Resolution February 1, 2023

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**RESOLUTION NO. 2023-**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT AUTHORIZING  
CONTINUED REMOTE TELECONFERENCE MEETINGS FOR THE PERIOD  
FEBRUARY 1, 2023 THROUGH FEBRUARY 28, 2023**

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

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

WHEREAS, beginning in 2020, the COVID-19 pandemic gave rise to significant health risks that made it unduly risky for the Air District's legislative bodies to hold in-person public meetings; and

WHEREAS, the Brown Act authorizes remote teleconferencing participation in meetings by members of a legislative body, but as of the beginning of the pandemic, it included certain restrictions in Government Code section 54953(b)(3) that made fully remote meetings impractical; and

WHEREAS, in response to this situation, and in order to facilitate remote meetings to promote public health and allow for social distancing during the COVID-19 pandemic, the Legislature enacted AB 361 (Rivas), which (among other things) created Government Code section 54953(e); and

WHEREAS, 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, on January 25, 2023, the Board of Directors adopted Resolution No. 2023-01, finding that the requisite conditions exist for the legislative bodies of the Air District to conduct remote teleconference meetings without compliance with Government Code section 54953(b)(3), including that there was and is a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, as a condition of continuing the use of the provisions found in section 54953(e) after adopting Resolution No. 2023-01 on January 25, 2023, at least every 30 days thereafter, 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, 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, state and local officials continue to impose or recommend measures to promote social distancing, including but not limited to the including but not limited to the public health officers of Sonoma and Contra Costa Counties, who reaffirmed on October 28, 2022, and January 5, 2023, respectively, that they recommend and encourage public agencies such as the Air District to practice social distancing and meet remotely to the extent possible; and

WHEREAS, the Sonoma County and Contra Costa County public health officers made these recommendations because remote meetings present the lowest risk of COVID-19 transmission, among other reasons;

WHEREAS, as a consequence of the local emergency persisting and the continued recommendation by public officials for measures to promote social distancing, the Board of Directors does hereby find that the legislative bodies of the Air 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 Air 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 Air 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 finds that the state of emergency related to COVID-19 in the District remains active and that measures to promote social distancing have been ordered or recommended by public health authorities.

Section 3. Re-ratification of Governor's Proclamation of a State of Emergency. The Board of Directors 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 Air 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. Consideration of Hybrid Meetings: The Board of Directors hereby finds that although the COVID-19 public health emergency has abated somewhat, and that it may now be appropriate in certain circumstances for some members of the Air District’s legislative bodies to participate safely in in-person meetings, the public health emergency continues to present imminent risks to the health or safety of other members, including but not limited to those who may have weakened immune systems, those who may have reasons preventing them from being vaccinated, and those who may live in a household in close proximity with such persons, such that the Air District’s legislative bodies have a need to hold hybrid and/or fully-remote meetings, as appropriate, to protect the health of the members of the legislative bodies, Air District staff, and the public.

Section 6. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the end of the day on February 28, 2023.

The foregoing resolution was duly and 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 1st day of February, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
John J. Bauters  
Chair of the Board of Directors

\_\_\_\_\_  
Lynda Hopkins  
Secretary of the Board of Directors

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Memorandum

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

From: Sharon L. Landers  
Interim Executive Officer/APCO

Date: February 1, 2023

Re: Board Communications Received from January 25, 2023 through January 31, 2023

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from January 25, 2023 through January 31, 2023 , if any, will be distributed to the Board members by way of email.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers  
Interim Executive Officer/APCO

Prepared by: Marjorie Villanueva

Reviewed by: Vanessa Johnson

ATTACHMENTS:

None

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson John J. Bauters and Members  
of the Administration Committee

From: Sharon L. Landers  
Interim Executive Officer/APCO

Date: February 1, 2023

Re: Notice of Proposed Amendments to Section 4.9 and Section 6 of Division I of the  
Administrative Code Regarding (i) Creation of a New Finance & Administration  
Committee and (ii) Time Limits for Public Comment

RECOMMENDED ACTION

The Board of Directors will receive notice that it will consider at its next regular meeting revisions to Section 4.9 and Section 6 of Division I of the Administrative Code to (i) combine the existing Administration Committee and Budget & Finance Committee into a new Finance & Administration Committee, and (ii) revise the Administrative Code provision on time limits for public comment.

BACKGROUND

The standing committees of the Board of Directors are provided for under Section 6 of Division I of the Administrative Code. There are currently six standing committees: Administration, Legislative, Mobile Source and Climate Impacts, Community Equity Health & Justice, Stationary Source and Climate Impacts, and Budget & Finance. In the past, the functions of the Budget & Finance Committee have at times been consolidated within the Administration Committee. The Administrative Code was amended most recently with respect to this issue on February 16, 2022, when the Budget & Finance Committee was re-established as a separate, stand-alone committee.

Section 4.9 of Division I of the Administrative Code sets forth time limits for public comment. Section 4.9 currently states that members of the public who wish to address the Board on non-agenda items shall have a limit of five minutes each and shall address the Board under a time reserved for “public presentation,” and that members of the public who wish to speak on agenda items shall have a limit of three minutes each.

DISCUSSION

Staff recommend consolidating the functions of the Administration Committee and Budget & Finance Committee into a new Finance & Administration Committee. The recent management audit revealed a need for greater attention to staffing levels, the capacity and work of the agency,

and strategic and long-term planning to meet the Board's goals and needs. Combining the work of the current Administration and Budget & Finance committees will allow for a concentrated focus on these policy, staffing and fiscal needs in a single, holistic committee. Doing so will provide for greater connectivity between the Air District's staff, personnel and management decisions and the agency's budget and finance considerations.

In addition, consolidating these committees will help integrate staff work and will save time, reduce bureaucracy, and improve overall agency efficiency. It will also reduce barriers to public participation by putting these related issues into one space for public engagement.

Combining these committees will also help enhance Board participation in committee work. Board member availability for multiple committees and filling committee vacancies has been challenging in the past few years. Conducting the Air District's business through fewer committees and fewer committee meetings will make it easier to fill out committee rosters by reducing the total number of committee seats that need to be filled.

Staff also recommend revising Section 4.9, regarding time limits for public comment. The current language of Section 4.9, which states that members of the public are allowed five minutes to comment on non-agenda items and three minutes to comment on agenda items, does not comport with the Board's current practice. Moreover, it is not sound policy to specify a set time limit to apply in all situations. Depending on the meeting and the topic, it may be prudent to allow more time or less time for public comment. A better approach would be to provide flexibility to allow the Director chairing the meeting (i.e., Board Chairperson, Committee Chairperson, or other Director standing in for the Board or Committee Chairperson) to establish the appropriate time limits for each item. Staff propose revising Section 4.9 to create such a flexible approach.

All of these recommended revisions are shown in the attached redline version of Section 4.9 (on time limits for public comment) and the relevant portions of Section 6 (on Board committees). A clean version showing what the proposed amendments would look like in final form is also attached.

The Administration Committee considered staff's proposal at its December 21, 2022, meeting, and voted to recommend to the Board of Directors that the Board adopt these proposed revisions. Per Division I, Section 14.1 of the Administrative Code, notice must be provided at a Board of Directors regular meeting before the Board may adopt any amendments to the Administrative Code. The Board will receive notice at today's meeting, and will then consider adopting the proposed amendments at its next meeting on February 15, 2023.

#### BUDGET CONSIDERATION/FINANCIAL IMPACT

None. If the Board adopts the proposed amendments, there would likely be a small cost savings by eliminating some committee meetings as a result of combining the Administration and Budget & Finance committees.



Respectfully submitted,

Sharon L. Landers  
Interim Executive Officer/APCO

Prepared by: Alexander Crockett  
Reviewed by: Sharon Landers

ATTACHMENTS:

1. DRAFT Admin Code revision to combine Administration and B&F Committees - Dec 21  
Admin Committee meeting - Redline Version
2. DRAFT Admin Code revision to combine Administration and B&F Committees - Dec 21  
Admin Committee meeting - Clean Version

# Proposed Amendments to the Administrative Code - Redline

## SECTION 4 BOARD OF DIRECTORS, CONDUCT OF BUSINESS

### 4.9 PRESENTATION TIME LIMITS. (Revised 4/\_/5/202306)

~~Time limits for P~~persons addressing the Board ~~or a Board committee at a public meeting shall limit their remarks as follows:~~be established for each item on the meeting's agenda (including public comment on non-agenda matters) by the Director chairing the meeting.

- ~~(a) — Persons wishing to speak on items not on the agenda may do so under a time reserved for "public presentation" and shall be limited to five minutes for any single item. Although the Board may refer any issues raised by these speakers to District staff for review, no action may be taken by the Board on these items until they are agendized.~~
- ~~(b) — Persons speaking on agendized items shall be limited to three minutes or at the discretion of the Chair.~~

## SECTION 6 BOARD OF DIRECTORS, COMMITTEES

### 6.1 SPECIAL COMMITTEES.

All special committees shall be appointed by the Chairperson, unless otherwise directed by the Board.

### 6.2 STANDING COMMITTEES. (REVISED 2/16/22)

Standing Committees of the Board of Directors shall be the following:

- (1) Finance and Administration Committee, consisting of the Chairperson of the Board, who shall be Chairperson of the Committee, the Vice-Chairperson of the Board, the Board Secretary, the last past Chairperson, and up to seven (7) other Directors appointed by the Chairperson.
- (2) Legislative Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.
- (3) Mobile Source and Climate Impacts Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.
- (4) Community Equity Health and Justice Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.
- (5) Stationary Source and Climate Impacts Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.
- ~~(6) Budget and Finance Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.~~
- ~~(7)~~(6) The Chairperson shall be an ex-officio member of all Standing Committees of the Board of Directors.
- ~~(8)~~(7) Each Standing Committee shall have authority to make recommendations to the Board of Directors for action regarding matters within the scope of the Committee's jurisdiction. A standing committee may discuss but may not make recommendations to the Board of Directors regarding issues outside of its jurisdiction and shall refer such matters to the appropriate committee. Except as specified in this Division or as otherwise specified by the Board of Directors, Standing Committees are not delegated decision-making authority.
- ~~(9)~~(8) In no event shall the number of members, including the Chairperson of the Board, appointed to a Committee, constitute a quorum of the Board of Directors.

### 6.3 ROTATION OF COMMITTEES.

The membership on committees shall ordinarily be rotated among the Counties so as to secure participation in the work of the District by as broad a representation as may be possible.

### 6.4 FINANCE AND ADMINISTRATION COMMITTEE. (REVISED 7/20/22)

The Finance and Administration Committee will consider and recommend policies of the District relating to the administration of the District's programs and activities, including but not limited to such matters of policy affecting the affairs of the District as may arise from time to time when the Board of Directors is not in session, policies regarding finance, procurement, employment, salaries, working conditions, insurance, and the retaining of consultants. The Committee shall not have authority to authorize alter, change or reverse any

~~policy established by the Board of Directors. The Administration Committee shall consult with the officers of the District and, within the scope and limitations of resolutions or other policies adopted by the Board of Directors, shall implement and make more specific the policies and programs of the District and, within such limits determine policies for the officers of the District. The Administration Committee shall not have authority to authorize the expenditure of any moneys otherwise than is appropriated by the budget adopted by the Board of Directors or to alter, change or reverse any policy established by the Board of Directors. (See Section I-6.7)~~

~~The Finance and Administration Committee shall have the responsibility for will overseeing and guiding staff activities relative to short-range and long-range planning regarding the and for receiving short range and long range plan proposals submitted by the District staff, as well as goals and objectives of the District. The Committee will recommend to the Board of Directors ; and for endorsing each year a long-range plan, to be submitted to the Board for its approval, and for its use in reviewing the Budget. In doing so, the Administration Committee should review the goals and objectives and; short- and long-range plans of the California Air Resources Board, to the extent that they are known. The Committee will use the long-range plan approved by the Board of Directors in reviewing and developing the budget each year.~~

~~The Administration Committee may receive and consider staff reports, presentations by staff members or other persons, and any other matter not requiring action by the Board. The Administration Committee shall subsequently report on such matters to the Board at a regular meeting of the Board.~~

~~The Administration Committee will also consider and recommend policies of the District relating to procurement of officers and employees, employment of officers and employees, discharge of officers and employees, salaries and working conditions, and the retaining of consultants. The Administration Committee shall keep itself informed as to the work of the Advisory Council and Hearing Board, to be informed about persons in the community who may be qualified to serve on the Advisory Council and Hearing Board, and to recommend to the Board of Directors selection of such persons whenever vacancies may from time to time occur in the Advisory Council and Hearing Board. The Finance and Administration Committee will assist in the preparation of the annual budget for the District and will present the annual budget with recommendations to the Board of Directors. At Budget review time each year, the Committee will evaluate District goals and objectives and will recommend to the Board of Directors any changes it determines are appropriate. The Committee shall not have authority to authorize the expenditure of any funds not appropriated in the budget adopted by the Board of Directors.~~

~~The Finance and Administration Committee will keep itself informed as to the work of the Advisory Council and Hearing Board, and of persons in the community who may be qualified to serve on the Advisory Council and Hearing Board. The Committee will recommend to the Board of Directors selection of such persons whenever vacancies may from time to time occur on the Advisory Council or Hearing Board.~~

~~The Finance and Administration Committee will consider and recommend updates or revisions to this Code as may from time to time become necessary.~~

~~The Finance and Administration Committee is the successor to, and performs all of the functions of, the Administration Committee, Budget & Finance Committee, Executive Committee and Personnel Committee as those committees existed prior to January 201, 2021-2023. Any function assigned to the Administration Committee, Budget & Finance Committee, Executive Committee or Personnel Committee under this Code shall be performed by the Finance and Administration Committee.~~

**6.5 ~~[Reserved] BUDGET AND FINANCE COMMITTEE. (REVISED 2/16/22)~~**

~~The Budget and Finance Committee will also assist in the preparation of the annual budget for the District and to present the annual budget with recommendations to the District Board of Directors. The Budget and Finance Committee also is responsible for approving administrative policy proposed by the APCO in the area of finance, procurement, insurance and related matters. At Budget review time each year the Committee shall evaluate District goals and objectives and recommend to the Board of Directors any changes, deletions and additions which it determines to be appropriate.~~

**6.6 LEGISLATIVE COMMITTEE.**

The Legislative Committee will consider and recommend legislative proposals for the District and consider and recommend a District position on all proposed legislation affecting the District. The Legislative Committee, in conjunction with District staff and the District Legislative Advocate, will keep itself informed on pending legislative matters and will meet and/or confer with appropriate legislators as necessary.

**6.7 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.

**6.8 MOBILE SOURCE AND CLIMATE IMPACTS COMMITTEE. (Revised 7/7/21)**

The Mobile Source and Climate Impacts Committee will consider and recommend policies and positions of the District relating to transportation planning and funding, on-road and off-road mobile sources, mobile source fuels and equity for impacted communities related to these sectors. The Committee will keep itself informed on actions or proposed actions by local, regional, state and federal agencies affecting air pollutant emissions from mobile sources.

The Committee will also consider and recommend to the Board of Directors policies and positions of the District relating to climate protection activities and climate equity for impacted communities relative to mobile sources. The Committee will keep itself informed on actions and proposed actions by local, regional, state, federal, and international agencies and organizations relating to climate protection relative to mobile sources.

**6.9 COMMUNITY EQUITY HEALTH AND JUSTICE COMMITTEE. (Revised 7/7/21)**

The Community Equity Health and Justice Committee will advise the Board of Directors regarding equitable and inclusive actions the Air District takes to create a healthy breathing environment for all people of the Bay Area, regardless of race, ethnicity, age, gender identity, national origin, immigration status, ability or sexual orientation. The Committee will oversee staff efforts in developing policies for both internal and external operations, which impact the Bay Area. Internal operations include applying an equity lens to programs, policies, practices and procedures related to staffing, recruitment, promotions, inclusive practices in the workplace, contracting for capital projects and services, and continuous racial equity training. External operations include addressing disparities by applying an equity lens to Air District programs, policies, practices, and procedures. The Committee will prioritize traditionally

marginalized and disinvested communities for investment opportunities to ensure communities highly impacted by air pollution receive program and policy prioritization.

The Committee will also recommend to the Board of Directors overall direction of the District's public engagement programs. In addition, the Committee hears proposals and makes recommendations to the Board of Directors regarding the selection of a contractor(s) to assist the District with aspects of the public engagement programs.

**6.10 STATIONARY SOURCE AND CLIMATE IMPACTS COMMITTEE.**

The Stationary Source and Climate Impacts Committee will consider and recommend policies to the Board of Directors relating to stationary sources. The Committee shall recommend positions to the Board of Directors on stationary source policy issues affecting the implementation of the State and Federal Air Quality Management Plans and key planning policy issues such as federal and State Air Quality Management Plan development and air quality and economic modeling. The Committee shall review and make recommendations to the Board of Directors regarding major stationary source programs including: permitting, compliance, small business assistance, toxics, source education, and rule development. The Committee shall recommend to the Board of Directors positions concerning federal and state regulations that affect stationary sources. The Committee shall recommend policies to the Board of Directors for disbursement of supplemental environmental project grants.

The Committee will also consider and recommend to the Board of Directors policies and positions of the District relating to climate protection activities and funding relative to stationary sources. The Committee will keep itself informed on actions and proposed actions by local, regional, state, federal, and international agencies and organizations relating to climate protection relative to stationary sources.

**6.11 QUORUM FOR COMMITTEES. (Revised 12/6/06)**

There is no quorum requirement for a Committee meeting to be held, except that, for the purpose of making a Committee recommendation to the Board of Directors, there is established a quorum of five (5) Committee members.

**6.12 COMMITTEE PROCEDURE. (Revised 12/6/06)**

- (a) Voting. Only members of the Committee shall be allowed to vote on Committee recommendations.
- (b) Minority Report. Any Committee member can submit a Minority Report to accompany the Committee recommendation submitted to the Board of Directors, but may not use District staff to prepare such report.

# Proposed Amendments to the Administrative Code - Redline

## SECTION 4 BOARD OF DIRECTORS, CONDUCT OF BUSINESS

### 4.9 PRESENTATION TIME LIMITS. (Revised \_\_/\_\_/2023)

Time limits for persons addressing the Board or a Board committee at a public meeting shall be established for each item on the meeting's agenda (including public comment on non-agenda matters) by the Director chairing the meeting.

**SECTION 6 BOARD OF DIRECTORS, COMMITTEES**

**6.1 SPECIAL COMMITTEES.**

All special committees shall be appointed by the Chairperson, unless otherwise directed by the Board.

**6.2 STANDING COMMITTEES. (REVISED 2/16/22)**

Standing Committees of the Board of Directors shall be the following:

- (1) Finance and Administration Committee, consisting of the Chairperson of the Board, who shall be Chairperson of the Committee, the Vice-Chairperson of the Board, the Board Secretary, the last past Chairperson, and up to seven (7) other Directors appointed by the Chairperson.
- (2) Legislative Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.
- (3) Mobile Source and Climate Impacts Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.
- (4) Community Equity Health and Justice Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.
- (5) Stationary Source and Climate Impacts Committee, consisting of up to eleven (11) Directors appointed by the Chairperson.
- (6) The Chairperson shall be an ex-officio member of all Standing Committees of the Board of Directors.
- (7) Each Standing Committee shall have authority to make recommendations to the Board of Directors for action regarding matters within the scope of the Committee’s jurisdiction. A standing committee may discuss but may not make recommendations to the Board of Directors regarding issues outside of its jurisdiction and shall refer such matters to the appropriate committee. Except as specified in this Division or as otherwise specified by the Board of Directors, Standing Committees are not delegated decision-making authority.
- (8) In no event shall the number of members, including the Chairperson of the Board, appointed to a Committee, constitute a quorum of the Board of Directors.

**6.3 ROTATION OF COMMITTEES.**

The membership on committees shall ordinarily be rotated among the Counties so as to secure participation in the work of the District by as broad a representation as may be possible.

**6.4 FINANCE AND ADMINISTRATION COMMITTEE.**

The Finance and Administration Committee will consider and recommend policies of the District relating to the administration of the District’s programs and activities, including but not limited to policies regarding finance, procurement, employment, salaries, working conditions, insurance, and the retaining of consultants. The Committee shall not have authority to authorize alter, change or reverse any policy established by the Board of Directors.

The Finance and Administration Committee will oversee and guide staff activities relative to short-range and long-range planning regarding the goals and objectives of the District. The Committee will recommend to the Board of Directors each year a long-range plan. In doing so, the Committee should review the goals and objectives and short- and long-range plans of



the California Air Resources Board, to the extent that they are known. The Committee will use the long-range plan approved by the Board of Directors in reviewing and developing the budget each year.

The Finance and Administration Committee will assist in the preparation of the annual budget for the District and will present the annual budget with recommendations to the Board of Directors. At Budget review time each year, the Committee will evaluate District goals and objectives and will recommend to the Board of Directors any changes it determines are appropriate. The Committee shall not have authority to authorize the expenditure of any funds not appropriated in the budget adopted by the Board of Directors.

The Finance and Administration Committee will keep itself informed as to the work of the Advisory Council and Hearing Board, and of persons in the community who may be qualified to serve on the Advisory Council and Hearing Board. The Committee will recommend to the Board of Directors selection of such persons whenever vacancies may from time to time occur on the Advisory Council or Hearing Board.

The Finance and Administration Committee will consider and recommend updates or revisions to this Code as may from time to time become necessary.

The Finance and Administration Committee is the successor to, and performs all of the functions of, the Administration Committee, Budget & Finance Committee, Executive Committee and Personnel Committee as those committees existed prior to January 1, 2023. Any function assigned to the Administration Committee, Budget & Finance Committee, Executive Committee or Personnel Committee under this Code shall be performed by the Finance and Administration Committee.

**6.5 [Reserved]**

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**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## Memorandum

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

From: Sharon L. Landers  
Interim Executive Officer/APCO

Date: February 1, 2023

Re: Authorization to Amend Legal Services Agreement with Shute Mihaly & Weinberger

RECOMMENDED ACTION

Recommend approval of the attached proposed amendment of the March 8, 2022, “Framework Agreement” with Shute Mihaly & Weinberger LLP (Shute Mihaly) to clarify that the Framework Agreement has a fee cap of \$30,000.

BACKGROUND

Shute Mihaly is a public interest law firm of over 40 attorneys that represents public agencies, non-profits, tribes, and community groups on environmental law issues and related matters. It is one of the state’s leading environmental law firms and has extensive experience in defending public agencies (including both the Bay Area and South Coast Air Quality Management Districts) in California Environmental Quality Act (CEQA) litigation and in litigation challenging complex government regulations. It has represented both of these air districts (and many other public agencies) at trial and in the California courts of appeal and Supreme Court, and it has also successfully represented the South Coast District and other public agencies in analogous cases at the U.S. Supreme Court. Notably, Shute Mihaly represented the Air District in the *California Building Industry Association v. Bay Area Air Quality Management District* case, which went to the California Supreme Court, and the firm is currently representing the Air District in the two cases challenging the District’s Regulation 6-5, *Chevron U.S.A Inc. v. Bay Area Air Quality Management District* and *Martinez Refining Co. LLC v. Bay Area Air Quality Management District*. The Air District has found the quality of the firm’s representation in these matters to be first rate. The attorneys in the District Counsel’s office are very familiar with all of the leading law firms in California with expertise in CEQA and related areas of law, and they are not aware of any other firm that would be better suited to provide advice and representation regarding these matters.

On March 8, 2022, the Air District entered into the attached Framework Agreement with Shute Mihaly (Contract No. 2022.259) to retain the firm to provide advice and representation on an as-requested basis regarding matters within the District’s mission for which District requires the firm’s specialized legal expertise. The purpose of the Framework Agreement it to have Shute Mihaly’s services “on call” for situations where a CEQA issue or related question may arise for

which outside legal advice may be required. CEQA is the most wide-ranging of California's environmental laws and it affects virtually everything the Air District does. Given this breadth, complex CEQA issues arise from time to time, and the District needs to have specialized expertise on call in order to obtain expert advice on a timely basis. The Framework Agreement allows the District to obtain such advice when necessary.

The Framework Agreement was also intended to serve as the basis for more substantial representation if a need arises. When the Air District identifies a major project (such as a lawsuit) that requires outside counsel services, if Shute Mihaly is selected as the most appropriate firm to handle the project, the Air District can enter into a matter-specific Legal Services Agreement based on the underlying Framework Agreement. This is what happened with the Regulation 6-5 litigation referenced above. When the Air District decided to retain Shute Mihaly to represent it in that case, it entered into Contract No. 2022.198 to cover that representation. Contract No. 2022.198 was authorized by the Board of Directors on July 6, 2022, for Shute Mihaly to represent the Air District in the Regulation 6-5 in an amount not to exceed \$450,000. This is a separate and independent contract for that specific matter, but it is based on the Framework Agreement.

## DISCUSSION

When the Air District entered into the Framework Agreement on March 8, 2022, the Agreement did not specify any limit on fees. It is likely that this oversight was because the Air District expected fees to be billed under the Framework Agreement to be relatively modest, as the intent was to use the Framework Agreement for occasional, one-off issues on which the District needed advice. For more substantial projects, the intent was that these would be covered by their own separate matter-specific agreements such as the one entered into for the Regulation 6-5 litigation.

The Air District's contracting and procurement procedures require contracts to specify a cost limit, however. This requirement is designed to ensure that the District does not inadvertently spend more than an authorized amount under a contract. Since the current Framework Agreement as entered into in 2022 does not include any cost cap, the District needs to amend the Framework Agreement to specify a limit on fees. Staff are therefore recommending this proposed amendment, which would clarify that Shute Mihaly may not invoice more than \$30,000 in costs and fees under the Framework Agreement.

Contracts for under \$100,000 do not normally require approval by the Board of Directors. Where there are multiple contracts with a single vendor that exceed \$100,000, however, Board approval is required. That is the situation here. As noted above, after the Air District entered into the Framework Agreement (Contract No. 2022.259) in March of 2022, it entered into a subsequent Legal Services Agreement with Shute Mihaly to cover the Regulation 6-5 litigation (Contract No. 2022.198), which is for an amount up to \$450,000. Taking both of these contracts together, the total amount of the Air District's contracts with Shute Mihaly would be \$480,000.

BUDGET CONSIDERATION/FINANCIAL IMPACT

With the proposed amendment, the Framework Agreement will authorize up to \$30,000 in payment for legal services provided by Shute Mihaly. The Legal Division has sufficient funds in its Program 201 Legal Counsel budget to cover this amount. (The \$450,000 authorized for the Regulation 6-5 litigation is covered under the Legal Division's Program 205 Litigation program budget, and is being handled separately under that program.)

Respectfully submitted,

Sharon L. Landers  
Interim Executive Officer/APCO

Prepared by: Alexander Crockett

ATTACHMENTS:

1. BAAQMD and Shute Mihaly Framework Retainer Agreement (signed 3-8-22)
2. BAAQMD Budget Cap for General Framework Retainer Agreement



396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
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ROBERT "PERL" PERLMUTTER  
Attorney  
Perlmutter@smwlaw.com

**ATTORNEY-CLIENT COMMUNICATION  
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March 7, 2022

**Via Electronic Mail Only**

Adan Schwartz  
Acting General Counsel  
Bay Area Air Quality Management District  
375 Beale Street  
San Francisco, CA 94105  
Email: [aschwartz@baaqmd.gov](mailto:aschwartz@baaqmd.gov)

Re: Framework Agreement Regarding Representation

Dear Adan:

This letter sets forth the framework terms under which Shute, Mihaly & Weinberger LLP ("Firm") may provide legal services to the Bay Area Air Quality Management District ("District" or "Client") as described below. If you agree to the terms of this agreement ("Framework Agreement"), please sign a copy of this letter and return it to me at your earliest convenience. Please retain a fully-executed copy for your files.

**1. Legal Services to Be Provided**

District seeks to retain the Firm to represent it on an as requested basis regarding matters within the District's mission for which District desires the Firm's expertise or needs additional assistance. This Framework Agreement will serve as the framework pursuant to which the Firm and District may mutually agree to the Firm's representation of District in a particular matter.

As you and I have discussed, it is possible that the Firm will be unable to represent District with respect to a particular matter due to a potential or actual conflict of interest, workload considerations, or other reasons. Accordingly, in each case, before we

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can represent District with respect to a particular matter, we will need to ensure that we do not have any conflicts of interest and otherwise confirm the Firm’s ability and willingness to take on a matter. This Framework Agreement is not self-executing as to retention of the Firm for individual projects/particular matters for District, and the Firm will not be deemed to represent District on any particular matter unless it has affirmatively agreed to do so. Such agreement may be memorialized in an email or letter confirming this Firm’s representation of District on a particular matter, consistent with the terms of this Framework Agreement. If the Firm declines to represent District with respect to a particular matter, we will promptly notify District.

**2. Legal Fees, Costs and Billing Practices**

The Firm’s hourly billing rates for these services will be as follows:

Partner	\$425
Jr. Partner	\$390
Associate III	\$375
Associate II	\$355
Associate I	\$305
Planner	\$305
Paralegal	\$165
Law Clerk	\$110
Of Counsel	\$425

Fees will be charged in increments of one-tenth of an hour. The Firm will annually increase these billing rates consistent with any annual increase in the Consumer Price Index (October over October time period) for All Urban Consumers (not seasonally adjusted) San Francisco-Oakland-Hayward area (1982-1984 = 100) as published by the Bureau of Labor Statistics, U.S. Department of Labor, rounded to the nearest whole \$1. The Firm will implement the increase each year on January 1<sup>st</sup> beginning in January 2023 or as soon thereafter as the CPI information is published. The Firm may otherwise increase these rates periodically to reflect the advancing experience, capability, and seniority of Firm members as well as general economic factors. If Client declines to pay for the Firm’s services at any increased rates, the Firm will have the right to withdraw as Client’s attorneys.

Client will also reimburse Firm for costs incurred in the course of representation, including filing fees, fees fixed by law or assessed by public agencies,



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messenger and overnight delivery services, postage, photocopying, and charges for electronic legal research. In the event of out of town travel, Client agrees to pay all transportation costs, lodging, parking, and meals, as well as the hourly rates for attorney travel time. The Firm will provide detailed monthly billing statements for fees and costs incurred. Client agrees to pay the Firm's billed costs and fees within thirty days following billing.

**3. Authorized Representative of Client**

Client designates Adan Schwartz as the authorized representative to direct the Firm and to be the primary person to communicate with the Firm regarding the subject matter of this Agreement. This designation is intended to establish a clear line of authority and to minimize potential uncertainty, but not to preclude communication between the Firm and other representatives of Client. Unless directed otherwise by Client, all correspondence and bills will be directed to the designated authorized representative.

**4. Conclusion of Services, Discharge, and Withdrawal**

Client may discharge the Firm at any time by providing written notice to the Firm, which is effective upon receipt by the Firm. In the event of such discharge, if the Firm is Client's attorney of record in any proceeding, the Firm will promptly provide Client with a substitution of attorney form. Client will execute and return the substitution of attorney form immediately upon receipt from the Firm.

The Firm may withdraw at any time as permitted under the Rules of Professional Conduct of the State Bar of California. A valid reason for withdrawal by the Firm would include, but not be limited to, Client's consent, Client's breach of this Agreement, Client's failure to pay fees and costs as provided in this Agreement, Client's conduct renders it unreasonably difficult for the Firm to carry out the representation effectively, or any fact or circumstances that would render the Firm's continuing representation unlawful or unethical.

At such time as the Firm's services conclude, all unpaid fees for legal and related services and costs and expenses will immediately become due and payable.

**ATTORNEY-CLIENT COMMUNICATION  
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March 7, 2022  
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**5. Client File**

After the Firm's services conclude, the Firm will, upon Client's request, deliver to Client the file for this matter with the exception of attorney notes, correspondence, or memoranda not previously sent to Client if such material constitute attorney work product. Client agrees to pay copying and delivery costs as well as the reasonable hourly rates associated with locating, preparing, and transmitting the file (whether in paper or electronic form).

If Client does not request the file for this matter at the conclusion of representation, the Firm will retain the file for a period of five years after the matter is closed. If Client does not request delivery of the file for this matter before the end of the five-year period, the Firm will have no further obligation to retain the file and may, at the Firm's discretion, destroy it without further notice to Client.

**6. No Guarantee**

Nothing in this Agreement and nothing in the Firm's statements to Client will be construed as a promise or guarantee about the outcome of this matter. The Firm makes no such promises or guarantees.

**7. Conflicts Waiver and Consent**

Please be advised that our Firm represents public agencies, private organizations, and individuals in a range of matters throughout California and on energy law matters throughout the United States. Accordingly, it is agreed, and you hereby consent, that our attorney-client relationship with you in this matter will not serve as a basis for the Firm's disqualification from representing other clients or parties in any legal proceedings, cases, controversies, or matters, other than those in which we represent you, except if and to the extent absolutely and non-waivably required by the Rules of Professional Conduct.

**8. Electronic Communication Tools and Devices**

In order to maximize efficiency and responsiveness in representing Client and preserve natural resources, we intend to use electronic communications tools and devices (such as email, electronic transfer and storage of documents, cellular telephones, and "smart phones") to a significant extent during our representation. The use of such devices under current technology may place Client's confidential information and

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Page 5

privileges at risk. However, we believe the effectiveness and efficiency involved in use of these devices outweighs the risk of accidental disclosure, malicious access, or corruption or loss. By executing this Agreement, Client acknowledges Client’s consent to the use of these tools and devices without any encryption or other special protections or backups.

**9. Execution of Agreement**

If this Agreement is satisfactory, please execute a copy and return it to me. This Agreement will be effective when it is signed by you. However, this Agreement will apply to any services we may provide in connection with the engagement before the execution date.

The undersigned represents and warrants that it is authorized to execute this Agreement and bind Client to its terms and conditions. The Firm and Client agree that an electronic signature to this Agreement and an electronic copy of this Agreement have the same force and legal effect as an original ink signature transmitted in hard copy (e.g., transmission via email of a .pdf file containing a scanned or digitally applied signature).

We look forward to working with you.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Robert “Perl” Perlmutter

ACCEPTED AND AGREED:

Bay Area Air Quality Management District

DocuSigned by:  
*Adan Schwartz*

150A910F987E4D3...  
Name: Adan Schwartz, Acting General  
Counsel

Date: 3/7/2022

November 11, 2022

**Via Electronic Mail Only**

Alexander Crockett  
District Counsel  
Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, CA 94105  
Email: ACrockett@baaqmd.gov

Re: Budget Cap for Framework Legal Retainer

Dear Sandy:

As we discussed, and pursuant to the March 7, 2022, “Framework Agreement” between Shute, Mihaly & Weinberger LLP (“Firm”) and the Bay Area Air Quality Management District (“District”), this supplemental legal retainer agreement will memorialize that the Firm has agreed to cap its invoices for general matters covered by that Framework Agreement at \$30,000 (“Budget Cap”). The Firm’s total invoices for such general matters will not exceed \$30,000 unless it is authorized to do so in writing by the District.

**1. Legal Services to Be Provided**

The legal services to be provided under the Budget Cap are general matters for which the District has requested legal advice from the Firm that are not covered via a separate supplemental legal retainer agreement. The District and the Firm envision that for matters requiring substantial legal work—including but not limited to litigation—the parties will enter into a separate retainer agreement with its own budget, as they did for the Firm’s ongoing defense of the District in *Chevron U.S.A., Inc. v. Bay Area Air Quality Management District* (Contra Costa Superior Court Case No. N21-1739) and

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Alexander Crockett  
November 11, 2022  
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*Martinez Refining Company LLC. v. Bay Area Air Quality Management District (Contra Costa Superior Court Case No. N21-1568).*

**2. Additional Terms Governed by Framework Agreement**

The additional terms governing the Firm’s representation of the District shall be as set forth in the Framework Agreement, except that Alexander Crockett shall be the District’s authorized representative to direct the Firm and to be the primary person to communicate with the Firm regarding the representation.

If this supplemental agreement (“Agreement”) is satisfactory, please execute a copy and return it to me. This Agreement will be effective when it is signed by you.

We look forward to continue working with you regarding District legal matters.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Robert “Perl” Perlmutter

ACCEPTED AND AGREED:

Bay Area Air Quality Management District

\_\_\_\_\_  
Sharon Landers  
District Interim Executive Officer/APCO

\_\_\_\_\_  
Alexander Crockett  
District Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_

1583311.2

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

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

From: Sharon L. Landers  
Interim Executive Officer/APCO

Date: February 1, 2023

Re: Report of the Community Advisory Council meeting of January 19, 2023

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

The Air District's Community Advisory Council met on January 19, 2023 and approved the Minutes of November 17, 2022. This meeting was conducted under procedures authorized by Assembly Bill 361. Members of the Council participated by teleconference.

The Council then received the staff presentation *Vote on Compensation Policy and Procedures*. The Council voted to recommend approval of the proposed Compensation Policy and Procedures, which formalizes practices to compensate members for their participation in the Community Advisory Council. The Council's recommendation to approve the proposed Compensation Policy and Procedures will be presented to the the Community Equity, Health, and Justice Committee on February 15, 2023, and that Committee will consider recommending approval of the Compensation Policy and Procedures to the Board of Directors.

The Council then received the staff presentation *Selection of a Community Benefit Fund Ad Hoc Committee and Introduction to Participatory Budgeting*. The Council voted to select Council Members for an ad-hoc committee to develop a plan for the Community Benefit Fund for consideration by the Air District Board of Directors. The Community Benefit Fund was created by the Board of Directors in 2021 to provide monetary resources for projects in impacted communities to reduce exposure to air pollution and address public health impacts. Five Council Members were selected for the Community Benefit Fund Ad Hoc Committee, and an additional 5 Council Members are to be considered by the Council Co-Chairs as alternates members of the Ad Hoc Committee (maximum of three selected, for a total of 8 Ad Hoc Committee members.)

Finally, the Council received the presentation *Discuss the Draft Community Advisory Council Charter*, given by Council Member William Goodwin (lead writer). Developed by the Council's Governance Ad Hoc Committee, the draft Charter establishes the purpose, mission and guiding principles of the Council, as well as membership, appointments, meetings, and compensation. Council Members have until February 10, 2023, to provide suggestions to the Governance Ad Hoc Committee by sending edits to staff. An updated version of the Council's proposed Charter will be scheduled for a vote during the Council's March meeting. The Council then will consider recommending the final version of the proposed Charter to the Board of Directors for approval.

The Council then received updates from the Council's Work Plan and Environmental Justice Policy Ad Hoc Committees.

The next meeting of the Community Advisory Council will be held on Thursday, March 16, 2023, at 6:00 p.m., at a location to be determined. This concludes the Summary Report of the Community Advisory Council.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers  
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka  
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Community Advisory Council January 19, 2023 Meeting Memorandums

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Members of the Community Advisory Council

From: Sharon L. Landers  
Interim Executive Officer/APCO

Date: January 19, 2023

Re: Vote on Compensation Policy and Procedures

RECOMMENDED ACTION

Vote to Recommend the Community Advisory Council's Compensation Policy and Procedures to the Air District Board of Directors for Approval.

BACKGROUND

This is an action item for the Community Advisory Council to recommend to the Board of Directors for approval a Compensation Policy and Procedures that formalizes practices to compensate members for their participation in the Community Advisory Council.

DISCUSSION

The Community Advisory Council (CAC) will have the opportunity to discuss and suggest changes to the proposed Compensation Policy and Procedures. The CAC will vote on the proposed Compensation Policy and Procedures. After the CAC votes on the Compensation Policy and Procedures, it will be routed to the Air District Board of Directors for approval. Once approved, the Compensation Policy and Procedures would be effective retroactively to July 1, 2022.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The Compensation Policy and Procedures has implications on the Air District's budget annually. Desired funding levels for the Council will be determined each fiscal year. Funding for the work of the Community Advisory Council is included in the fiscal year ending 2022 and fiscal year ending 2023 budgets. The FYE23 Budget for the Community Advisory Council is \$269,000.



Respectfully submitted,

Sharon L. Landers  
Interim Executive Officer/APCO

Prepared by: Miriam Torres  
Reviewed by: Veronica Eady

ATTACHMENTS:

1. CAC Compensation Policy

COMMUNITY ADVISORY COUNCIL  
MEETING OF 01/19/2023

# Community Advisory Council

## Compensation Policy and Procedures

### About the Community Advisory Council

On November 17, 2021, the Board of Directors approved the formation of the Bay Area Air Quality Management District's (Air District) first Community Advisory Council (CAC). The CAC was created to advise the Air District on community related matters, to advance an equity forward policy agenda, and to provide input on key Air District policies and programs. The CAC consists of 17 members that reflect the diversity of the Bay Area and lived experiences of communities heavily impacted by air pollution. The members of the CAC include environmental justice leaders, physicians, non-profit professionals, students, and individuals with diverse skill sets.

### Overview

The Air District recognizes the importance of supporting community involvement in Air District initiatives and providing financial support to increase equitable representation in agency programs and activities. This compensation policy describes how members of the CAC will get compensated by the Air District for their time related to meetings, and activities of the CAC or the Air District.

### Budget

The Board of Directors wants to empower the CAC as a body of the Board to be impactful and designates funding for the CAC in the Air District's annual budget. The budgeted amount varies from year-to-year based on the availability of funds. The CAC Co-Chairs will work with the Air District Project Lead to request a desired funding level at the end of each year. The Air District's fiscal year is from July 1<sup>st</sup> to June 30<sup>th</sup> every year. The CAC's budget is intended to cover costs related to the operations of the CAC, including but not limited to: stipends, reimbursements, contractors (i.e., language services, facilitation), meeting venues, and other related costs. The Board will review the CAC's funding request and approve an optimal level of funding as part of the annual agency budgeting process. Once the Board approves a budget amount, the CAC Co-Chairs work with the Air District Project Lead to determine budget allocations for the operations of the CAC.

## Compensation Policy

### 1. Stipends

Stipends are determined based on participation in meetings of the full CAC, Ad Hoc Committee meetings, Co-Chairs meetings, other required meetings, and other pre-approved activities.

### 1.1 CAC Meetings

CAC members can receive stipends for participation in meetings of the full CAC, currently occurring every other month (bi-monthly). The Air District will provide a stipend of five hundred dollars (\$500)<sup>1</sup> to travel to and from the meeting, prepare for, participate in, and everything else related to the Bi-monthly CAC meetings. The five-hundred-dollar (\$500) stipend for each CAC meeting is intended to cover time spent during the meeting and to fully prepare and participate in CAC meetings. This shall include any Air District trainings, and educational events hosted by the Air District in advance of a full CAC meeting. Trainings and educational activities made available to CAC members in preparation for CAC meetings are not compensated separately from the CAC stipend. The time preparing for and participating in the meeting is not to exceed 10 hours.

### 1.2 Co-Chairs Meetings, Committee Meetings, and Other Required Meetings

In compliance with the Brown Act, Co-Chairs Meetings and Ad Hoc Committee meetings are held virtually, standing Committee meetings must have quorum in-person, other required meetings (consisting of less than a quorum) may be in-person or virtually. Co-Chairs are compensated at \$75 per hour<sup>2</sup> to attend Co-Chairs meetings. The maximum number of hours per month to attend Co-Chair meetings is 4 hours. The Co-Chairs may attend meetings related to the work of the CAC, beyond the designated 4 hours for Co-Chairs meetings, as requested by the Board or Air District Staff. CAC members of an Ad Hoc Committee or standing Committee will be compensated at \$75 per hour to attend committee meetings and other required meetings related to the work of the CAC. The maximum number of hours per month for participation in each Ad Hoc Committee and Other Required Meetings shall not to exceed 6 hours per member each month. CAC Members will only receive a stipend for time spent in meetings. Members will not receive a stipend for travel time or meeting preparation time.

To receive a stipend for participation members must be present in the meeting as set forth above. Stipends will be pro-rated based on time spent in the meeting. For example, if a member attends only 30 minutes of a one-hour meeting, they will receive only 50% of the hourly rate, or \$37.5.

### 1.3 Other Activities

Every fiscal year, each CAC member can apply for up to \$1,000 in funding to support their participation in events, activities, or services the CAC Co-Chairs and Air District Project Lead agree fulfils the mission of the Air District and purpose of the CAC. For example, the CAC may provide funding to send a CAC Member to a regional conference and the stipend would cover their time to attend conference sessions. Another example may be to pay a member of the CAC for research or work related to the Committees, above and beyond meeting attendance. The stipend is intended to cover pre-approved costs related to the work of the CAC up to \$1,000 and shall be calculated at \$75 per hour for time spent on the proposed activity. It the responsibility of the CAC member to make a request for funding at an appropriate level of funding. Requests should be submitted to the Air District Project Lead thirty (30) days in advance of the proposed activity. When a Co-Chair makes a request, they shall recuse themselves from the approval process and the decision to approve the funding request will be made by the other Co-Chairs. When the

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<sup>1</sup> Stipend is in alignment with the stipend the California Air Resources Board (CARB) provides to the Environmental Justice Advisory Committee.

<sup>2</sup> The Air District uses as a guide the living wage<sup>2</sup> in San Francisco, California for a household of three<sup>2</sup> (\$75/hour at the time of this publication) to determine an equitable community stipend amount.

CAC only has one Chair, and they make a request for funding, it must be approved by the full body of the CAC. Neither the CAC nor the Air District will be responsible for covering costs beyond the member's estimated expenses and up to a maximum of \$1,000. CAC Members must file a reimbursement for the approved \$1,000 stipend within the applicable fiscal year and are not eligible for additional funding from the "other activities" category until the next fiscal year. Unused funding will not rollover to the next fiscal year. This funding is only available to the CAC during the first 9 months of the fiscal year or until the amount budgeted in the CAC's Board-approved budget is exhausted, whichever comes first. The CAC Co-Chairs reserve the right to reallocate unused funding from this budget item after 9 months for any purpose related to the operations of the CAC.

## **2. Expense Reimbursement**

Members of the CAC shall be reimbursed for actual and necessary expenses incurred by them in attending meetings of the CAC, Committee meetings and other pre-approved activities. Transportation, meals, and other incidental expenses will be allowed at the same rate as is allowed to Members of the Board of Directors as described in sections 2.1-2.3 below.

### **2.1 TRAVEL EXPENSES.**

CAC Members are entitled to receive reimbursement for actual and necessary expenditures incurred in connection with the performance of their official duties for the Air District. The guiding principle of this policy is that travel and expenditures incurred on behalf of the Air District must be in the public interest. This document establishes guidelines for expenditures authorized as business expenditures and business travel expenditures incurred by Air District CAC Members.

#### **a) General Procedures and Responsibilities**

All travel for the Air District CAC Members must be justified business travel (Section j) and must be preapproved in accordance with the CAC's Compensation Policy to be eligible for reimbursement. For all in-state travel, the designated CAC Co-Chair, in agreement with the Air District's Project Lead, may authorize CAC Member travel on behalf of the Air District. For all out-of-state travel, including international travel, the Committee on Equity, Health, and Justice must authorize CAC Member travel on behalf of the Air District prior to travel. In the case of an unexpected or urgent need to travel on Air District business, a CAC Member must obtain in writing the approval of the designated CAC Co-Chair, and agreement from the Air District's Project Lead before any travel related expenditures are incurred. Such approval must be reported to and ratified by the Committee on Equity, Health, and Justice at the committee's next meeting. CAC Members will be reimbursed for all reasonable and necessary expenditures while traveling on authorized agency business. Expenditures should be paid with a personal credit card or cash. Advances are not allowed. A list of non-reimbursable expenditures is included in Section j. Actual receipts are required except where otherwise stated in this Policy. When a CAC Member combines business and personal travel on a business trip, the CAC Member will be responsible for the additional charges related to the personal travel. Only the CAC Member's direct travel expenditures are eligible for reimbursement. The Air District will not provide reimbursement for travel expenditures incurred by a spouse or any other individual traveling with the CAC Member. Requests for reimbursement of expenditures must be submitted on the authorized Air District Expense Reimbursement Form within 30 calendar days

after the conclusion of the trip. Receipts must be provided for all expenditures (other than incidentals that typically do not result in a receipt such as tips). Any reimbursement or payment issued by the Air District which is subsequently refunded to the traveler by a third party must be repaid to the Air District within 30 calendar days of receipt. Only the Executive Director can override and approve specific cost items that would otherwise be ineligible for reimbursement under this Travel and Expenditure Policy, and only when it is in the best interests of the Air District to do so. Any CAC Member reimbursement that requires the waiver of this policy by the Executive Director for approval will be brought back to the Committee on Equity, Health, and Justice for informational purposes. Expenditure reimbursement documents will be audited from time to time and are considered public records subject to disclosure under the California Public Records Act. Any CAC Member authorized to travel on behalf of the Air District pursuant to this section shall provide a brief, written report on their travel on the CAC Member Travel Report Back Form. Any Co-Chair may also request that CAC Members who represent the Air District at meetings, conferences, or other events provide an oral report on their participation and experience to the full CAC at the bi-monthly meeting following the CAC Members' return.

**b) CAC Member Selection for Attendance**

The CAC Chair/Co-Chairs shall nominate for approval by the Committee on Equity, Health, and Justice, CAC Members for out-of-state and international travel to attend conferences, conventions, legislative advocacy trips and other forms of reimbursable travel covered by this policy. In making such nominations, the CAC Chair/Co-Chairs shall solicit the interest of CAC Members and consult with the Executive Director and any other relevant Air District staff to ensure compliance with this policy.

The CAC Chair or Co-Chairs shall have priority to represent the Air District at any event where attendance is limited or capped due to cost or capacity. In considering which other CAC Members may be selected for travel, or who shall represent the Air District, the CAC Chair/Co-Chairs shall consider, at a minimum, all the following:

- The history of attendance and participation by the CAC Member at regular CAC, Co-Chair meetings, and Ad Hoc Committee Meetings (if the CAC Member is a member of an Ad Hoc Committee)
- The length of service on the CAC by a CAC Member
- The prior opportunities to travel and represent the Air District by the CAC Member
- The relevance or appropriateness of the CAC Member's committee assignments to the nature and purpose for the travel
- Opportunities for the professional growth or development of new CAC Members
- The relevance and purpose of a meeting or agenda to the home jurisdiction of the CAC Member
- Equitable considerations that would elevate or include the voices of marginalized members of the Bay Area.

Additionally, the CAC Chair/Co-Chairs shall have the authority to recommend non-CAC Members for inclusion in Air District-related travel. Non-CAC Members must live in an overburdened community within the 9-County Bay Area. The recommended non-CAC member cannot be a family member of any CAC member. In making such a recommendation, the Chair/Co-Chairs

shall demonstrate how and why the recommendation fulfills the mission of the Air District and is consistent with the purpose of the CAC and agency.

**c) Conferences/Conventions**

Registration fees for conferences and conventions are reimbursable for CAC Members if the conference or convention is directly related to the mission of the Air District, and consistent with the purpose of the CAC, the CAC Member is attending as a representative of the Air District and the CAC Member received preapproval from the CAC Chair/Co-Chairs and agreement from relevant Air District staff.

**d) Air Travel**

CAC Members flying on business should make reservations as early as possible to minimize costs. For domestic air travel with a flight duration of four hours or less, airfare should be purchased for coach/economy seats only, at the lowest cost possible which provides a practical flight itinerary and meets the requirements of the trip. First and business class airfare is not a reimbursable expenditure, nor are upgrades from the lowest coach/economy fare to “economy plus” seats (or equivalent), or to first or business class. If a CAC Member purchases a first or business class ticket, he/she will be reimbursed for the lowest available coach/economy fare only. For domestic air travel with a flight duration of more than four hours, as well as for international travel, airfare may be purchased at the “economy plus” fare/seats. First and business class airfare is not a reimbursable expenditure, nor are upgrades to first or business class. If a CAC Member purchases a first or business class ticket, he/she will be reimbursed for the lowest available “economy plus” fare only. CAC Members will be reimbursed for regular baggage fees charged pursuant to applicable airline policy. Excess baggage charges will be reimbursed only when the CAC Member is traveling with heavy or bulky materials or equipment necessary for Air District business.

**e) Hotel Accommodations**

Reimbursement for hotel accommodation while traveling on Air District business is limited to those circumstances where the meeting or activity is expected to last longer than one business day or if there is an emergency that causes the CAC Member stay overnight. When making hotel reservations, CAC Members must use the approved Per Diem Rates for lodging located on the General Services Administration (GSA) website, [www.gsa.gov](http://www.gsa.gov) for the location of the stay plus 25%, to determine the maximum hotel accommodation expenditure that the Air District will reimburse per night, plus any applicable taxes.

CAC Members should use hotels where government rates are available.

Hotels that subscribe to a “green” standard must be utilized where available.

If the hotel stay is in connection with a conference or training activity, the cost should not exceed the maximum group rate published by the conference or activity sponsor. Inquiries should always be made about any special rates or discounts available to the Air District by the hotel, such as governmental rates, to get the best rate possible.

If accommodations are shared with individuals who are not traveling on Air District business, the CAC Member is responsible for the payment of any rate difference between the single occupancy room rate and actual rate incurred.

Resort or facility use fees imposed by the hotel, such as fitness center fees and internet connection fees and business center charges incurred for performing the Air District work, are allowable as reimbursable business-related expenditures.

Hotel self-parking fees are also allowable as reimbursable business-related expenditures, however, the cost of parking at the hotel should be considered when deciding whether to rent a vehicle or use public transportation (see Transportation discussion below). Valet parking fees will not be reimbursed.

**f) Rental Vehicles**

Reimbursement for rental of cars or other vehicles while traveling on Air District business is limited to those circumstances where the need for a vehicle for business purposes is expected to be extensive, or the use of taxi services or public transportation would not be economical or practical. CAC Members who operate vehicles on Air District business must have a valid driver's license and proof of insurance in their possession and must also have a good driving record. In the event a rental vehicle is required, the Air District will reimburse for a "Standard Class" size vehicle or alternative fuel vehicle, except when there are justifiable circumstances, such as group requirements, which make a larger vehicle necessary. The use of alternative fuel vehicles, when available, should be used, even if the cost triggers a surcharge or exceeds the cost of a non-alternative fuel vehicle.

The Air District holds liability insurance to cover third parties in case a CAC Member injures someone or causes property damage to another vehicle while renting a car or driving his/her own personal vehicle while engaging in Air District business. Accordingly, rental car insurance is not an allowable reimbursable expenditure. Rental cars should be returned with a full tank of gas to avoid refueling fees. The cost of gas for rental cars is an allowable expenditure under this policy.

**g) Meals While Traveling**

One-Day Travel – meals are NOT an allowable reimbursable expenditure for one-day travel unless such travel is more than 25 miles one way from either the Bay Area Metro Center, the CAC meeting location, or the CAC Member's personal residence. Multiple-Day Travel – meals will be reimbursed at the lesser of:

- i) Actual reasonable cost (including applicable taxes and reasonable tip), or
- ii) The Per Diem Rates for meals located on the GSA website, [www.gsa.gov](http://www.gsa.gov) for the location of the stay plus 25%. Note that separate rates are provided for Breakfast, Lunch and Dinner. For travel days where a CAC Member has traveled more than 12 hours but less than 24 hours, the Per Diem Rate shall be 75% of the GSA rate for the destination. If the actual cost method is used, an original itemized receipt must be submitted with the expense report form. If meals are provided by an event or conference the cost for which is paid by the Air District, then no separate reimbursement is allowed for that meal. A CAC Member who pays the bill for a meal attended by more than one CAC Member or Air District employee may submit the expenditure with receipt for the combined meal cost, but all attendees' names must be included on the expense report form. Only costs related to CAC Members and Air District employees' meals are eligible for reimbursement. Costs incurred for any other person at such a meal (including applicable taxes and appropriate allocation of any tip) must be deducted from the amount of the requested reimbursement.

CAC Members who claim the allowable Per Diem Rate from the GSA website should print the page for the location of the meeting or conference from the website to attach to their expense report form. In addition, they should retain their actual receipts to

substantiate out-of-pocket expenses in the event of an audit by the State or IRS. Alcoholic beverages are not a reimbursable expenditure. Alcoholic beverages may appear on the itemized receipt for a meal, but the charge (including applicable taxes and appropriate allocation of any tip) must be deducted from the amount of the requested reimbursement.

Entertainment expenditures are not considered reimbursable expenditures. This includes, but is not limited to, meals unrelated to Air District business, movies, shows, etc...

**h) Other Meals**

Expenditures for business meals other than meals during travel, such as meals with other elected officials where Air District business is discussed, must be preapproved by the Executive Director. To obtain reimbursement for such expenditures, the following documentation is required and must be recorded on the expense report form or backup documentation: i. Names of individuals present along with their titles and affiliation, ii. Name and location of where the meal took place, iii. Exact amount and date of the expenditure, and iv. Specific Air District-related topics discussed.

**i) Miscellaneous Travel Expenditures**

Ordinary, reasonable, and necessary miscellaneous expenditures are reimbursable at actual cost when accompanied by itemized receipts and justification for the expenditures including WiFi, phone, fax, and similar expenses.

In-flight phones and WiFi services should be used only in emergency situations.

Tipping – reasonable and customary tipping rates are reimbursable. In the US 15-20% gratuity on meals, up to a \$3 baggage handling gratuity and up to \$5 per day housekeeping gratuity are considered reasonable and are allowable. (Receipts for baggage and housekeeping gratuities are not required for reimbursement.)

Transportation – Fares and expenditures for taxis, shuttles, buses, BART, or other public transportation (including Uber, Lyft or similar services) are reimbursable when incurred for Air District business. Receipts should be obtained whenever possible, but expenditures are still eligible for reimbursement when a receipt is unavailable. If a receipt is not available, a printout from the transportation agency showing the fare must be submitted for reimbursement. For example: a printout from the BART website showing the total fare for the trip taken. CAC Members should apply prudent business judgment in determining the means of transportation to use.

Personal/Private Vehicle Usage – CAC Member's use of a personal/private vehicle is reimbursable at the mileage rate established by the IRS which can be found at [www.irs.gov](http://www.irs.gov).

Details on the date of travel, starting and ending destinations, purpose of travel, miles driven, tolls and parking costs (receipt required when possible) incurred must be provided on the expense report form. A printout from a map website such as Google Maps should be used to determine the total miles driven and must be submitted with the expense report form. CAC Members who operate vehicles on Air District business must have a valid driver's license and proof of insurance in their possession, and a good driving record.

**j) Justified Air District Travel**

Justified Air District travel trips include but are not limited to:



- Attending meetings with local representatives in Sacramento or Washington DC or Sacramento with Air District Staff for legislative advocacy purposes.
- Attending the AWMA Conference as an Air District representative
- Attending other air quality-related conferences as an Air District representative

NOTE: Justified travel is not limited to the list provided above. This list is provided for reference purposes only and includes the most common examples of justified travel. All trips must be preapproved, regardless of whether they are included on this list.

**k) Non-Reimbursable Expenditures**

Non-reimbursable expenditures include but are not limited to:

Airfare upgrades or rental car upgrades

Air phone charges (except in emergencies)

Alcoholic beverages

Business class airfare

Entertainment expenditures

Expenditures incurred by/for spouses or other travel companions

Expenditures related to personal days while on business trip

First class airfare Interest incurred on credit cards

Loss due to theft of cash or personal property

Lost baggage or briefcase Meeting room rentals (when not for Air District business) “No show”

charges for hotel or car service

Optional travel or baggage insurance

Parking or traffic tickets or fines

Personal items

Reading material such as magazines, books and newspapers

Rental car insurance

Valet parking fees

NOTE: Non-reimbursable expenditures are not limited to the list provided above. This list is provided for reference purposes only.

**l) Forms**

The Travel and Expense Reimbursement Forms and Member Travel Report Back Form are kept by the Clerk of the Board.

2.2 CAC MEMBER PER DIEM MEAL EXPENSES. The CAC is authorized to include meals in their expenses, when such expenses occur as a result of attendance at CAC, committee or other authorized functions and provided that receipts are presented as required.

2.3 INCIDENTAL EXPENSES OF CAC MEMBERS. Actual and necessary incidental expenses in attendance at other meetings or on direction of the CAC Chair/Co-Chairs, or Chairperson of the Board, the Committee on Equity, Health, and Justice, or in conference on Air District business with qualified persons, shall be allowed to the member of the CAC.

## Compensation Procedures

### Payments

Stipend payments are processed based on meeting attendance. Air District staff track attendance during CAC meetings, Ad Hoc meetings and all other required meetings or events of the CAC. Air District staff will email each CAC Member an "Expense Report" documenting their attendance and corresponding stipend. CAC Members must return their signed expense forms with receipts **before** the 25<sup>th</sup> of each month. If the signed expense reports are submitted timely, payments will normally be processed within 2-3 weeks. If the signed expense form is received **after** the 25<sup>th</sup>, payment will be delayed by 6-9 weeks. Council Members may receive checks or sign-up for Direct Deposit.

### Requirements

CAC Members are eligible to receive stipends and travel reimbursements with the appropriate documentation. To be eligible, a CAC Member must submit a completed W-9 form (with a Social Security number or IRS Individual Taxpayer Identification Number) to Air District staff. In addition, the CAC members must submit a *Community Advisory Council Compensation Agreement* to acknowledge receipt and understanding of the CAC's Compensation Policy and Procedures.

### Disclaimers

Community Advisory Council Members are not employees of the Air District. Stipends are typically considered taxable income. As stipends are not considered wages, taxes will not be deducted. CAC members who meet certain income thresholds will have to calculate and pay taxes as required by law. In addition, an increase in taxable income could impact social program eligibility. Grievances applicable to any portion of the CAC Compensation Policy and Procedures shall be resolved in accordance with the Air District Administrative Code.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Members of the Community Advisory Council

From: Sharon L. Landers  
Interim Executive Officer/APCO

Date: January 19, 2023

Re: Selection of a Community Benefit Fund Ad Hoc Committee and Introduction to Participatory Budgeting

RECOMMENDED ACTION

Select Council members for an ad hoc committee to develop a plan for the Community Benefit Fund for consideration by the Air District Board of Directors.

BACKGROUND

In early 2021, the Air District Board of Directors created the Community Benefit Fund (CBF) to provide monetary resources for projects in impacted communities to reduce exposure to air pollution and address public health impacts. A total of \$3 million was approved to be community-directed and provide community benefits. The funding source for the initial \$3 million in the Community Benefits Fund is generally unrestricted; however, funds should be used to advance the agency’s mission and benefit overburdened communities. All funded projects should reduce exposure to air pollution and/or address public health impacts, especially in impacted communities. The Board of Directors intended for the Community Advisory Council to develop a plan for consideration regarding the disbursement of the Community Benefits Fund.

Participatory budgeting (PB) is a democratic process that allows community members to directly participate in budget-related decision making. The Participatory Budgeting process can assist the Council in developing a plan for the Community Benefit Fund. However, PB is one option the Community Advisory Council (CAC) can use to disburse the Community Benefit Fund. Specifics regarding eligible projects, project criteria and selection, and funding distribution decisions would need to be defined by the Community Benefit Fund Ad Hoc Committee.

DISCUSSION

The Council will have the opportunity to vote to establish an ad hoc committee to develop a plan for the Community Benefit Fund for consideration by the Board of Directors. The Council will develop a plan for the Community Benefit Fund which would provide monetary resources for projects in impacted communities to reduce exposure to air pollution. The plan should include the criteria and process for the proposed disbursement of the funds. The Community Benefit Fund Ad Hoc Committee is anticipated to convene from April 2023 to October 2023. In

compliance with the Brown Act, the Council will be able to select up to 8 Council members to serve on a CBF ad hoc committee. Further, to assist the Council in developing their CBF plan, staff will introduce the concept of Participatory Budgeting (PB). The standard PB process follows a community decision-making model and empowers the community to make all program-design related decisions. Senior Deputy Executive Officer, Veronica Eady, will present the Community Benefit Fund portion and Public Information Officer, Azibuike Akaba, will introduce Participatory Budgeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. Stipends for the work of the Community Advisory Council members selected to participate in the ad-hoc committee are included in the fiscal year ending 2022 and fiscal year ending 2023 budgets.

Respectfully submitted,

Sharon L. Landers  
Interim Executive Officer/APCO

Prepared by: Miriam Torres  
Reviewed by: Veronica Eady

ATTACHMENTS:

None

COMMUNITY ADVISORY COUNCIL  
MEETING OF 01/19/2023

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Members of the Community Advisory Council

From: Sharon L. Landers  
Interim Executive Officer/APCO

Date: January 19, 2023

Re: Discuss the Draft Community Advisory Council Charter

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

This is an informational item for the Council to discuss the draft Community Advisory Council Charter developed by the Governance Ad Hoc Committee.

DISCUSSION

The Community Advisory Council (CAC) created a Governance Ad Hoc Committee to develop a governance document to guide the Council. The Governance Ad Hoc Committee started meeting on August 31, 2022, and has worked closely with staff to develop the draft Charter over the last four months.

The draft Charter will be discussed during the January 19, 2023 meeting. Council Members will have until February 10, 2023 to provide edits to Air District staff. An updated version of the CAC Charter will be scheduled for a vote during the March CAC Meeting. The CAC Members will consider recommending the final CAC Charter to the Air District Board of Directors for approval.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers  
Interim Executive Officer/APCO

Prepared by: Lisa Flores  
Reviewed by: Veronica Eady

ATTACHMENTS:

1. CAC Draft Charter

COMMUNITY ADVISORY COUNCIL  
MEETING OF 01/19/2023

# Community Advisory Council Charter

*DRAFT*

*January 17, 2023*

## Purpose

The Bay Area Air Quality Management District (Air District) Community Advisory Council (CAC) was established on November 4, 2021 by the Community Equity and Health Justice Committee (CEHJ) of the Air District Board of Directors. On November 17, 2021 the Air District Board of Directors approved the formation of the CAC. The purpose of the CAC is to use Environmental Justice principles to provide guidance to the Board of Directors on programs and policies that impact overburdened communities within the Air District's jurisdiction to ensure the fair treatment of all persons living in those communities. The CAC will use Environmental Justice Principles to identify and inform with the goal to mitigate and/or remedy projected disproportionate impacts of air pollution exposures and to reduce health risks and inequities associated with poor air quality for people who live, work, and play in already vulnerable and historically marginalized [overburdened communities](#). The CAC will aim to meaningfully engage impacted communities to represent and address stakeholders' interests. The CAC advises Air District leadership on community related matters to advance an equity forward policy agenda.

## Definitions:

1. Environmental Justice: The State of California defines ***environmental justice*** as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” California Government Code §65040.12(e).
2. Fair treatment: According to the U.S. Environmental Protection Agency, *fair treatment* means “no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.”<sup>i</sup>
3. Overburdened community: an area located within a census tract identified by the California Communities Environmental Health Screening Tool (CalEnviroScreen), Version 4.0, as having an overall CalEnviroScreen score at or above the 70th percentile, or within 1,000 feet of any such census tract.<sup>ii</sup>
4. Underrepresented community: Underrepresented community describes communities historically and systematically excluded from political and policy-making processes.

5. Meaningfully engage: Meaningfully involving impacted communities is essential to addressing environmental justice. According to the U.S. Environmental Protection Agency, *meaningful involvement* means “(1) potentially affected populations have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health ; (2) the public's contribution can influence the regulatory Agency's decision; (3) the concerns of all participants involved will be considered in the decision-making process; and (4) the rule-writers and decision-makers will seek out and facilitate the involvement of those potentially affected.”<sup>iii</sup>

The CAC will utilize the 17 Principles of Environmental Justice and Jemez Principles for Democratic Organization, which are both available on the Air District website and hereinafter incorporated by reference in Appendix A.

### **Mission Statement**

The Community Advisory Council believes in protecting the fundamental right to clean air for all communities. We aim to provide access to meaningful community engagement and bring community priorities into focus at the Air District. We are committed to democratic decision-making and achieving equitable solutions to the impacts of air pollution and the polluting economy. We prioritize solutions that can be applied to more than one community. We are dedicated to eliminating these threats both upstream and downstream, standing in solidarity, sharing power and resources, and listening to and amplifying voices from communities that are the most impacted and overburdened communities.

### **Goals**

The goals of the CAC are as follows:

- Provide representation on behalf of overburdened communities to the Air District Board of Directors.
- CAC serves as a liaison between the community and the Air District Board of Directors and Air District Staff in influencing Air District Board of Directors' decisions, policies, and procedures, as well as processes to ensure equity, inclusion, civil rights, and environmental justice.



## Guiding Principles

CAC Members will provide independent and objective advice and commit to the following principles:

1. Laying a solid foundation for successful, future CAC Members and ensuring long-term sustainability of the CAC's commitment to Environmental Justice (EJ).
2. Elevating voices and advocating for communities who are not currently being represented or heard.
3. Building a deep, authentic, and mutually accountable relationship within CAC Members.
4. Helping CAC Members value, actualize, and institutionalize EJ principles throughout all CAC practices.
5. Being recognized as partners in the fight to define how we mitigate the impacts of climate change and air pollution exposure to reduce health risks and inequities associated with poor air quality.
6. Using influence, expertise, and privilege to protect our communities.
7. Identifying missing gaps with underrepresented, community-led decision-making, and avenues for well-compensated opportunities for Black, Indigenous, People of Color (BIPOC).
8. Striving to include cultural competence.
9. Acknowledging that one methodology does not address all communities and seeking to address the conditions in each community as needed. Utilizing and applying resources and tools based on those differences.
10. Maintaining impartiality, fairness, and respect for all CAC members and the communities we represent.

**[INSERT CIVILITY LANGUAGE HERE]**

## CAC Leadership

In 2022, the CAC approved a three Co-Chair model. The leadership model may be amended based on the need expressed by the CAC.

### Duties of Leadership

- The CAC Co-Chairs shall preside over Bi-monthly meetings of the CAC in rotation.

- In the event the Co-Chair scheduled to preside over the meeting is absent or unable to perform their duties, the next Co-Chair scheduled to preside next shall preside over the meeting and perform all Chair duties.
- Presiding over a meeting requires a Co-Chair to open, manage, and adjourn meetings, and to adjust the set order of speakers in collaboration with the Facilitator and Air District Staff.
- CAC Leadership shall oversee the preparation and distribution of the agenda and materials for the CAC meetings.
- CAC Leadership shall work with Air District Staff and the CAC meeting Facilitator to plan, structure, and coordinate CAC meetings.
- CAC Leadership shall attend and provide updates to the Air District Board of Directors (as needed and/or requested) and interact with the Air District Board of Directors in representation of overburdened communities within the 9 Bay Area Counties, and on behalf of the CAC Members.
- CAC Leadership shall oversee activities of the Ad Hoc Committees.
- CAC Leadership shall perform all other necessary or incidental duties as prescribed by the CAC Charter.
- The Co-Chairs shall communicate with each other, divide work, and share information/updates in a timely manner.
- CAC Leadership shall address conflict within the CAC membership and leadership.
- CAC Leadership shall ensure CAC decisions are made in a democratic, equitable, and timely manner.
- CAC Leadership shall represent the CAC at the Budget Committee and provide feedback on the Air District's budget.
- CAC Leadership shall work with Air District Staff to define and oversee the CAC's budget annually.
- CAC Leadership shall understand and adhere to the Brown Act and Robert's Rules of Order.

#### Leadership (Co-Chairs) Terms of Office

Leadership shall hold office for two (2) years. When more than two (2) Co-Chairs are selected, the terms of office shall be staggered as set forth below.

#### Terms of Leadership

Two (2) Co-Chairs are appointed for two (2) years in the inaugural term, and one (1) Co-Chair is appointed for one year. In the event that we have three (3) Co-Chairs, names will be randomly chosen to determine which position is in the inaugural term of

two (2) years and which will last one (1) year. The names will be randomly chosen by Air District Staff.

Leadership is appointed for a two (2)-year term and no member may serve for more than two, 2-year terms consecutively.

### Election of Leadership (Co-Chairs)

The inaugural leadership was elected at the 2nd meeting of the CAC. Future leadership will be elected based on the staggered terms described above.

If any Leadership position becomes vacant, that position must be filled within two meetings after the vacancy occurs. The Leadership position shall be filled through a nomination, selection, and voting process. The process will be as follows:

- Members seeking a vacant leadership position shall submit an essay which provides a summary of their background and outlines the reasons they seek the position. The full CAC shall be presented with the essays 72 hours in advance to review them prior to the meeting in which the CAC will vote on each prospective candidate. The candidate receiving the majority of the votes will be selected to fill the vacant Leadership position.

## **CAC Members**

### Composition of the CAC

The Membership of the CAC (including Co-Chairs) shall be composed of seventeen (17) members from overburdened communities, as follows:

- Four (4) Alameda County
- Four (4) Contra Costa
- One (1) San Francisco County
- One (1) San Mateo County
- Two (2) Santa Clara County
- One (1) Solano County
- Two (2) At-Large
- Two (2) Youth

### Duties of Members

CAC members shall fully participate in bi-monthly meetings and be fully engaged during discussion. The CAC members shall also review materials prior to meetings and come prepared for engaged discussion, active listening, and respectful dialogue. Meeting

preparation includes attending required trainings defined below and other trainings as planned by the Co-Chairs or suggested by the CAC. Further, CAC members shall perform all other duties as prescribed by this Charter.

### Mandatory Annual Trainings

CAC Members and Leadership shall attend and participate in three (3) mandatory trainings annually as follows:

- **Brown Act Training:** The Brown Act is California's open meetings law for local public agencies and their subordinate bodies. It guarantees the public a right to attend, participate and discuss in meetings of local legislative bodies.
- **Robert's Rules of Order Training:** Robert's Rules, which is also widely known as parliamentary procedure, was developed to ensure that meetings are fair, efficient, democratic, and orderly.
- **Civility Training:** Civility is an essential aspect of every work environment to create and maintain a fair and professional culture. This Civility training is designed to teach CAC Members the norms of acceptable conduct and how to identify, prevent, and respond professionally to situations of incivility.

Additionally, all members of the CAC shall complete an Ethics Training course within the first year of their term on the CAC and are required to have follow-up training bi-annually.

### Virtual, Hybrid, and In-Person Meetings

During 2022, the CAC attended meetings virtually. As of March 2023, the CAC meetings will need a physical location within the Bay Area with an in-person quorum (9 out of 17 members). CAC members may attend remotely under specific circumstances outlined in the Brown Act and AB2449.

CAC Members and members of the public with disabilities that need accommodations consistent with Section 504 of the Rehabilitation Act to have equal opportunities to participate in the CAC's meetings should contact Air District staff.

Reimbursements for travel are outlined in the CAC's Compensation Policy and Procedures.

## Members Terms of Office

CAC Members shall hold office for up to four (4) years. At the two-year mark, nine (9) Members shall be allowed to opt-out of the CAC. This will ensure others have the opportunity to participate in the CAC and continuity of County or institutional knowledge. When less than nine CAC Members opt-out at the two-year mark, CAC members will ask Staff to report on CAC Member attendance in CAC and Committee Meetings. The nine CAC members with the worst track record of attendance will vacate their seats.

## Appointment of Members

The CAC Members are appointed by the Board of Directors. Vacancies are to be filled by the Board of Directors as described in the following process. The CAC shall create a CAC Selection Ad Hoc Committee to recommend a candidate or slate of candidates to the Committee on Equity, Health, and Justice (CEHJ). The candidate approved by the CEHJ Committee would be routed to the Board of Directors for final approval. The CAC Selection Ad Hoc Committee would be tasked with developing criteria for the selection of the candidate. Priority should be given to individuals from communities overburdened by air pollution, environmental justice communities in the Bay Area, and/or those with a history partnering with environmental justice communities.

## **Standing Committee and Ad Hoc Committee**

Upon approval by a majority of the members of the CAC, the CAC may form committees to advise the CAC on its on-going functions. The committees shall be composed of members of the CAC. Committee members shall vote on its leadership during the first meeting.

### Standing Committee

A standing committee is considered a legislative body and subject to the Brown Act requirements and requires staffing support, funding permitting. A committee is considered "standing" if, irrespective of its composition, it has a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution or formal action of a legislative body.

### Ad Hoc Committee

An Ad Hoc committee is an advisory committee which is composed of less than a quorum of the legislative body, will serve a limited or single purpose, and will be dissolved once the task is completed. Once the mission is accomplished and presented

to and approved by a quorum of the CAC membership, the Ad Hoc Committee will be dissolved. The Ad Hoc Committees will aim to complete their task(s) within 6 months.

#### *Work Plan Ad Hoc Committee*

The CAC will form a CAC Work Plan Ad Hoc Committee to set the CAC's work plan and schedule for the year or several years. The CAC Work Plan Ad Hoc Committee will identify several priority areas in which it desires adherence and establish appropriate criteria. CAC Members, Community Members, Air District Staff and the Air District Board will be given the opportunity to recommend agenda items of potential relevance to the CAC for inclusion in the work plan. Once dissolved, CAC Co-Chairs are responsible for implementing the work plan and reserve the right to amend the Work Plan as needed. The Co-Chairs will report to the CAC if the Work Plan needs to be drastically adjusted.

#### *Governance Ad Hoc Committee*

In 2022, the CAC formed a CAC Governance Ad Hoc Committee to develop the CAC's Governance agreement. The CAC hereby presents the CAC's Charter which sets forth the Mission, Goals, scope, rules and actions applicable to the CAC and the CAC Membership. Once the mission is accomplished and presented to and adopted by a quorum of the CAC membership, and approved by the Board of Directors, the Governance Ad Hoc Committee will be dissolved.

The CAC Governance Ad Hoc Committee may be reestablished with a new slate of Council Members to review, revise, and/or propose amendments. Any revisions to the existing Charter shall be presented and adopted by the CAC and approved by the Air District Board of Directors.

#### Community Engagement

The CAC will aim to engage the community in the following ways:

- Bi-annual newsletter which should include items that have been addressed, future meeting dates and agendas, success stories, and ways to engage with the CAC (ex. attend C&E meetings, CAC meetings, website).
- CAC Web Page.
- Meetings of the CAC.
- Periodic outreach events hosted by CAC members or the Air District.
- Bi-monthly community-engaged enforcement meetings and other workshops.

## Meetings

### Facilitation of Meetings

An external professional meeting Facilitator will be hired to assist the CAC with bi-monthly CAC meetings, unless the budget does not allow for this expense. For 2022-2023, the Facilitator was hired through a competitive process with participation from CAC members. The external Facilitator works directly with the CAC Leadership to plan and execute the meeting plan in consultation with Air District Staff. The Facilitator will facilitate meetings to keep the meetings on track with guidance from the CAC Leadership and will enforce the following meeting expectations and ground rules:

- **Preparation:** Please come prepared to meetings and review all documents that the CAC will discuss.
- **Communication and Language:** Communicate with respect, personal attacks will not be tolerated. Be mindful of how much space you're taking and of those who haven't spoken. Remember zoom meetings are part of the public record.
- **Distractions:** Avoid distractions and stay present. Active listening is imperative to ensure that we understand other people's viewpoints.
- **Timing:** Respect time agreements and stay on topic.
- **Facilitation:** The facilitator will intervene to keep the conversation on track and on time and will remind members of these ground rules as necessary.

The Facilitator will have limited authority to: Open the meetings, convey the agenda item(s), confirm the meeting has quorum of Members present after the Clerk takes roll call, facilitate the flow of the meeting in accordance with the Brown Act rules and Robert's Rules of Order, maintain order, and defer to the Air District Legal Representative or Staff (if needed).

Air District Staff facilitate Ad Hoc committee meetings, Co-Chair meetings, and other meetings as needed. The CAC, Staff, or the Co-Chairs may identify the need for facilitator or contractor support for any CAC meeting, as the budget allows.

#### *Regular Meetings*

In 2022, regular meetings of the CAC are held on the 3rd Thursday of every other month at 6:00 p.m. All meetings will be held in accordance with the Brown Act. Meeting schedule is subject to change, as necessary.

#### *Special Meetings*

A majority of the Co-Chairs or a majority of the Members of the CAC may call special meetings following the noticing guidelines set forth in the Brown Act.

### *Notice of Meetings*

The agendas and notices must be posted at the meeting site and the website in compliance with all applicable laws, including but not limited to the Ralph M. Brown Act (Government Code Section 54950 et. seq.).

Agendas and notices shall be emailed to each CAC Member and any person who files a written request for such notice with the Air District.

### *Adjournment or Cancellation of Meetings*

The presiding Co-Chair or Air District staff may adjourn or cancel a meeting if she or he is aware that a quorum of the body will not be present or if the meeting date conflicts with a holiday. Notices of adjournment or cancellation shall be emailed to the CAC and posted on the meeting site and [website](#).

### Quorum Requirements

Effective March 1, 2023, at least 50% plus one of the CAC's appointed Membership must be present in-person to constitute a quorum and vote on issues. The CAC can hold discussions in the absence of a quorum, but cannot vote.

### Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (nine members in 2022-2023) of the CAC shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the CAC shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present (five out of nine votes in 2022-2023). If a quorum is not present, no official action may be taken, except roll call and adjournment. Agenda items that require no acting can still occur without quorum.

### Voting and Abstention

CAC meetings will be conducted in compliance with the Brown Act (Government Code Section 54950 et. seq.), Robert's Rules of Order, CAC Charter, and state and local laws. Participation and voting is based on Brown Act requirements and current legislation. Staff will provide an updated summary of changes as required by law.



## Conduct of Meetings

(a) All meetings shall be governed by the Ralph M. Brown Act (Government Code Section 54950 et. seq.), the CAC Charter, and Robert's Rules of Order for decorum and parliamentary procedure.

(b) Cell phones shall be turned off during all CAC meetings. The Co-Chairs may issue a warning to any member of the public who is disruptive during CAC meetings. In the event of repeated disruption of any kind, the Co-Chairs shall direct the offending member of the public to leave the meeting.

(c) The Chat feature will be unavailable for the full duration of every meeting due to accessibility limitations.

## Agenda Items

**Public Comment on Agenda Items:** The public may comment on each item on the agenda as the item is taken up. Members of the public who wish to speak on matters on the agenda for the meeting, will have three minutes each to address the CAC. Members of the public who wish to speak on matters not on the agenda for the meeting, will have three minutes each to address the CAC. Members of the public who are speaking through an interpreter, will have six minutes each to address the CAC. No speaker who has already spoken on an item will be entitled to speak to that item again.

### *Setting Agendas*

Air District staff, at the direction of the CAC Leadership, will prepare and distribute the agenda and materials for CAC meetings.

### *Current Agenda Setting Process*

Council Member proposes agenda item during a CAC meeting or via an email to Staff.

1. Staff keep track of all the proposed agenda items requests and brings the requests to the Co-Chairs.
2. Co-Chairs approve the items for the upcoming agenda.
3. Staff identify presenters and draft presentation and memo (materials).
4. Staff work with the Council Member(s) who requested the agenda item to create materials.
5. Staff finalizes materials.
6. Staff sends materials to Co-Chairs and Council Member(s) that requested the agenda item for final approval.
7. Staff update materials with final edits.

8. Executive Staff reviews materials.
9. Executive Staff provides edits, if needed. Staff update materials as necessary.
10. Executive Staff routes the materials for public distribution.

The Co-Chairs and Staff will work from the Work Plan developed by the Work Plan Ad Hoc once adopted by the CAC membership. New topics not included in the Work Plan may be added by the Co-Chairs. CAC Members or the public can make requests for new topics not included in the Work Plan. The Public can make requests for agenda items at CAC meetings during the Public Comment on Non-Agenda Items or by emailing staff at [communityadvisorycouncil@baaqmd.gov](mailto:communityadvisorycouncil@baaqmd.gov).

### Conflict of Interest Policy

Conflict-of-interest laws prohibit CAC members or immediate family from benefiting financially from their relationship to the Air District by way of the CAC. Any member or immediate family members of Council Members who could benefit financially from a contract must recuse themselves and not be present during a vote related to such contract to avoid influencing other CAC members.

### Conflict Resolution

In the event a disagreement between CAC Members or between CAC Members and Air District staff regarding CAC matters arises, CAC Members agree to work in a collaborative fashion and to strive for consensus on the issues before the CAC. If consensus cannot be reached between CAC Members, Members agree to use staff for mediation, clarification of information, and the Air District Legal Representative to attempt to reach an expeditious and constructive resolution of disagreements. If agreement cannot be reached with staff or CAC Members, a mutually agreed upon third party mediator should be utilized to resolve the conflict.

Further, the CAC Members agree to postpone the Action or Agenda item of discussion until the next meeting, or within three-months from the date the issue arises to allow for a mediator to help resolve the issue. In the event of an impasse, the Co-Chairs shall work with the members in conflict and the mediator to prepare for the meeting. If during the meeting the mediator cannot help the CAC reach an agreement, then the Action or Agenda item in question will not proceed. In any event, individual Members cannot be compelled to participate in any action to which they do not agree. Individual Members may also abstain from participation in a decision when they believe it would be inappropriate for them to participate in that action or decision.

## Meeting Minutes

Minutes shall be taken at every regular and special CAC meeting and shall comply with all applicable laws, including but not limited to the Ralph M. Brown Act (Government Code Section 54950 et. seq.) and the CAC Charter. Minutes shall be approved by the majority vote of the CAC Members in coordination with applicable statutes.

## Land Acknowledgement

The CAC recognizes that California Native American and other communities have faced many environmental injustices and social inequities. These issues are hereby acknowledged as part of the CAC Charter. The CAC Land Acknowledgement will be included in all CAC meeting agendas and is available on the [CAC Webpage](#).

*We begin by acknowledging that this land is unceded Indigenous land. The territories, or counties we represent, are of the Indigenous people. To acknowledge this history of our country - that this nation was built on genocide, the exclusion and erasure of Indigenous people - grounds our work in truth. We also acknowledge that our modern global economy was founded on the free and forced labor of enslaved Black people. And that exploited labor continuously perpetuates itself in disadvantaged communities of color, as we see in the treatment of farm workers, immigrant workers, prison labor, and domestic workers. This practice of land acknowledgment calls on us to recognize our violent history that is the foundation of white supremacy, and to recognize the longstanding and ongoing resistance of People of Color to dehumanization, repression, and homicide. And that the brilliance and leadership of People of Color in resistance, vision, wisdom, and love be honored and recognized as we work to dismantle ongoing legacies of settler colonialism and anti-blackness.*

The Air District webpage for the CAC will be updated in preparation for each CAC Committee meeting with uploaded material for discussion and after each CAC Committee meeting, to include meeting summaries, presentations, background materials, requested information, and meeting recordings.

## Dissemination of Materials

All documents, materials, and correspondence produced by or submitted to the CAC, CAC staff, or Facilitator, is considered public records and subject to the California Public Records Act regulations and procedures for disclosure and transparency. Information related to the operations of the CAC are made available to the public as requested.

## Public Meetings

All CAC meetings will be noticed and open to the public in accordance with the Brown Act.

## Attendance

The CAC requires active participation and attendance of at least 75% of all meetings during every year served. This applies to Co-Chair Meetings, Committee Meetings and overall CAC meeting attendance. CAC members will need to inform staff and CAC Leadership of any potential absences. As of March 1, 2023, per AB 2449 teleconferencing requirements, members joining remotely at CAC meetings that require a quorum must have a “just cause” or an emergency excuse approved by a majority of the CAC in order to participate and vote. CAC members joining CAC meetings remotely without a just cause or approved emergency excuse will not be able to vote and therefore will not be counted present in the meeting.

### Absenteeism: CAC Meetings

CAC members are allowed to miss three (3) meetings in one calendar year. Continued absenteeism from CAC Meetings constitutes voluntary abandonment. After two (2) CAC meetings have been missed, staff will send a courtesy letter reminding the absentee member of the attendance requirements of the CAC and reminding them they are at risk of losing their seat. Staff will be responsible for informing the Co-Chairs of absentee members. Staff will inform a member that has lost their seat on the CAC after three meetings are missed. The CAC shall vote to confirm removal of an absentee member. Vacant seats of the CAC membership will be filled as described in the Appointment section above.

### Absenteeism: Co-Chair Meetings

Co-Chair meetings occur every week up to four hours per month.

Co-Chairs are allowed to miss three (3) meetings every two (2) consecutive months. Continued absenteeism from Co-Chair Meetings constitutes voluntary abandonment. After two (2) Co-Chair meetings have been missed, staff will send a courtesy letter reminding the absentee Co-Chair of the attendance requirements of the Co-Chairs and reminding them they are at risk of losing their seat. Staff will be responsible for informing the Co-Chairs and the CAC of absentee Co-Chairs. Staff will inform a Co-Chair that has lost their seat on the CAC after three (3) meetings are missed within a

two (2) month period. The Co-Chairs reserve the right to jointly adjust the meeting schedule around holidays.

Any vacant Co-Chair Appointment shall be filled within two (2) meetings of the CAC after the vacancy occurs through a nomination, selection process, and selection by a voting process.

#### Absenteeism: Ad Hoc Committee Meetings

Ad Hoc Committee meetings generally occur every other week (bi-weekly). Each Committee sets its own schedule.

Ad Hoc Committee Members are allowed to miss three (3) meetings every two (2) consecutive months. Continued absenteeism from Ad Hoc Meetings constitutes voluntary abandonment. After two (2) Ad Hoc meetings have been missed, staff will send a courtesy letter reminding the absentee Ad Hoc Member of the attendance requirements of the Ad Hoc Members and reminding them they are at risk of losing their seat. Staff will be responsible for informing the Council Members and the CAC of absentee Members. Staff will inform Council Members that have lost their seat on the CAC after three (3) meetings are missed. The Co-Chairs reserve the right to jointly adjust the schedule around holidays.

Any vacant seats shall be filled within two (2) meetings after the vacancy occurs through a nomination, selection process, and selection by a voting process.

#### **Amendment of CAC Governance Document**

Amendment of the CAC Charter may be initiated by a vote of a majority of the members of the CAC after presentation of the reasoning to amend the Charter. The CAC shall provide thirty (30) days notice for public comment before adopting any amendments to the CAC Charter.

#### **Compensation**

Compensation for CAC Members will be subject to attendance and in accordance with the CAC's Compensation Policy and Procedures.

## Appendix A

*Delegates to the First National People of Color Environmental Leadership Summit held on October 24-27, 1991, in Washington DC, drafted and adopted these 17 principles of Environmental Justice. Since then, the Principles have served as a defining document for the growing grassroots movement for environmental justice. Environmental Justice Principles<sup>1</sup>:*

- 1) **Environmental Justice** affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.
- 2) **Environmental Justice** demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.
- 3) **Environmental Justice** mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.
- 4) **Environmental Justice** calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food.
- 5) **Environmental Justice** affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.
- 6) **Environmental Justice** demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.
- 7) **Environmental Justice** demands the right to participate as equal partners at every level of decision-making, including needs assessment, planning, implementation, enforcement and evaluation.
- 8) **Environmental Justice** affirms the right of all workers to a safe and healthy work environment without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.
- 9) **Environmental Justice** protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.
- 10) **Environmental Justice** considers governmental acts of environmental injustice a violation of international law, the Universal Declaration On Human Rights, and the United Nations Convention on Genocide.
- 11) **Environmental Justice** must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.
- 12) **Environmental Justice** affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and provided fair access for all to the full range of resources.

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<sup>1</sup> Principles of Environmental Justice, <https://www.ejnet.org/ej/principles.html>. Accessed December 19, 2022.

13) **Environmental Justice** calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.

14) **Environmental Justice** opposes the destructive operations of multinational corporations.

15) **Environmental Justice** opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.

16) **Environmental Justice** calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.

17) **Environmental Justice** requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and reprioritize our lifestyles to ensure the health of the natural world for present and future generations.

Jemez Principles<sup>2</sup>:

1. Be Inclusive
2. Emphasis on Bottom-Up Organizing
3. Let People Speak for Themselves
4. Work Together In Solidarity and Mutuality
5. Build Just Relationships Among Ourselves
6. Commitment to Self-Transformation

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<sup>2</sup> Sierra Club. *Jemez Principles*. <https://www.sierraclub.org/sites/www.sierraclub.org/files/sce/grand-canyon-chapter/misc-pdf/Jemez%20Principles%20Poster.pdf>. Accessed December 19, 2022.

## Appendix B

### References

<sup>i i</sup> United States Environmental Protection Agency. *Guidance on Considering Environmental Justice During the Development of Regulatory Actions*.

<https://19january2021snapshot.epa.gov/sites/static/files/2015-06/documents/considering-ej-in-rulemaking-guide-final.pdf>. Accessed January 3, 2023.

<sup>ii</sup> Bay Area Air Quality Management District, *Regulation 2, Permits Rule 1, Section 2-1-243*.

<sup>iii</sup> United States Environmental Protection Agency. *Guidance on Considering Environmental Justice During the Development of Regulatory Actions*.

<https://19january2021snapshot.epa.gov/sites/static/files/2015-06/documents/considering-ej-in-rulemaking-guide-final.pdf>. Accessed January 3, 2023.

#### **The CAC Charter was developed using information from various sources, including:**

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