



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
MEETING

November 15, 2023

MEETING LOCATION(S) FOR IN-PERSON ATTENDANCE BY
BOARD MEMBERS AND MEMBERS OF THE PUBLIC

Bay Area Metro Center
1st Floor Board Room
375 Beale Street
San Francisco, CA 94105

Office of Contra Costa County
Supervisor John Gioia
Conference Room
11780 San Pablo Ave., Suite D
El Cerrito, CA 94530

City of Palo Alto City Hall
250 Hamilton Ave.
Palo Alto, CA 94301

Office of Alameda County Supervisor
David Haubert
4501 Pleasanton Avenue
Pleasanton, CA 94566

Office of Santa Clara County
Supervisor Otto Lee
70 W Hedding St
East Wing, 10th Floor
San Jose, CA 95110

San Ramon City Hall
Community Conference Room, 2nd Floor
7000 Bollinger Canyon Road
San Ramon, CA 94583

Santa Rosa Junior College Campus
Doyle Library, Room 148
1501 Mendocino Ave.
Santa Rosa, CA, 9540

THE FOLLOWING STREAMING OPTIONS WILL ALSO BE PROVIDED

These streaming options are provided for convenience only. In the event that streaming connections malfunction for any reason, the Board of Directors reserves the right to conduct the meeting without remote webcast and/or Zoom access.

The public may observe this meeting through the webcast by clicking the link available on the air district's agenda webpage at www.baaqmd.gov/bodagendas.

Members of the public may participate remotely via Zoom at <https://bayareametro.zoom.us/j/82641765660>, or may join Zoom by phone by dialing (669) 900-6833 or (408) 638-0968. The Webinar ID for this meeting is: 826 4176 5660

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 a matter on the agenda will have two minutes each to address the Board on that agenda item, unless a different time limit is established by the Chair. No speaker who has already spoken on an item will be entitled to speak to that item again.

The Board welcomes comments, including criticism, about the policies, procedures, programs, or services of the District, or of the acts or omissions of the Board. Speakers shall not use threatening, profane, or abusive language which disrupts, disturbs, or otherwise impedes the orderly conduct of a Board meeting. The District is committed to maintaining a workplace free of unlawful harassment and

is mindful that District staff regularly attend Board meetings. Discriminatory statements or conduct that would potentially violate the Fair Employment and Housing Act – i.e., statements or conduct that is hostile, intimidating, oppressive, or abusive – is *per se* disruptive to a meeting and will not be tolerated.

BOARD OF DIRECTORS MEETING AGENDA

WEDNESDAY, NOVEMBER 15, 2023

9:00 AM

Chairperson, John J. Bauters

1. Call to Order - Roll Call

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

2. Pledge of Allegiance

3. Special Orders of the Day

CONSENT CALENDAR (Items 4 - 11)

4. Approval of the Draft Minutes of the Board of Directors Meeting of November 1, 2023

The Board of Directors will consider approving the Draft Minutes of the Board of Directors meeting of November 1, 2023.

5. Board Communications Received from November 1, 2023 through November 14, 2023

A copy of communications directed to the Board of Directors received by the Air District from November 1, 2023 through November 14, 2023 , if any, will be distributed to the Board Members by way of email.

6. Personnel Out-of-State Business Travel Report for September 2023

In accordance with Division II, Section 5.4(b) of the Air District Administrative Code, the Board of Directors is hereby notified that the memorandum lists Air District personnel who have traveled on out-of-state business in the preceding months.

7. Authorization to Execute a Contract with Sharon Beals

The Board of Directors will consider authorizing the Executive Officer/APCO to execute a two-year contract, beginning January 1, 2024 through December 31, 2025, with Sharon Beals to provide professional photography services to the Air District in an amount not to exceed \$250,000.

8. Authorization to Execute a Contract for a Grant Project Over \$500,000 and Accept New State Monies

The Board of Directors will consider authorizing the award of state and local incentive funding to a project with a proposed grant award in excess of \$500,000 and authorizing the Executive Officer/APCO to execute a grant agreement for the recommended project. The Board of Directors will also consider adopting resolutions authorizing the Air District's participation in Fiscal Year 2023-2024 of the Carl Moyer and Community Air Protection Incentives Programs and authorizing the Executive Officer/APCO to enter into all necessary agreements to accept, obligate, and expend these funds.

9. Report of the Finance and Administration Committee Meeting of November 1, 2023

The Board of Directors will receive a report of the Finance and Administration Committee meeting of November 1, 2023.

10. Report of the Stationary Source and Climate Impacts Committee Meeting of November 8, 2023

The Board of Directors will receive a report of the Stationary Source and Climate Impacts Committee Meeting of November 8, 2023.

11. Report of the Mobile Source and Climate Impacts Committee Meeting of November 8, 2023

The Board of Directors will receive a report of the Mobile Source and Climate Impacts Committee meeting of November 8, 2023.

ACTION ITEM(S)

12. Comprehensive Administrative Code Update and Accompanying Implementation Policies and Board Rules of Procedure

The Board of Directors will consider adopting a comprehensive update and overhaul of the Administrative Code that will replace Division I and Division II of the current code, which contain the Air District's Operating Policies and Procedures and Fiscal Policies and Procedures, respectively, with a proposed new Administrative Code. The Board of Directors will also consider adopting accompanying Implementation Policies and Board Rules of Procedure. This item will be presented by Alexander Crockett, District Counsel; Sharon Landers, Interim Chief Operating Officer; and Amy Ackerman of Renne Public Law Group.

INFORMATIONAL ITEM(S)

13. Overview of 2023-2024 Spare the Air Winter Season and Summary of 2023 Spare the Air Summer Season

This is an informational item to provide the Board of Directors with an overview of the 2023-2024 Spare the Air winter season and a summary of the 2023 Spare the Air summer season. This item will be presented by Communications Director, Kristine Roselius.

14. Overview of the Bay Area Emissions Inventory

This is an informational item to provide the Board of Directors with an overview of the Bay Area emissions inventory, including how emissions of air pollution are estimated and how they vary by geography and time. The presentation will also discuss the uses of the inventory and its limitations. This item will be presented by Dr. Song Bai, Acting Director of the Assessment, Inventory, and Modeling Division.

OTHER BUSINESS

15. 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 will be given an opportunity to address the Board of Directors. Members of the public will have two minutes each to address the Board, unless a different time limit is established by the Chair. The Board welcomes comments, including criticism, about the policies, procedures, programs, or services of the District, or of the acts or omissions of the Board. Speakers shall not use threatening, profane, or abusive language which disrupts, disturbs, or otherwise impedes the orderly conduct of a Board meeting. The District is committed to maintaining a workplace free of unlawful harassment and is mindful that District staff regularly attend Board meetings. Discriminatory statements or conduct that would potentially violate the Fair Employment and Housing Act – i.e., statements or conduct that is hostile, intimidating, oppressive, or abusive – is per se disruptive to a meeting and will not be tolerated. .

16. 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)

17. Report of the Executive Officer/APCO

18. Chairperson's Report
19. Time and Place of Next Meeting

December 6, 2023, at 9:00 a.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Board of Directors members and members of the public will be able to either join in-person or via webcast.

CLOSED SESSION

20. Conference with Legal Counsel re Existing Litigation (Government Code Section 54956.9(a))

Pursuant to Government Code Section 54956.9(a), the Board will meet in closed session with legal counsel to discuss the following cases:

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

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

OPEN SESSION

21. Adjournment

The Board meeting shall be adjourned by the Board Chair.

CONTACT:

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

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

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

Accessibility and Non-Discrimination Policy

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

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

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

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

Questions regarding this Policy should be directed to the Air District's Non-Discrimination Coordinator, Suma Peesapati, at (415) 749-4967 or by email at 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**

NOVEMBER 2023

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	15	9:00 a.m.	1 st Floor Board Room
Board of Directors Community Equity, Health and Justice Committee	Wednesday	15	1:00 p.m.	1 st Floor Board Room
Community Advisory Council Meeting	Thursday	30	6:00 p.m.	1st Floor, Yerba Buena Room
Board of Directors Legislative Committee Meeting	Wednesday	29	10:00 a.m.	1 st Floor Board Room

DECEMBER 2023

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Nominating Committee	Wednesday	6	8:45 a.m.	1 st Floor Board Room
Board of Directors Meeting	Wednesday	6	9:00 a.m.	1 st Floor Board Room
Board of Directors Finance and Administration Committee	Wednesday	6	1:00 p.m.	1 st Floor Board Room
Board of Directors Stationary Source and Climate Impacts Committee	Wednesday	13	10:00 a.m.	1 st Floor, Yerba Buena Room
Board of Directors Mobile Source and Climate Impacts Committee	Wednesday	13	1:00 p.m.	1 st Floor, Yerba Buena Room
Board of Directors Meeting	Wednesday	20	9:00 a.m.	1 st Floor Board Room
Board of Directors Community Equity, Health and Justice Committee	Wednesday	20	1:00 p.m.	1 st Floor Board Room

11/8/2023 – 1:35 p.m.

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BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Philip M. Fine
Executive Officer/APCO

Date: November 15, 2023

Re: Approval of the Draft Minutes of the Board of Directors Meeting of November 1,
2023

RECOMMENDED ACTION

Approve the Draft Minutes of the Board of Directors meeting of November 1, 2023.

BACKGROUND

None.

DISCUSSION

Attached for your review and approval are the Draft Minutes of the Board of Directors Meeting of November 1, 2023.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Marcy Hiratzaka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Draft Minutes of the Board of Directors Meeting of November 1, 2023

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

Board of Directors Regular Meeting
Wednesday, November 1, 2023

DRAFT MINUTES

This meeting was webcast, and a video recording is available on the website of the Bay Area Air Quality Management District at www.baaqmd.gov/bodagendas

CALL TO ORDER

1. **Opening Comments:** Board of Directors (Board) Chairperson, John J. Bauters, called the meeting to order at 9:24 a.m.

Roll Call:

Present, In-Person (Bay Area Metro Center, 375 Beale Street, 1st Floor Board Room, San Francisco, California, 94105): Chairperson John J. Bauters; Vice Chairperson Davina Hurt; Secretary Lynda Hopkins; and Directors Ken Carlson, Noelia Corzo, Joelle Gallagher, John Gioia, Juan Gonzalez, Erin Hannigan, Tyrone Jue, Otto Lee, Sergio Lopez, Myrna Melgar, Mark Ross, Vicki Veenker, Shamann Walton, and Steve Young.

Present, In-Person Satellite Location: (Glenarden Library, 8724 Glenarden Parkway, Glenarden, Maryland, 20706): Director Nate Miley.

Present, In-Person Satellite Location: (San Ramon City Hall, 7000 Bollinger Canyon Rd., 2nd Floor Community Conference Room, San Ramon, California, 94583): Director David Hudson.

Absent: Directors Margaret Abe-Koga, Brian Barnacle, David Haubert, Ray Mueller, and Katie Rice.

2. **PLEDGE OF ALLEGIANCE**
3. **SPECIAL ORDERS OF THE DAY**

Chair Bauters congratulated Liana Solis, who was promoted to the position of Air Quality Specialist I in the Engineering Division; Cris Vinluan, who was promoted to the position of Programmer Analyst I in the Information Services Division; and Michael Kong, who was promoted to Senior Air Quality Specialist in the Meteorology and Measurement Division.

CONSENT CALENDAR (ITEMS 4 – 24)

4. Approval of the Draft Minutes of the Board of Directors Meeting of October 4, 2023
5. Board Communications Received from October 18, 2023, through October 31, 2023

6. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of September 2023
7. Quarterly Report of the Executive Office and Division Activities for the Months of April 2023 - June 2023
8. Notice of Proposed Amendments to Administrative Code – Comprehensive Administrative Code Update
9. Appointment of Hearing Board Members for the Public Category Positions - Principal Member B and Alternate Member B
10. Authorization to Issue a Credit Card to the Deputy Executive Officer of Engineering and Compliance and Deputy Executive Officer of Public Affairs
11. Authorization to Allocate Remaining Wildfire Mitigation Designation Funds to Home Air Filtration Program
12. Authorization to Execute a Sponsorship Contract with the American Lung Association (ALA)
13. Authorization to Execute Lease Agreement for a Compliance & Enforcement (C&E) Field Office in Hayward
14. Authorization to Execute Professional Services Agreement with En2Action for Bayview Hunters Point/Southeast San Francisco AB 617 Community Steering Committee
15. Authorization to Extend the Term and Increase the Total Dollar Amount of the Master Services Agreement with the Marie Harrison Community Foundation for the Bayview Hunters Point/Southeast San Francisco Community Emissions Reduction Plan (AB 617)
16. Authorization to Extend the Term and Increase the Total Dollar Amount of the Master Services Agreement with the Bayview Hunters Point Community Advocates for the Bayview Hunters Point/Southeast San Francisco Community Emissions Reduction Plan (AB 617)
17. Authorization to Execute a Contract with NFP Retirement, Inc.
18. Authorization to Execute Contract Amendments for Website Maintenance and Improvements in the amount of \$440,335
19. Report of the Legislative Committee Meeting of October 4, 2023
20. Report of the Finance and Administration Committee Meeting of October 4, 2023
21. Report of the Stationary Source and Climate Impacts Committee Meeting of October 11, 2023
22. Report of the Mobile Source and Climate Impacts Committee Meeting of October 11, 2023
 - a. Projects and Contracts with Proposed Grant Awards Over \$500,000
 - b. Participation in 2023-2024 Funding Agricultural Reduction Measures for Emissions Reductions (FARMER) Incentive Program
 - c. Updates to the Transportation Fund for Clean Air 40% Fund Policies for Fiscal Year Ending (FYE) 2025 and a Request from Alameda County Transportation Commission for Approval of a Cost-Effectiveness Limit for a FYE 2024 Project
23. Report of the Finance and Administration Committee's Special Meeting of October 18, 2023
24. Report of the Community Equity, Health and Justice Committee Meeting of October 18, 2023
 - a. Authorization for Year 3 of the James Cary Smith Community Grant Program

Public Comments

Public comments were given by “Call-In User_1”; Ariann Harrison, Marie Harrison Community Foundation; and Tonia Randell, Marie Harrison Community Foundation.

Board Comments

The Board and staff discussed the proposed contracts within Items 14, 15, and 16; the fact that the memo for Item 9 does not list the recommended candidates for the two vacant Hearing Board positions; and appreciation for the Board members and Air District staff for attending a recent tour of Bayview Hunters Point.

Board Action

Director Gonzalez made a motion, seconded by Director Lee, to **approve** Consent Calendar Items 4 – 24, inclusive; and the motion **carried** by the following vote of the Board:

AYES: Bauters, Carlson, Corzo, Gallagher, Gioia, Gonzalez, Hannigan, Hopkins, Hudson, Hurt, Jue, Lee, Lopez, Melgar, Miley, Ross, Veenker, Walton, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barnacle, Haubert, Mueller, Rice.

ACTION ITEMS

25. APPROVAL OF PROPOSED MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT AND THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT EMPLOYEES’ ASSOCIATION AND AUTHORIZATION OF COMPENSATION PACKAGE FOR AIR DISTRICT EMPLOYEES FOR THE FISCAL YEAR ENDING 2024

Hyacinth Hinojosa, Deputy Executive Officer of Finance and Administration, gave the staff presentation *Consider Approving the Proposed MOU between the Air District and the Employees’ Association and Authorizing the Compensation Package for Air District Employees for the Fiscal Year Ending 2024*, including: requested action; background; summary of salaries and benefits; budget consideration; and recommendation for motion.

Public Comments

Public comments were given by “Call-In User_1.”

Board Comments

Board members expressed their appreciation for the Air District’s Employees’ Association’s involvement regarding this item; and for the transparent manner in which this item was executed.

Board Action

Vice Chair Hurt made a motion, seconded by Director Carlson, to **approve** the proposed Memorandum of Understanding between the Bay Area Air Quality Management District and the Bay Area Air Quality Management District Employees’ Association, **adopt** the Resolution authorizing employee salaries and benefits for represented and non-represented employees, and **authorize** the transfer of \$820,000 from the General Fund undesignated reserves for one-time salary payments and 401A contributions; the motion **carried** by the following vote of the Board:

AYES: Bauters, Carlson, Corzo, Gallagher, Gioia, Gonzalez, Hannigan, Hopkins, Hudson, Hurt, Jue, Lee, Lopez, Melgar, Miley, Ross, Veenker, Walton, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barnacle, Haubert, Mueller, Rice.

26. UPDATE ON DECOMMISSIONING LEGACY PERMITTING AND ENFORCEMENT COMPUTER SYSTEMS AND THE IMPLEMENTATION OF THE MY AIR ONLINE REPLACEMENT SYSTEMS; AND CONSIDER FINANCE AND ADMINISTRATION COMMITTEE RECOMMENDATION THAT THE BOARD OF DIRECTORS AUTHORIZE THE AIR POLLUTION CONTROL OFFICER (APCO) TO EXECUTE RELATED SERVICE CONTRACTS NOT TO EXCEED \$2,650,000

At a special meeting of the Finance and Administration Committee (on October 18, 2023), Air District staff presented the Committee with the status of the decommissioning of legacy permitting and enforcement software and hardware systems, the implementation schedule for the new My Air Online replacement systems, and a request to recommend contract amendments.

John Chiladakis, Chief Technology Officer, gave the staff presentation *Status of Decommissioning Legacy Permitting and Enforcement Computer Systems and Request to Recommend Contracts for Replacement Systems*, including: outline; requested action; audit work and immediate changes; Legacy System databank decommissioned September 29, 2023; audit recommendations; project roadmap looking forward; My Air Online budget and forecast; vendor contract amendments; and recommended action.

Public Comments

Public comments were given by “Call-In User_1”; and Kevin Buchan, Western States Petroleum Association.

Board Comments

The Board and staff discussed the history and events leading up to the decommissioning of the legacy systems, and the explanation for the Board-requested audit of the My Air Online program; whether the proposed vendor contract amount of \$2.65 million would be a one-time amount, versus reoccurring; whether the decommissioning of the legacy systems (and subsequent launching of the full My Air Online program) is anticipated to process permit applications more efficiently, and why this is only happening now; and the desire to know how My Air Online and its technology will evolve (for the sake of transparency to the public and affected facilities).

Board Action

Chair Bauters made a motion, seconded by Director Lee, to recommend that the Board **authorizes** the APCO to execute contracts for related services not to exceed \$2,650,000; and the motion **carried** by the following vote of the Board:

AYES: Bauters, Carlson, Corzo, Gallagher, Gioia, Gonzalez, Hannigan, Hopkins, Hudson, Hurt, Jue, Lee, Lopez, Melgar, Miley, Ross, Veenker, Walton, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barnacle, Haubert, Mueller, Rice.

INFORMATIONAL ITEMS

27. UPDATE ON THE HOME AIR FILTRATION PROGRAM (HAFP) BY AIR DISTRICT STAFF AND ASTHMA MITIGATION PROJECT (AMP) PARTNER AGENCIES

The Board of Directors received a presentation on an overview of the District’s Home Air Filtration Program by Air District staff and Asthma Mitigation Project (AMP) partner agencies from 2021 to 2023. This update included Regional Asthma Management and RAMP’s case study report on client-level data and the partnership between the District, RAMP and AMP partner agencies, and a spotlight on Breathe CA – one of the AMP partners providing air filters and asthma education to low-income clients with lung conditions. Amy Smith of the District’s Community Engagement Office, Anne Kelsey Lamb of Regional Asthma Management and Prevention (RAMP), and Tanya Payyappilly of Breathe CA, gave the presentation *Update on the Home Air Filtration Program with Asthma Mitigation Project Partner Agencies*, including: requested action; outcome; outline; background; AMP expansion; HAFP AMP expansion; and guest presentations on HAFP lessons learned and tips for replication; and Breathe CA of the Bay Area, Golden Gate, and Central Coast.

Public Comments

Public comments were given by Trinity Vang, Brightline Defense; “Call-In User_1”; and Jan Warren, Interfaith Climate Action Network of Contra Costa County.

Board Comments

The Board and staff discussed whether the service area of Breathe California may be expanded to serve all Bay Area Counties; the desire for additional AMP partners throughout Bay Area Counties, especially in areas with higher asthma rates; the process by which AMP clients are identified; the desire for multilingual community outreach language regarding AMS partners and client opportunities; concern that HAFP AMP partnership opportunities may be overlooked in low-income areas that are not identified by CalEnviroScreen 4.0; whether the Air District measures the reduction of air pollution in the homes of air filter recipients; the suggestion of prioritizing Assembly Bill (AB) 617 communities for new AMP partnerships; the suggestion of cross-referencing the Air District’s priority area lists with those that cities and counties may have already generated; the current status of the expansion of Clean Air Centers in the Bay Area; health coverage trends of air filter recipients; and near-term challenges that can be supported by policy changes or public support.

Board Action

None; receive and file.

28. AIR DISTRICT STRATEGIC PLANNING UPDATE

Mindy Craig, Principal/Owner of BluePoint Planning, together with Air District staff, gave the presentation *Strategic Plan Board Introduction*, including: BluePoint Planning; what is the Strategic Plan; integration with the Environmental Justice Action Plan; internal and external stakeholders; the role of the Board ad hoc committee; Board involvement; and opportunity for Board member interviews.

Public Comments

No requests received.

Board Comments

The Board and staff discussed whether stakeholder (Board member) interviews are required; how the recruitment for the Air District's Deputy Executive Officer of Equity and Community Programs will correlate with the Strategic Plan timeline; and the desire that all Board members complete the survey issued by BluePoint and sign up for their stakeholder interview in preparation for the Board retreat discussion in early 2024.

Board Action

None; receive and file.

OTHER BUSINESS

29. PUBLIC COMMENT ON NON-AGENDA MATERS

Public comments were given by Alysia Gadde, Healthy Martinez: A Refinery Accountability Group

30. BOARD MEMBER COMMENTS

Vice Chair Hurt, in her capacity as a member of the California Air Resources Board's (CARB) Governing Board, announced that on October 26, 2023, CARB's Board of Directors approved the Final Draft Blueprint 2.0 (AB 617 Community Air Protection Program Statewide Strategy Update). CARB's Board adopted the first Blueprint in September 2018, and Blueprint 2.0 is the first update since the first Blueprint was adopted. CARB implements most of the activities described in the Blueprint through the Community Air Protection Program (AB 617). The original Blueprint describes how CARB selects initial communities, establishes how community air monitoring plans and community emissions reduction programs must be developed and implemented, and identifies new strategies for reducing pollution in all communities affected by a high cumulative exposure burden (overburdened communities) consistent with state statute. Blueprint 2.0 builds on lessons learned in the program over the last five years, provides guidance to implement the Program, and incorporates new pathways to expand the Community Air Protection Program benefits to more communities statewide. The Final Draft Blueprint 2.0, will replace the original document in its entirety.

31. REPORT OF THE EXECUTIVE OFFICER/APCO

Dr. Philip M. Fine, Executive Officer/APCO, thanked the community and political partners involved with organizing the tour of Bayview Hunters Point on Saturday, October 28, 2023.

32. CHAIRPERSON'S REPORT

Chair Bauters announced that the Board's Finance and Administration Committee will meet following the Board meeting (on November 1, 2023), no earlier than 1:00 p.m.

33. TIME AND PLACE OF NEXT MEETING

Wednesday, November 15, 2023, at 9:00 a.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Board members and members of the public will be able to either join in-person or via webcast.

CLOSED SESSION (11:07 a.m.)

34. **CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION (GOVERNMENT CODE SECTION 54956.9(a))**

Pursuant to Government Code Section 54956.9(a), the Board met in Closed Session with Legal Counsel to discuss the following cases:

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

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

REPORTABLE ACTION: Alexander Crockett, District Counsel, had nothing to report.

35. **CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION (GOVERNMENT CODE SECTIONS 54956.9(a) AND (d)(2))**

Significant exposure to litigation pursuant to Government Code section 54956.9(a) and (d)(2): Claim of Makena "Ruby" World (1 claim).

REPORTABLE ACTION: Mr. Crockett had nothing to report.

OPEN SESSION (12:59 p.m.)

36. **ADJOURNMENT**

The meeting was adjourned at 1:01 p.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Philip M. Fine
Executive Officer/APCO

Date: November 15, 2023

Re: Board Communications Received from November 1, 2023 through November 14,
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 November 1, 2023 through November 14, 2023, if any, will be distributed to the Board Members by way of email.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
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 Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: November 15, 2023

Re: Personnel Out-of-State Business Travel Report for September 2023

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In accordance with Division II, Section 5.4(b) of the Air District's Administrative Code, the Board of Directors is hereby notified of District personnel who have traveled on out-of-state business. The report covers out-of-state business travel for the month of September 2023. The monthly out-of-state business travel report is presented in the month following travel completion.

DISCUSSION

There were no out-of-state business travel activities that occurred in the month of September 2023.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Michelle Hutson
Reviewed by: Stephanie Osaze

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

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

From: Philip M. Fine
Executive Officer/APCO

Date: November 15, 2023

Re: Authorization to Execute a Contract with Sharon Beals

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Executive Officer/APCO to execute a two-year contract with Sharon Beals to provide professional photography services to the Air District in an amount not to exceed \$250,000.

BACKGROUND

The Air District frequently does public outreach through the use of print publications, brochures, social media platforms, websites and videos. Professional photographs can significantly enhance the Agency’s outreach efforts, enabling us to visually showcase our air quality work and programs.

DISCUSSION

Air District staff posted a Request for Qualifications (RFQ) 2022-016 for Photography Services in August 2022 and Sharon Beals was the selected contractor. Sharon Beals will provide professional photography services to document Air District activities and programs and capture photographs for various communications needs as assigned by the Air District.

Sharon Beals has provided professional photography services for the Air District since 2010 and has demonstrated extensive understanding of Air District’s mission and messaging. Sharon Beals was instrumental in providing the Air District with professional photographs of the Bay Area during the pandemic, photographs of various local wildfires and high-quality images of different modes of transportation, air monitoring equipment and community members and staff for all our annual reports. Sharon Beals is flexible and accommodating to last-minute photography requests by the Air District and staff rely on the high-quality images she provides to support public outreach efforts.

BUDGET CONSIDERATION/FINANCIAL IMPACT

This is a two-year contract for an amount not to exceed \$250,000. If approved, \$125,000 funding for year 1 is included in program budget 301 for FYE 2024, and \$125,000 funding for year 2 will be included in the FYE 2025 proposed budget.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Kristina Chu
Reviewed by: Kristine Roselius

ATTACHMENTS:

1. Draft Contract No. 2023.207 - Sharon Beals

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

PROFESSIONAL SERVICES CONTRACT

CONTRACT NO. 2023.207

1. PARTIES – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and **Sharon Beals** (“CONTRACTOR”) whose address is PO Box 410986, San Francisco, CA 94141.
2. RECITALS
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for services described in the Scope of Work, attached hereto as Attachment A and made a part hereof by this reference. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.
3. PERFORMANCE REQUIREMENTS
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and to pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraphs A-E above.
4. TERM – The term of this Contract is from January 1, 2024 to December 31, 2025, unless further extended by amendment of this Contract in writing and signed by both parties, or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.
5. TERMINATION
 - A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any

reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, as set forth in section 10, below, and shall be delivered in accordance with the provisions of section 10 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all work under this Contract, except such work as is specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining work performed but not billed, including any work specified in the termination notice, on or before ten (10) business days following the effective date of termination.

- B. Either party may terminate this Contract for breach by the other party.
- i) Failure to perform any agreement or obligation contained in this Contract or failure to perform the services in a satisfactory manner shall constitute a breach of the Contract.
 - ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
 - iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT, at its sole discretion, may perform, or cause the performance of, the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.
 - iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 10.
 - v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.

6. INSURANCE

- A. CONTRACTOR shall maintain the following insurance:
- i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.
 - ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.
 - iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If CONTRACTOR is a sole proprietor, CONTRACTOR may meet this insurance requirement with personal automobile liability insurance carrying a business use endorsement or by demonstrating to the satisfaction of DISTRICT that business use is covered under the CONTRACTOR's personal automobile liability insurance. A CONTRACTOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental

agency.

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

7. INDEMNIFICATION

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

8. PAYMENT

- A. DISTRICT shall pay CONTRACTOR for services in accordance with the terms set forth in the Cost Schedule, which is attached hereto as Attachment B and incorporated herein by this reference.
- B. CONTRACTOR shall submit invoice(s) to DISTRICT for services performed. Each invoice shall specify the total cost of the services for which the invoice is submitted, shall reference tasks shown in the Scope of Work, the hours associated with same, or percentage completion thereof, and the amount of charge claimed, and, as appropriate, shall list any charges for equipment, material, supplies, travel, and subcontractors' services.
- C. DISTRICT's payment of invoices shall be subject to the following limitations and requirements:
 - i) Each invoice, including supporting documentation, shall be prepared in duplicate on CONTRACTOR's letterhead; shall list DISTRICT's contract number, the period covered by the invoice, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and shall be submitted to: Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105, Attn: Contracts Manager.
 - ii) DISTRICT shall not pay interest, fees, handling charges, or the cost of money on the Contract.
 - iii) DISTRICT shall pay CONTRACTOR within thirty (30) calendar days after approval by

DISTRICT of an itemized invoice.

- D. The total amount for which DISTRICT may be held liable for the performance of services specified in this Contract shall not exceed \$250,000.
9. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.
- A. Upon receipt of a notice of breach of contract, the party may submit a demand for mediation to resolve whether or not a breach occurred. The party must state the basis of the dispute and deliver the demand within ten (10) business days of the date of receipt of the notice of breach.
 - B. The mediation shall take place at DISTRICT’s office at 375 Beale Street, Suite 600, San Francisco, or at such other place as may be mutually agreed upon by the parties and the mediator.
 - C. The parties shall make good faith efforts to hold the mediation within thirty (30) days after receipt of the demand for mediation.
 - D. Each party shall bear its own mediation costs.
 - E. In the event the parties are unable to resolve the dispute, either party may file an action in a court of competent jurisdiction to enforce the Contract.
 - F. Maximum recovery under this section shall be limited to \$250,000. The mediation costs shall not reduce the maximum amount recoverable under this section.
10. NOTICES – All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by e-mail, facsimile, or regular first class mail. In the case of e-mail and facsimile communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. E-mail and facsimile communications shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. pacific time. Otherwise, receipt of e-mail and facsimile communications shall be deemed to have occurred on the following business day. In the case of regular mail notice, notice shall be deemed to have been delivered on the mailing date and received five (5) business days after the date of mailing.

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

CONTRACTOR: Sharon Beals
PO Box 410986
San Francisco, CA 94141
Attn: Sharon Beals

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

12. EMPLOYEES OF CONTRACTOR

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

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

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

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

15. PUBLICATION

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

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

- D. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and shall require compliance with this section.

16. AUDIT / INSPECTION OF RECORDS – If this Contract exceeds \$10,000, pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of CONTRACTOR, and its subcontractors, related to the services provided hereunder, shall be subject to the examination and audit of the California State Auditor and other duly authorized agents of the State of California for a period of three (3) years after final payment under this Contract. CONTRACTOR hereby agrees to make such records available during normal business hours for inspection, audit, and reproduction by any duly authorized agents of the State of California or DISTRICT. CONTRACTOR further agrees to allow interviews of any of its employees who might reasonably have information related to such records by any duly authorized agents of the State of California or DISTRICT. All examinations and audits conducted under this section shall be strictly confined to those matters connected with the performance of this Contract, including, but not limited to, the costs of administering this Contract.

17. NON-DISCRIMINATION – In the performance of this Contract, CONTRACTOR shall not discriminate in its recruitment, hiring, promotion, demotion, and termination practices on the

basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability, and shall comply with the provisions of the California Fair Employment & Housing Act (Gov. Code, §§12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. CONTRACTOR shall also require each subcontractor performing work in connection with this Contract to comply with this section, and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.

18. PROPERTY AND SECURITY – Without limiting CONTRACTOR’S obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT’S premises.
19. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.
20. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Contract, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.
21. ATTORNEYS’ FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys’ fees and costs.
22. FORCE MAJEURE – Neither DISTRICT nor CONTRACTOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to a party’s own action or inaction, then such cause shall not excuse that party from performance under this Contract.
23. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected.

24. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein, shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
25. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
26. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.
27. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to CONTRACTOR providing services to DISTRICT, and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.
28. SURVIVAL OF TERMS – The provisions of sections 7 (Indemnification), 13 (Confidentiality), 14 (Intellectual Property Rights), and 15 (Publication) shall survive the expiration or termination of this Contract.

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

SHARON BEALS

By: _____
Philip M. Fine
Executive Officer/APCO

By: _____
Sharon Beals
Photographer/Owner

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Alexander G. Crockett
District Counsel

DRAFT

ATTACHMENT A

SCOPE OF WORK

CONTRACTOR shall provide photography for media and print at the request and direction of the DISTRICT.

Photography for Media and Print Use – CONTRACTOR will provide the following services on behalf of the DISTRICT:

1. Photography services:
 - a. Candid and staged photographs of people engaged in outdoor recreational activities and transit-related activities;
 - b. Portraiture;
 - c. Landscape and cityscape photography within the 9-county Bay Area of DISTRICT's jurisdiction;
 - d. Photographs of various types of pollution sources and renewable energy sources; and
 - e. Photo documentation of DISTRICT funded projects and events.
2. Photo finishing and editing.
3. Digital photo file delivery of all photographs.
4. Work with DISTRICT and DISTRICT's consultants on small- and large-scale projects relating to DISTRICT programs.
5. DISTRICT will own all rights to the photographs.
6. Obtain release forms from all persons who are depicted in photographs in an identifiable way.

All photo files taken during the photography sessions will become and remain the exclusive property of the DISTRICT.

ATTACHMENT B

COST SCHEDULE

Service	Rate
Photography	\$325 for the first hour; \$175 for any additional hours
Digital Editing, Retouching and Archiving	\$90 per hour
Photography Assistant Fee	\$400 for half day; \$700 for full day
Security services for outdoor shoots	\$100 per hour
Location Scouting and Research for Assignments	\$80 per hour

Labor Rates

DISTRICT will pay CONTRACTOR at the rates listed in the table above for the photography services described in Attachment A to this Contract, "Scope of Work."

Expenses

DISTRICT will pay CONTRACTOR for the following out-of-pocket expenses actually incurred by CONTRACTOR in connection with providing the photography services described in Attachment A:

- Travel expenses (bridge tolls, parking and mileage) for photography services.
- Equipment rentals.
- Hiring of talent for staged photo shoots as pre-approved in writing by the DISTRICT.
- Security as needed for outdoor photo shoots as part of photography services.

All services rendered under this Contract, and all expenses allowed under this Contract incurred by CONTRACTOR, shall be itemized and invoiced in accordance with Section 8 ("Payment") of this Contract.

Total cost of Contract not to exceed \$250,000.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

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

From: Philip M. Fine
Executive Officer/APCO

Date: November 15, 2023

Re: Authorization to Execute a Contract for a Grant Project Over \$500,000 and Accept
New State Monies

RECOMMENDED ACTION

1. Approve the recommended project with a proposed grant award over \$500,000 as shown in Attachment 1 and authorize the Executive Officer/APCO to enter into all necessary agreements with the applicant for the recommended project;
2. Authorize the Bay Area Air Quality Management District to accept, obligate, and expend new fiscal year 2023-2024 State funds from the California Air Resources Board including:
 - a. Up to \$50 million in Community Air Protection Program, or CAPP, Incentives funds, and
 - b. Up to \$24.4 million in Carl Moyer Program Year 26 funds;
3. Allocate up to \$3.3 million in Mobile Source Incentive Funds to provide the required match funding required to participate in the Carl Moyer program; and
4. Adopt resolutions authorizing the Air District's participation in the fiscal year 2023-2024 Carl Moyer and CAPP Incentives programs.

BACKGROUND**Carl Moyer Program and Mobile Source Incentive Fund**

The Bay Area Air Quality Management District (Air District) has participated in the Carl Moyer Program (CMP), in cooperation with the California Air Resources Board (CARB), since the program began in 1998. The CMP provides grants to public and private entities to reduce emissions of nitrogen oxides (NOx), reactive organic gases (ROG), and particulate matter (PM) from existing heavy-duty engines by either replacing or retrofitting them. Projects eligible under the CMP guidelines include heavy-duty diesel engine applications such as on-road trucks and buses, off-road construction, agricultural equipment, marine vessels, locomotives, stationary agricultural pump engines, and refueling or recharging infrastructure that supports the deployment of new zero-emission vehicles and equipment. Per AB 1390, at least 50 percent of CMP funds must be awarded to projects that benefit communities with the most significant exposure to air contaminants or localized air contaminants.

Assembly Bill (AB) 923 (Firebaugh), enacted in 2004 (codified as Health and Safety Code (HSC) Section 44225), authorized local air districts to increase motor-vehicle-registration surcharges by up to \$2 additional per vehicle and use the revenue to fund projects eligible under the CMP guidelines. AB 923 revenue is deposited in the Air District's Mobile Source Incentive Fund (MSIF).

Community Air Protection Program - Incentives

In 2017, AB 617 directed CARB, in conjunction with local air districts to establish a new community-focused action framework to improve air quality and reduce exposure to criteria air pollutants and toxic air contaminants in communities most impacted by air pollution. The AB 617 initiative calls for the development of community-identified strategies to address air quality issues in impacted communities, including community-level monitoring, uniform emission reporting across the State, stronger regulation of pollution sources, and incentives for reducing air pollution and public health impacts from mobile and stationary sources.

Beginning in the fiscal year ending (FYE) 2018, the California Legislature approved funding from the State's Greenhouse Gas Reduction Fund (GGRF), which is used to reduce criteria pollutants, toxic air contaminants, and greenhouse gases for the Community Air Protection Program (CAPP). CAPP Incentives funds may be used to fund projects that are eligible under the CMP and on-road truck replacements under the Proposition 1B Goods Movement Emission Reduction Program. Following additional approvals from CARB, CAPP Incentive funds may also potentially be used to fund other types of projects that have been identified and prioritized by communities with an approved Community Emissions Reduction Program, pursuant to HSC Section 44391.2. At least 80% of CAPP Incentives funds must be allocated to projects that benefit disadvantaged communities (Senate Bill (SB) 535), and low-income communities (AB 1550).

Funding Agricultural Replacement Measures for Emission Reductions

In February 2018, CARB developed the Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program Guidelines that outline requirements for eligible agricultural equipment replacement projects evaluated under the CMP guidelines, including harvesting equipment, pump engines, tractors, and other equipment used in agricultural operations. Subsequent updates to the FARMER guidelines expanded eligible projects to include zero-emission demonstration projects and added flexibility for funding zero-emission equipment. Under the California State Budget, GGRF funds are appropriated to CARB for each new cycle of the FARMER program for the continued reduction of criteria, toxic, and greenhouse gas emissions from the agricultural sector.

Transportation Fund for Clean Air

In 1991, the California State Legislature authorized the Air District to impose a \$4 surcharge on motor vehicles registered within the nine-county Bay Area to fund projects that reduce on-road motor vehicle emissions within the Air District's jurisdiction. The statutory authority and requirements for the Transportation Fund for Clean Air (TFCA) are set forth in HSC Sections

44241 and 44242. Sixty percent of TFCA monies are awarded by the Air District to eligible projects and programs implemented directly by the Air District (e.g., Spare the Air program) and to a program referred to as the Regional Fund. The legislation also requires the remaining forty percent to be allocated by formula to the nine designated Bay Area transportation agencies, who in turn award these monies to eligible projects within their county. Each year, the Air District’s Board of Directors (Board) allocates funding and adopts policies and evaluation criteria that govern the expenditure of TFCA monies. On April 5, 2023, the Board authorized funding allocations of the sixty-percent portion of the TFCA revenue for use in FYE 2024, and cost-effectiveness limits for Air District-sponsored programs that will be implemented during FYE 2024. On May 17, 2023, the Board adopted policies and evaluation criteria that will govern use of the 60% portion during FYE 2024. This report discusses only the 60% Funds, which is the portion that is awarded directly by the Air District.

Program Revenues, Project Selection, and Results

Attachment 4 shows a list of the Air District’s sources of new revenue, including CMP, TFCA, CAPP, MSIF and FARMER, by funding cycle, that are anticipated to be available for award to eligible projects in FYE 2024. These funding sources must be awarded (obligated) and paid to grantees (liquidated) after approved project work has been completed within two to four years from the date of award to the Air District. As new projects are recommended for award, staff work to obligate the oldest source/cycle of funding for which a specific project is eligible. For this reason, a portion of the oldest funding shown in Attachment 4 may have been awarded to projects in the previous fiscal year, and some of the newer funding may remain unallocated during the current year and will be awarded in future years.

Applications for grant funding received by the Air District are reviewed and evaluated for eligibility under the respective governing policies and guidelines established by each funding source, e.g., CARB, the Board. At least quarterly, staff provides updates to the Mobile Source and Climate Impacts Committee or Board of Directors on the status of the CMP, TFCA, CAPP, MSIF and FARMER incentive funding for the current fiscal year, including:

- The total amount of funds awarded to date and amount of funding awarded to projects that will achieve emissions reductions in impacted communities, including AB 617 communities, disadvantaged SB 535 communities, low-income AB 1550 communities, Air District-identified Community Air Risk Evaluation (CARE) areas and, awards to low-income residents;
- The amount of remaining funds available for award; and
- A summary of total funds allocated/awarded by county and by equipment category type.

The reported award/allocations and emissions reduction benefits to impacted communities and counties, which are based on information provided by each applicant, do not include “regional” projects, where all communities receive benefits, or projects where the location of the benefit has not yet been determined.

On April 6, 2022, the Board authorized the Air Pollution Control Office (APCO)/Executive Officer to approve projects with awards up to \$500,000. For all CMP, TFCA, CAPP, MSIF and FARMER projects with proposed awards greater than \$500,000, staff bring recommendations of these projects to the Board for consideration.

DISCUSSION

A solicitation for mobile source projects was conducted between September 19, 2022, and June 8, 2023, and applications were accepted on a rolling basis and evaluated on a first-come, first-served basis. As of July 1, 2023, the Air District had approximately \$145 million available in CMP, MSIF, CAPP Incentives, FARMER, and TFCA funds for eligible projects from a combination of new and prior year funds. Between September 7, 2023, and October 5, 2023, staff completed the evaluation of one application that was received by June 8th, that has a proposed award of over \$500,000. This project will repower one propulsion and four auxiliary diesel engines of a marine excursion vessel and will replace these with a diesel-electric hybrid system.

The recommended project is estimated to reduce over 2.4 tons of NOx, ROG, and PM emissions per year. The project will provide emissions benefits in priority areas. Staff recommend approval of the allocation of up to \$1,085,00 for this project from a combination of CMP, MSIF, and CAPP Incentives revenues. Attachment 1 provides additional information on the recommended project.

Attachment 2 lists all eligible projects that have been either recommended for award or awarded by the Air District between July 1, 2023, and October 5, 2023, including information about project equipment, award amounts, project locations, estimated emissions reductions, and whether the project will benefit air quality in priority communities. As of October 5, 2023, over \$42.8 million has been awarded or recommended, of which \$3.1 million was allocated to “regional” projects that benefit all communities or where the benefit has not yet been determined. Of the remaining \$39.7 million, over 80 percent of these funds have been awarded or allocated to projects that reduce emissions in disadvantaged SB 535 communities, low-income AB 1550 communities, and/or CARE communities, or to low-income residents. The percentage will change over time as the remaining funds are awarded later in the fiscal year and as more complete information about the location of projects and program participants becomes available.

The charts in Attachment 3 show the status of FYE 2024 incentive funding, distribution of funding by county, and distribution by project category, and are updated at least quarterly.

A competitive solicitation for electric infrastructure to support heavy-duty vehicles and equipment opened on July 19, 2023, and closed on September 12th. Staff are currently reviewing the applications received and will be bringing recommendations for awards to the highest ranked projects by early 2024. A solicitation for other types of project categories is currently under development and anticipated to open later this calendar year.

New State Monies – Fiscal Year 2023-2024

CARB requires the Air District's Board to authorize participation through the adoption of a resolution for both the CMP and CAP Incentive programs. Participation in the CMP also requires the Air District to commit match funds of at least 15 percent. Up to 6.25 percent of the total funds awarded to the Air District may be used to pay for administrative expenses related to the implementation of these programs.

CMP Year 26

The 2023-2024 California State Budget allocated approximately \$123 million for CARB to distribute to local air districts under the Carl Moyer program for the fiscal year (FY) 2023-2024. The Air District plans to apply for up to \$22 million for the implementation of CMP Year 26 and up to \$2.4 million in funding under the State Reserve Portion of the Carl Moyer Program. In addition, the acceptance of CMP funds requires a minimum of 15 percent in matching funds from local districts and staff are recommending the allocation of up to \$3.3 million in MSIF as match funds for the CMP Year 26 funding cycle.

CAPP Incentives Program

The 2023-2024 California State Budget appropriated \$250 million in Greenhouse Gas Reduction Funds statewide for the CAPP Incentives. The Air District will apply for up to \$50 million of CAP (Year 7) funds for the implementation of programs to provide incentives for eligible projects.

If the Board approves participation in the CMP and CAPP Incentives programs, and following execution of the respective grant agreements with CARB, Air District staff expect to begin accepting applications under these funding cycles in calendar year 2024 for projects eligible under the most current CARB-approved CMP and CAPP Guidelines and any subsequent updates. Applications for eligible projects may be solicited and evaluated competitively or on a first-come, first-served basis. The Air District prioritizes funding for projects that reduce emissions in its priority areas, including AB 617 communities, and disadvantaged and low-income communities.

Each cycle of grant funding that is accepted by the Air District creates an obligation of effort that has a typical duration of between ten to fourteen years, whereby most of the work occurs in the first four to five years, involving project solicitation and outreach, awarding, contracting, inspections, reimbursements, project monitoring, cooperation in audits, and reporting to CARB. Future years work includes continued project monitoring, reporting to CARB, and enforcement action when needed.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The Air District distributes the CMP, MSIF, CAPP Incentive, FARMER, and TFCA funding to project sponsors on a reimbursement basis after the grantee completes all approved project work, which typically takes between 12 months to 3 years. The recommended project listed on

Attachment 1 will be awarded a total of \$1,085,000 that will be paid for by one or more of these state and local incentive fund sources upon project completion. Funding for administrative costs to implement these programs, including evaluating, contracting, and monitoring projects for multiple years, is provided by each funding source.

Revenue from CMP Year 26 (including State Reserve funds) and CAP Year 7 is anticipated to be up to \$74.4 million. At least 92.75 percent of the funding awarded will be distributed to grantees on a reimbursement basis for direct project expenses, and up to 6.25 percent of the revenue will be used by the Air District for its own administrative costs to implement the programs. These revenues will be budgeted in FYE 25 and future years, as needed. MSIF funds allocated for the CMP Year 26 match will also be budgeted in FYE 25 and future years, as needed.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Adriana Kolev, Daniel Langmaid, and Linda Hui
Reviewed by: Minda Berbeco, Alona Davis, Chengfeng Wang, and Karen Schkolnick

ATTACHMENTS:

1. Recommended Projects with grant awards greater than \$500,000 (evaluated 9/7/23 to 10/5/23)
2. All projects - awarded, allocated, and recommended (7/1/23 to 10/5/23)
3. Funding Facts and Figures 7/1/23 through 9/7/23
4. Sources of Incentive Program Revenue (FYE 2024)
5. Board Resolution CMP FY 2023-2024 (Year 26)
6. Board Resolution CAP FY 2023-2024 (Year 7)

ATTACHMENT 1

Recommended projects with grant awards greater than \$500k (Evaluated between 9/7/23 and 10/5/23)

Carl Moyer Program, Transportation Fund for Clean Air, Mobile Source Incentive Fund, FARMER, and Community Air Protection Program

Project #	Applicant Name	Project Category	Project Description	Proposed Contract Award	Total Project Cost	Emission Reductions (tons per year)			County	Benefits Priority Area(s)
						NO _x	ROG	PM		
23MOY183	Fathom Ventures, LLC	Marine	Repower one propulsion and four auxiliary marine diesel engines to a marine diesel-electric hybrid system in a registered historic survey-capable excursion vessel.	\$1,085,000	\$4,700,124	2.239	0.141	0.082	Alameda / San Francisco / Contra Costa / Solano / Marin	Yes
1	Project			Totals	\$1,085,000	\$4,700,124	2.239	0.141	0.082	

ATTACHMENT 2

Data in this table are updated quarterly. Funds awarded or allocated after the date range below will be reflected in the next quarterly update.

CMP/MSIF, TFCA, FARMER and Community Air Protection Program projects (awarded and allocated between 7/1/23 and 10/5/23)

Project #	Project Category	Project Description	Number of Engines	Proposed Contract Award	Applicant Name	Emission Reductions (tons per year)			County	Board/APCO Approval Date	Benefits Priority Area(s)	Projected Funding Source ¹
						NOx	ROG	PM				
24R01	Trip Reduction	Enhanced Mobile Source & Commuter Benefits Enforcement	n/a	\$ 150,000	BAAQMD	TBD ¹	TBD ¹	TBD ¹	Regional	6/7/2023 ²	N/A	1
24R02	Light Duty (LD) Vehicles	Vehicle Buy Back Program Implementation	n/a	\$ 700,000	BAAQMD	N/A	N/A	N/A	Regional	6/7/2023 ²	N/A	1
24R03	Trip Reduction	Spare The Air/ Intermittent Control/ Flex Your Commute Programs	n/a	\$ 2,290,000	BAAQMD	TBD ¹	TBD ¹	TBD ¹	Regional	6/7/2023 ²	N/A	1
23SBP53	School Bus + Infrastructure	Replace 14 diesel school buses with 14 new electric school buses, and install 11 chargers.	14	\$ 4,822,770	Safrans Transportation, Inc.	0.739	0.040	0.004	Santa Clara	7/19/23	Yes	1, 2
23MOY44	Off-Road	Repower two Tier-1, one Tier-4 Interim, and two Tier-4 final diesel-powered rubber-tired gantry cranes (RTGs) with five Hybrid, diesel-electric Tier-4 final RTGs.	5	\$ 1,065,200	Everport Terminal Services	3.707	0.308	0.051	Alameda	7/19/23	Yes	2
23MOY119	Locomotive	Replace one Tier-0 diesel-powered locomotive with a Tier-4 final diesel-powered locomotive.	1	\$ 828,000	Richmond Pacific Railroad	2.501	0.431	0.124	Contra Costa	7/19/23	Yes	2
23MOY62	Ag/ off-road	Replace two Tier-0 with two Tier-4 diesel-powered agriculture loaders	2	\$ 88,000	B/S Ranch	0.140	0.024	0.017	Marin	7/14/23	Yes	2
23MOY155	Ag/ off-road	Replace three Tier-1 with three Tier-4 diesel-powered agriculture tractors, and two Tier-2 with two Tier-4 diesel-powered agriculture tractor	3	\$ 232,950	Kistler Vineyards LLC	0.609	0.085	0.066	Sonoma	7/24/23	Yes	2
23MOY93	Ag/ off-road	Replace one Tier-2 with one Tier-4 diesel-powered agriculture tractor	1	\$ 58,250	Massa LLC	0.091	0.005	0.005	Napa	7/24/23	No	2
23MOY118	Ag/ off-road	Replace two Tier-1 to two Tier-4 diesel-powered agriculture tractor/crawler	2	\$ 147,600	Renteria Vineyard Management, LLC	0.239	0.045	0.035	Napa	7/26/23	Yes	2
23MOY96	Ag/ off-road	Replace one Tier-0 with one Tier-4 diesel-powered agriculture tractor/crawler, and one Tier-0 with one Tier-4 diesel-powered agriculture tractor	2	\$ 60,600	T and M Agricultural Services LLC	0.052	0.046	0.012	Napa	7/26/23	No	2
23MOY98	Ag/ off-road	Replace one Tier-0 with one Tier-4 diesel-powered agriculture tractor	1	\$ 73,900	Fiorio Farm, Inc	0.588	0.076	0.044	Santa Clara	8/4/23	No	2
23MOY116	Ag/ off-road	Replace one Tier-0 with one Tier-4 diesel-powered agriculture tractor	1	\$ 21,000	Tru2Earth Farm LLC	0.029	0.024	0.006	Santa Clara	8/10/23	Yes	2
23MOY74	Ag/ off-road	Replace one Tier-1 with one Tier-4 diesel-powered agriculture other equipment	1	\$ 45,000	Sequoia Grove Vineyards, LP	0.036	0.007	0.005	Napa	8/15/23	No	2
23MOY166	Ag/ off-road	Replace one Tier-0 with one Tier-4 diesel-powered agriculture tractor, and one Tier-1 with one Tier-4 diesel-powered agriculture tractor	2	\$ 145,600	V. Sattui Winery	0.274	0.045	0.033	Napa	8/16/23	No	2
23MOY132	Ag/ off-road	Replace two Tier-0 with two Tier-4 diesel-powered agriculture other equipment	2	\$ 182,500	Dottu Bros. LLC	0.352	0.045	0.028	Sonoma	8/16/23	No	2
23MOY126	Ag/ off-road	Replace one Tier-0 with one Tier-4 diesel-powered agriculture tractor	1	\$ 76,300	Krasilsa Pacific Farms, LLC	0.134	0.016	0.011	Sonoma	8/18/23	No	2
23MOY108	Ag/ off-road	Replace one Tier-1 with one Tier-4 diesel-powered agriculture tractor	1	\$ 62,900	Rocca Family Vineyards	0.130	0.033	0.026	Napa	8/21/23	No	2

ATTACHMENT 2

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CMP/MSIF, TFCA, FARMER and Community Air Protection Program projects (awarded and allocated between 7/1/23 and 10/5/23)

Project #	Project Category	Project Description	Number of Engines	Proposed Contract Award	Applicant Name	Emission Reductions (tons per year)			County	Board/APCO Approval Date	Benefits Priority Area(s)	Projected Funding Source ¹
						NOx	ROG	PM				
23MOY121	Marine	Repower one Tier-0 with one Tier-3 diesel-powered engine on a commercial fishing boat	1	\$ 78,100	Crowl Holdings, LLC	0.205	-0.005	0.009	Marin / San Francisco	8/4/23	Yes	2
23MOY128	Marine	Replace two Tier-2 with two Tier-3 diesel-powered auxiliary engines on an excursion vessel	2	\$ 15,750	Golden Gate Scenic Steamship	0.052	0.009	0.003	Alameda/ Marin/ San Francisco	8/4/23	Yes	2
23SBP54	School Bus	Replace 2 compressed natural gas school buses with 2 electric school buses	2	\$ 847,000	Sunnyvale School District	0.078	0.004	0.000	Santa Clara	9/20/23	Yes	1, 2
23MOY150	EV Trucks + Infrastructure	Replace 18 diesel-powered heavy heavy-duty trucks with 18 electric heavy heavy-duty trucks and install 23 electric vehicle charging stations	18	\$ 4,595,084	Sysco	0.967	0.064	0.002	Alameda	9/20/23	No	1,2
23SBP10	School Bus + Infrastructure	Replace 8 diesel school buses with 8 electric school buses and associated infrastructure	8	\$ 2,749,666	San Mateo Union High School District	0.295	0.017	0.005	San Mateo	9/20/23	Yes	1,2
23MOY52	Locomotive	Replace 7 switcher locomotives with 3 switcher locomotives using two 3-for-1 replacements and one 1-for-1 replacement	7	\$ 3,345,000	Napa Valley Wine Train	11.878	1.204	0.417	Napa	9/20/23	Yes	2
23MOY12	Marine	Repower two Tier 0 engines to Tier 4 engines on a commercial fishing vessel	1	\$ 867,000	Brian Collier	2.554	0.119	0.077	Alameda/ Contra Costa	9/20/23	Yes	2
23MOY145	Marine	Repower two 2018 Tier 3 main engines to 2023 Tier 4 diesel engines on the tug boat Revolution	1	\$ 2,900,000	Amnav Maritime, LLC	15.478	1.935	0.302	Alameda / Contra Costa / San Francisco / San Mateo / Solano	9/20/23	Yes	2
23MOY146	Marine	Repower two 2018 Tier 3 main engines to 2023 Tier 4 diesel engines on the tug boat Sandra Hugh	1	\$ 3,150,000	Amnav Maritime, LLC	16.885	2.110	0.330	Alameda / Contra Costa / San Francisco / San Mateo / Solano	9/20/23	Yes	2
23MOY130	Ag/ off-road	Replace one Tier-0 with Tier-4 diesel-powered agriculture tractor/crawler	1	\$ 31,400	Ramaiah Ale	0.049	0.007	0.004	Contra Costa	8/24/23	Yes	2
23MOY66	Ag/ off-road	Replace one Tier-0 with Tier-4 diesel-powered agriculture excavator	1	\$ 172,400	Cobb Creek Holdings, LLC DBA CCH Ag Services	0.119	0.020	0.014	Napa	8/28/23	No	2
23MOY113	Ag/ off-road	Replace one Tier-0 with Tier-4 diesel-powered agriculture tractor	1	\$ 351,400	E & M Deniz Dairy	0.788	0.076	0.041	Sonoma	8/30/23	No	2
23MOY176	Ag/ off-road	Replace two Tier-2 with Tier-4 diesel-powered agriculture tractor, and two Tier-3 with Tier-4 diesel-powered agriculture tractor	4	\$ 295,600	Dirt Farmer & Company, A California Corporation	0.572	0.041	0.036	Sonoma	8/30/23	No	2
23MOY117	Ag/ off-road	Replace one Tier-2 with Tier-4 diesel-powered agriculture tractor	1	\$ 39,400	Heritage Vineyard Management, Inc	0.035	0.003	0.005	Napa	8/30/23	No	2
23MOY90	Ag/ off-road	Replace three Tier-0 to Tier-4 diesel-powered agriculture equipment, including one tractor, one tractor/crawler, and one loader/backhoe	3	\$ 172,400	Isley Brothers Farming, LLC	0.163	0.068	0.026	Napa	9/1/23	No	2
23MOY136	Ag/ off-road	Replace two Tier-1 with Tier-4 diesel-powered agriculture equipment, including one tractor, and one tractor/crawler	2	\$ 121,150	Barbour Vineyards Management LLC	0.180	0.031	0.023	Napa	9/5/23	No	2
23MOY177	Ag/ off-road	Replace one Tier-1 with Tier-4 diesel-powered agriculture tractor, and one Tier-0 with Tier-4 diesel-powered agriculture tractor	2	\$ 88,600	A Cut Above Viticulture Service inc.	0.127	0.038	0.019	Napa	9/6/23	No	2
23MOY127	Ag/ off-road	Replace one Tier-1 with Tier-4 diesel-powered agriculture tractor	1	\$ 85,200	Circle R Ranch Management LLC	0.135	0.021	0.016	Napa	9/6/23	No	2

ATTACHMENT 2

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CMP/MSIF, TFCA, FARMER and Community Air Protection Program projects (awarded and allocated between 7/1/23 and 10/5/23)

Project #	Project Category	Project Description	Number of Engines	Proposed Contract Award	Applicant Name	Emission Reductions (tons per year)			County	Board/APCO Approval Date	Benefits Priority Area(s)	Projected Funding Source ¹
						NOx	ROG	PM				
23MOY129	Ag/ off-road	Replace one Tier-1 with one Tier-4 diesel-powered agriculture other equipment	1	\$ 93,700	Tim McDonald	0.082	0.019	0.015	Napa	9/12/23	No	2
23SBP172	School Bus Infrastructure	Install 13 electric charging stations and associated infrastructure to support electric school buses	0	\$ 225,000	Zum Services	0.000	0.000	0.000	Alameda	9/13/23	Yes	2
23SBP167	School Bus Infrastructure	Install 221 electric charging stations and associated infrastructure to support electric school buses	0	\$ 1,000,000	Zum Services Inc	0.000	0.000	0.000	San Francisco	TBD	Yes	2
23SBP171	School Bus Infrastructure	Install 74 electric charging stations and associated infrastructure to support electric school buses	0	\$ 985,930	Zum Services Inc	0.000	0.000	0.000	Alameda	TBD	Yes	2, 3
23MOY152	EV Trucks + Infrastructure	Replace 27 diesel-powered heavy-duty trucks with electric trucks and install 27 electric charging stations and associated infrastructure	27	\$ 6,449,000	US Foods, Inc.	1.024	0.069	0.002	Alameda	TBD	Yes	1, 2
23MOY174 ³	Off-Road	Replace 13 large-spark ignition airport ground support equipment units with 13 zero-emissions units	13	\$ 685,975	Swissport USA Inc.	0.662	0.151	0.031	San Mateo	TBD	Yes	2
23MOY182	On-road Infrastructure	Install 16 electric charging stations and associated infrastructure.	0	\$ 330,000	City of Fairfield	0.000	0.000	0.000	Solano	9/19/23	Yes	2
23MOY107	Off-Road	Replace two Tier-0 with Tier-4 diesel-powered agriculture equipment, including one tractor and one tractor/loader	2	\$ 144,100	Brisa Ranch, LLC	0.325	0.049	0.029	San Mateo	9/22/23	No	2
23MOY122	On-road Infrastructure	Install 40 electric charging stations and associated infrastructure.	0	\$ 495,000	FM Greenville	0.000	0.000	0.000	San Mateo	9/25/23	No	2
23MOY160	Off-Road	Replace two Tier-0 with Tier-4 diesel-powered agriculture tractors.	2	\$ 162,900	Bains Farms LLC	0.395	0.057	0.039	Solano	9/28/23	No	2
23MOY151	Off-Road	Replace one Tier-1 with a Tier-4 diesel-powered agriculture tractor/loader.	1	\$ 103,400	Napa Select Vineyard Services, Inc.	0.093	0.021	0.017	Napa	9/29/23	No	2
23MOY144	Off-Road	Replace one Tier-1 with a Tier-4 diesel-powered agriculture tractor/loader.	1	\$ 100,500	Moraga Organic Farms LLC	0.136	0.031	0.025	Alameda	9/29/23	No	2
23MOY183	Marine	Repower one propulsion and four auxiliary marine engines to a marine diesel-electric hybrid system in a registered historic survey-capable excursion vessel.	5	\$ 1,085,000	Fathom Ventures, LLC	2.239	0.141	0.082	Alameda / San Francisco / Contra Costa / Solano / Marin	TBD	Yes	2

TOTALS **49 Projects** **148** **\$** **42,816,225** **65.1** **7.5** **2.0**

† Projected Funding Source includes (1) Transportation Fund for Clean Air; (2) CMP/MSIF, FARMER and Community Air Protection Program; (3) Reformulated Gasoline Fund. At the time of award, this funding source is assigned based on funding availability and project eligibility. However, the actual funding source used to pay out a project may be different from the Projected Funding Source due to a variety of factors such as delays in project implementation or other funding sources becoming available.

¹ Funds have been allocated to these programs and projects and results will be determined at the end of project period.

² Date when BOD approved the program budget for FYE 2024

³ Final project approval is pending case-by-case approval by the California Air Resources Board.

ATTACHMENT 3

Funding Facts and Figures 7/1/23 through 9/7/23 (updated quarterly)

Funding Sources Reported: Transportation Fund for Clean Air (TFCA), Carl Moyer Program (CMP), Community Air Protection Program (CAPP), Mobile Source Incentive Fund (MSIF), and Funding Agricultural Replacement Measures for Emission Reductions (FARMER)

Figure 1. Status of FYE 2024 funding

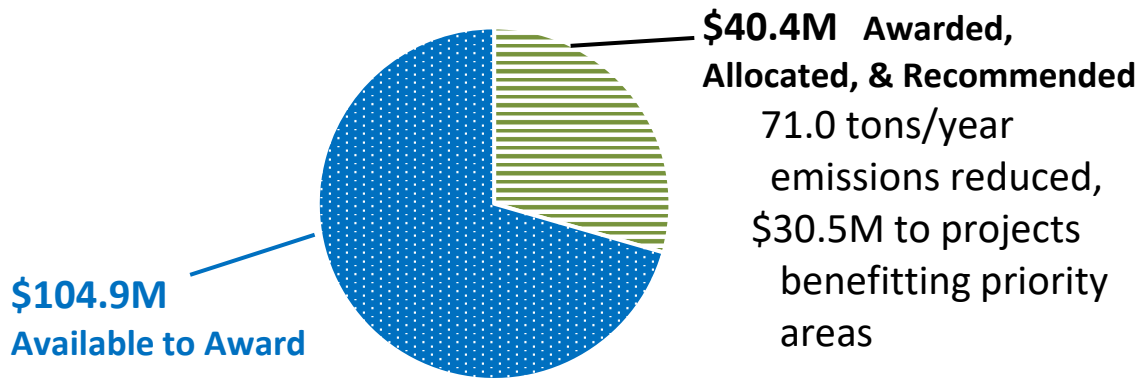


Figure 2. Funding Awarded by County in FYE 2024
includes funds allocated, awarded, & recommended for award

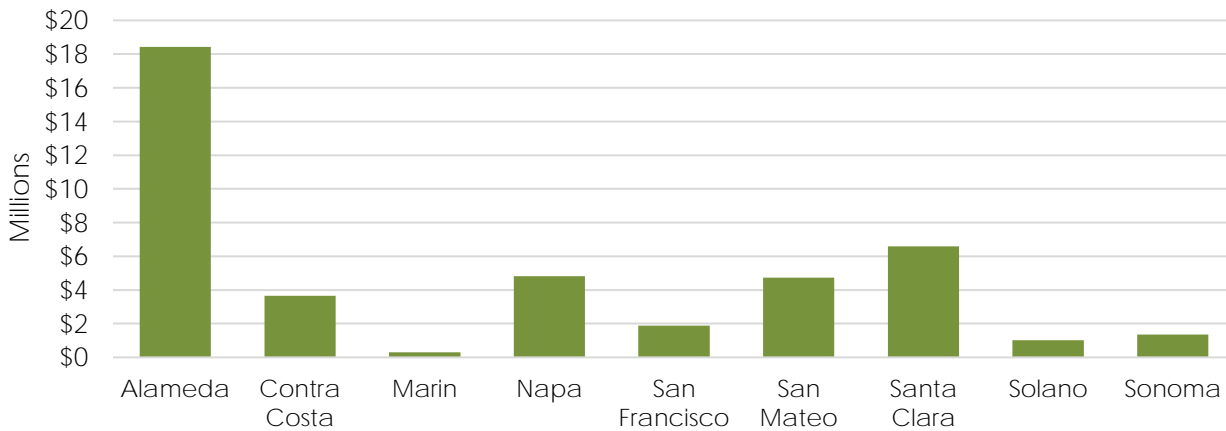
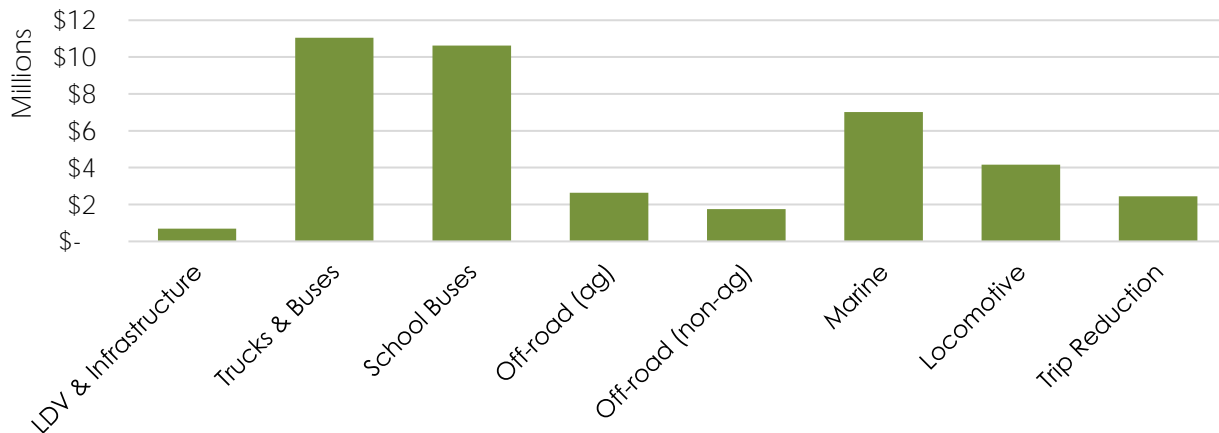


Figure 3. Funding Awarded by Project Category in FYE 2024
includes funds allocated, awarded, & recommended for award



Attachment 4

Sources of Incentive Program Revenue (FYE 2024)*

Funding Source Cycle**	\$ for Projects and Programs (in Millions)	Award Date	Source
CMP Year 24	\$ 26.7***	3/16/2022	CARB
CMP Year 24 State Reserve	\$ 4.5	6/3/2022	CARB
CMP Year 25	\$ 13.6	2/22/2023	CARB
CMP Year 25 State Reserve	\$ 2.8	5/19/2023	CARB
CAPP Incentives Year 5	\$ 35.4***	6/23/2022	CARB
CAPP Incentives Year 6	\$ 32.7	12/27/2022	CARB
FARMER Year 5	\$ 2.4***	12/14/2022	CARB
TFCA 60% Fund FYE 2024	\$ 13.5	accrues monthly	\$4 DMV fees
Mobile Source Incentive Fund FYE 2024	\$ 11.2	accrues monthly	\$2 DMV fees
<i>CMP Year 26</i>	<i>Up to \$22</i>	<i>TBD FYE 2024</i>	<i>CARB</i>
<i>CMP Year 26 State Reserve</i>	<i>Up to \$2.4</i>	<i>TBD FYE 2024</i>	<i>CARB</i>
<i>CAPP Incentives Year 7</i>	<i>Up to \$50</i>	<i>TBD FYE 2024</i>	<i>CARB</i>
<i>FARMER Year 6</i>	<i>Up to \$3.4</i>	<i>TBD FYE 2024</i>	<i>CARB</i>
Total Incentive Revenue Awarded by CARB to Air District	\$142.8		

* This is not a complete listing of all sources of incentive funds managed by the Air District but covers the sources that are discussed in this report.

** Includes Carl Moyer Program (CMP), Community Air Protection Program (CAPP), Funding Agricultural Replacement Measures for Emissions Reduction (FARMER), and Transportation Fund for Clean Air (TFCA).

*** Some revenues were partially obligated to projects in fiscal year ending (FYE) 2023 and therefore full amounts may not be available for award to projects in FYE 2024.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION No. 2023 -

**Resolution Accepting Year 26 Carl Moyer Program Funds
From the California Air Resources Board**

WHEREAS, California Health and Safety Code Division 26, Part 5, Chapter 9, empowers the California Air Resources Board (CARB) to allocate Carl Moyer Program funds to local air quality districts to provide financial incentives to both the public and private sectors to implement eligible projects to reduce emissions of oxides of nitrogen (NO_x), reactive organic gases (ROG), and particulate matter (PM) from existing heavy-duty engines by either replacing or retrofitting them;

WHEREAS, California Health and Safety Code section 44287, authorizes CARB to provide an air district with funds if that district provides matching funds in an amount established by ARB;

WHEREAS, the Bay Area Air Quality Management District (District) has successfully implemented the Carl Moyer Program since its inception in 1998;

WHEREAS, the District will be submitting applications to CARB requesting up to \$22 million in Carl Moyer Program funds and up to \$2.4 million in Carl Moyer Program State Reserve funds to implement the Carl Moyer Program within the District for the fiscal year (FY) 2023-2024 (Year 26) cycle;

WHEREAS, the District proposes to commit up to \$3.3 million in matching funds from the District's Mobile Source Incentive Fund (MSIF) as part of the Year 26 Carl Moyer Program cycle, in accordance with the requirements of California Health and Safety Code section 44287;

WHEREAS, eligible projects include vehicle and equipment replacements or retrofits from on-road, marine, locomotive, agricultural, and off-road engines, and infrastructure to support zero-emission equipment;

WHEREAS, the District may consider projects that qualify for grant funds under the requirements for the State Reserve portion of Carl Moyer Program funds;

WHEREAS, the District will follow the most recent version of the Carl Moyer Program Guidelines for the Year 26 CMP cycle, in the implementation of Carl Moyer Year 26 and MSIF funds;

WHEREAS, the District may use up to 6.25 percent of the funds it receives to pay the reasonable costs of implementing the incentive program.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors hereby approves the District's acceptance of FY 2023-2024 CMP funds, including the State Reserve portion thereof, to be awarded to eligible District projects in accordance with legislative and applicable program requirements.

BE IT FURTHER RESOLVED, the District will provide the required matching funds for District projects by allocating local MSIF revenues to eligible emission reduction projects that qualify for Carl Moyer Program matching purposes.

BE IT FURTHER RESOLVED, the Executive Officer/Air Pollution Control Officer is hereby authorized and empowered to execute on behalf of the District grant agreements with CARB and all other necessary documents to implement and carry out the purposes of this resolution.

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 Director _____, seconded by Director _____, on the ____ day of _____, 2023, by the following vote of the Board:

AYES:

NOES:

ABSENT:

John J. Bauters
Chairperson of the Board of Directors

ATTEST:

Lynda Hopkins
Secretary of the Board of Directors

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION No. 2023 -

**Resolution Accepting Fiscal Year 2023-2024
Community Air Protection Incentives Program Grant Funding
from the California Air Resources Board**

WHEREAS, Assembly Bill (AB) 617 directed the California Air Resources Board (ARB), in conjunction with local air districts, to establish the Community Air Protection (CAP) Incentives Program in order to provide a community-focused framework to improve air quality and reduce exposure to criteria air pollutants and toxic air contaminants in communities most impacted by air pollution;

WHEREAS, the Bay Area Air Quality Management District (District) has successfully implemented the CAP Incentives Program since its inception in 2017;

WHEREAS, the District will apply for up to \$50 million in CAP Incentives Program funds to implement the Fiscal Year (FY) 2023-2024 cycle of the CAP program.;

WHEREAS, eligible projects include mobile sources that meet eligibility requirements of the Carl Moyer Program and California Goods Movement Bond Program, stationary source equipment replacement projects that reduce emissions, and community-identified projects consistent with the applicable community emission reduction program pursuant to Section 44391.2 of the CA Health and Safety Code;

WHEREAS, the District will implement emission reduction projects pursuant to the CAP Incentives Guidelines, allocating funding to projects consistent with priorities identified by affected communities in a transparent, meaningful public process;

WHEREAS, the District may use up to 6.25 percent of the funds it receives to pay the reasonable costs of administering the incentive program.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors hereby approves the District's acceptance of FY 2023-2024 CAP Incentives Program funds to be awarded to eligible projects in accordance with legislative and applicable program requirements.

BE IT FURTHER RESOLVED, the Executive Officer/Air Pollution Control Officer is hereby authorized and empowered to execute on behalf of the District grant agreements with ARB and all other necessary documents to implement and carry out the purposes of this resolution.

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 Director _____, seconded by Director _____,
on the ____ day of _____, 2023, by the following vote of the Board:

AYES:

NOES:

ABSENT:

John J. Bauters
Chairperson of the Board of Directors

ATTEST:

Lynda Hopkins
Secretary of the Board of Directors

DRAFT

BOARD MEETING DATE: November 15, 2023

REPORT: Finance and Administration Committee

SYNOPSIS: The Finance and Administration Committee (Committee) held a meeting on Wednesday, November 1, 2023. The following is a summary of the meeting.

RECOMMENDED ACTION:

None; receive and file.

John J. Bauters, Chair
Finance and Administration Committee

JB:mh

Committee Members

Present, In-Person (375 Beale Street, 1st Floor Board Room, San Francisco, California, 94105): Chairperson John J. Bauters; Vice Chairperson Davina Hurt; and Directors Lynda Hopkins, Tyrone Jue, and Sergio Lopez.

Present, In-Person Satellite Location (San Ramon City Hall, 7000 Bollinger Canyon Road, Community Conference Room, 2nd Floor, San Ramon, California, 94583): Director David Hudson.

Absent: Directors Margaret Abe-Koga, Brian Barnacle, David Haubert, Katie Rice, and Mark Ross.

Call to Order

Chair Bauters called the meeting to order at 1:07 p.m.

For additional details of the Finance and Administration Committee Meeting, please refer to the webcast, which can be found [here](#) 24 hours after the meeting as concluded. Please use the webcast's index to view specific agenda items.

CONSENT CALENDAR (Items 3 – 4)

3. **APPROVAL OF THE DRAFT MINUTES OF THE FINANCE AND ADMINISTRATION COMMITTEE SPECIAL MEETING OF OCTOBER 18, 2023**
4. **HEARING BOARD QUARTERLY REPORT: JULY - SEPTEMBER 2023**

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Vice Chair Hurt made a motion, seconded by Director Hudson, to **approve** Consent Calendar Items 3 and 4, inclusive; and the motion **carried** by the following vote of the Committee:

AYES: Bauters, Hopkins, Hudson, Hurt, Jue, Lopez.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barnacle, Haubert, Rice, Ross.

ACTION ITEM

5. IMPLEMENTATION POLICIES TO SUPPORT PROPOSED NEW ADMINISTRATIVE CODE

Alexander Crockett, District Counsel, Sharon Landers, Interim Chief Operating Officer, and Amy Ackerman of Renne Public Law Group, gave the presentation *Administrative Code Update: Implementation Policies*, including: outcome; requested action; overview; Administrative Code versus policies; meeting compensation and expense reimbursement policy; records management and access policy; records retention schedule; procurement policy; grants policy; sponsorships policy; non-discrimination policy; employer-employee relations resolution; executive leadership continuity policy; remote teleconference meeting policy for standing committee meetings; project timeline; and action requested.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed concerns regarding the security provision of the proposed draft policy, including the purpose of the provision, whether Air District staff will dictate requirements that must be met by all remote teleconferencing locations, and potential liability issues; Procurement Policy timeline; applicant criteria for sponsorships; the request to revise the draft language of the security provision; and the request for a future amendment providing proactive Board approval for attendance and compensation for the “Bay Area AQMD Member” on CARB’s Governing Board to attend CARB meetings.

Committee Action

Chair Bauters made a motion, seconded by Director Hopkins, to recommend that the Board does the following:

Adopt a comprehensive suite of Implementation Policies and related documents to accompany the proposed new Administrative Code on November 15, 2023, with the following adjustments:

- 1) Revise the draft language of the Remote Teleconferencing Meeting Policy accordingly:
~~*Board members are responsible for ensuring that security is provided at the remote teleconferencing location consistent with any security needs identified or directed by Air District staff.*~~ *Security will be provided in the manner dictated by existing security policies at each remote location, to the extent that special circumstances arise, at which point, the Board member who procured the remote location will confirm with the Chair and Vice Chair of the Air District Board committee of any special arrangements that may be required to facilitate and effective meeting.*
- 2) Revise the draft language of the Meeting Compensation and Expense Reimbursement Policy to add a new paragraph approving payments to the Governor-appointed “Bay Area AQMD Member” on CARB’s Governing Board for attendance at any regularly scheduled or special CARB Board and committee meetings.
- 3) The Sponsorship Policy will come back to the Committee by the first calendar quarter of 2024.

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

This item will be **considered** at the **November 15, 2023**, Board of Directors Meeting, under Item 9.

AYES: Bauters, Hopkins, Hudson, Hurt, Jue, Lopez.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barnacle, Haubert, Rice, Ross.

OTHER BUSINESS

6. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

8. COMMITTEE MEMBER COMMENTS

None.

9. TIME AND PLACE OF NEXT MEETING

Wednesday, December 6, 2023, at 1:00 p.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Committee members and members of the public will be able to either join in-person or via webcast.

Adjournment

The meeting was adjourned at 2:03 p.m.

Attachments

#3: Draft Minutes of the Finance and Administration Committee Special Meeting of October 18, 2023

#4: Hearing Board Quarterly Report: July – September 2023

#5: Implementation Policies to Support Proposed New Administrative Code

BOARD MEETING DATE: November 15, 2023

REPORT: Stationary Source and Climate Impacts Committee

SYNOPSIS: The Stationary Source and Climate Impacts Committee (Committee) held a meeting on Wednesday, November 8, 2023. The following is a summary of the meeting.

RECOMMENDED ACTION:

Receive and file.

Lynda Hopkins, Chair
Stationary Source and Climate Impacts Committee

LH:mh

Committee Members

Present, In-Person (Bay Area Metro Center, 375 Beale Street, Yerba Buena Room, San Francisco, California, 94105): Committee Chairperson Lynda Hopkins; Board Chairperson John J. Bauters; and Director Tyrone Jue.

Present, In-Person Satellite Location (Office of Contra Costa County Supervisor, John Gioia, Conference Room, 11780 San Pablo Ave., Suite D, El Cerrito, CA 94530): Director John Gioia.

Present, In-Person Satellite Location (Palo Alto City Hall, 250 Hamilton Ave., 7th Floor, Palo Alto, California, 94301): Director Vicki Veenker.

Present, In-Person Satellite Location (Office of Santa Clara County Supervisor Otto Lee, 70 W Hedding St., East Wing, 10th Floor, San Jose, California, 95110): Director Otto Lee.

Present, In-Person Satellite Location (Office of Alameda County Supervisor David Haubert, 4501 Pleasanton Ave., Pleasanton, California, 94566): Vice Chairperson David Haubert.

Absent: Directors Director Ken Carlson, Noelia Corzo, Myrna Melgar, and Mark Ross.

Call to Order

Chair Hopkins called the meeting to order at 10:03 a.m.

For additional details of the Stationary Source Committee Meeting, please refer to the webcast, [which can be found here](#), 24 hours after the meeting adjourns. Please use the webcast's index to view specific agenda items.

CONSENT CALENDAR

3. **APPROVAL OF THE DRAFT MINUTES OF THE STATIONARY SOURCE AND CLIMATE IMPACTS COMMITTEE MEETING OF OCTOBER 11, 2023**

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Director Jue made a motion, seconded by Board Chair Bauters, to **approve** the Draft Minutes of the Stationary Source and Climate Impacts Committee Meeting of October 11, 2023; and the motion **carried** by the following vote of the Committee:

AYES: Bauters, Gioia, Haubert, Hopkins, Jue, Lee, Veenker.
NOES: None.
ABSTAIN: None.
ABSENT: Carlson, Corzo, Melgar, Ross.

INFORMATIONAL ITEM

4. **ASSESSMENT AND MITIGATION OF WOODSMOKE IMPACTS**

Stephen Reid, Senior Advanced Projects Advisor in the Assessment, Inventory, and Modeling Division, gave the staff presentation *Woodsmoke Impacts: Assessment and Mitigation*, including: outcomes; outline; assessing woodsmoke impacts; background on residential woodsmoke; emissions inventory updates and summary; emission trends; device population and activity trends; residential woodsmoke causes elevated black carbon levels; analysis of Particulate Matter (PM)_{2.5} composition by month; air quality modeling approach; preliminary modeling results; preliminary estimates of impacts; mitigating woodsmoke impacts; Air District sponsored woodsmoke reduction incentive programs; Woodsmoke Reduction Incentive Program; Regulation 6, Rule 3; scoping phase of the rule development process; white paper development; potential policy options to explore; and upcoming work.

Public Comments

Public comments were given by Jan Warren, *Interfaith Climate* Action Network of Contra Costa County.

Committee Comments

The Committee and staff discussed the rate of participation of past woodsmoke reduction incentive programs offered by the Air District; the desire for additional education on the health impacts of woodsmoke; outreach methods and targeted audiences regarding wood smoke health impacts messaging; the way in which priority communities are identified; the suggestion of incentivizing induction stoves; whether the \$2 million allocated to the Bay Area for the Clean Heating Efficiently with Electric Technology (HEET) program may be stretched to help more households than 270; when the levels of particular sources (ammonium nitrate and sea salt) of PM_{2.5} are highest; whether commercial pizza ovens are considered a significant source of PM_{2.5}; regarding device trends, whether the Air District can tell whether wood stove and fireplace population decreases are due to people converting to gas-burning appliances, or decommissioning their gas *and* wood burning devices altogether; the request for the percentage of the overall Bay Area households that have wood burning devices; whether the health of those *inside* the home is more impacted by woodsmoke generated from wood-burning devices inside of a home than those *outside* of the home; the type of electric heat pumps that are being incentivized in the 2023-2024 Clean HEET program, and whether duct systems are included in the program; the comparison of preliminary (modeled) mortality and asthma rates (residential woodsmoke vs. space and water heating appliances); the history of California's smoking bans, how they have changed behavior, and whether that is comparable to the banning of residential wood-burning; advantages and disadvantages of regulating wood-burning devices in designated Assembly Bill (AB) 617 and low-income communities; the suggestions of identifying entities with whom the Air District should engage as the white paper (that provides decision-making context about this source type and recommendations on potential policy responses) is being developed; whether the Air District plans to reattempt its previous rulemaking (which was withdrawn) which would require homeowners who wish to sell their home to replace their existing fireplace at point-of-sale in the transaction, or risk the home sale being stopped; vegetation/fuels management practices on private property, and whether burning trees from one's own property to heat the home (as the sole source of heat) can be addressed in the whitepaper; the role that population density plays in the development of woodsmoke regulation policy; the request that Bay Area topography needs to be addressed in the whitepaper; the desire for youth engagement and outreach, regarding this issue; the suggestion that the Air District partners its Spare the Air messaging with Walk and Roll to School, Ruby Bridges Walk to School Day, and Safe Routes to School programs that already encourage non-motor vehicle modes of transportation; the request for data on the ongoing costs (and economic impacts) of heating homes; and the need to consider people who may be disproportionately impacted, economically, by a new woodsmoke regulation.

Committee Action

None; receive and file.

OTHER BUSINESS

5. PUBLIC COMMENT ON NON-AGENDA MATTERS

Public comments were given by Raymond Baltar, Sonoma Ecology Center.

6. COMMITTEE MEMBER COMMENTS

Chair Hopkins announced that Ruby Bridges Walk to School Day is recognized by the State of California on November 14 of each year, commemorating 6-year old Ruby Bridge's activism to end racial segregation in public schools in 1960.

7. TIME AND PLACE OF NEXT MEETING

Wednesday, December 13, 2023, at 10:00 a.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Stationary Source and Climate Impacts Committee members and members of the public will be able to either join in-person or via webcast.

Adjournment

The meeting was adjourned at 11:38 a.m.

Attachments

#3 – Draft Minutes of the Stationary Source and Climate Impacts Committee Meeting of October 11, 2023

#4 – Assessment and Mitigation of Woodsmoke Impacts

BOARD MEETING DATE: November 15, 2023

REPORT: Mobile Source and Climate Impacts Committee

SYNOPSIS: The Mobile Source and Climate Impacts Committee (Committee) held a meeting on Wednesday, November 8, 2023. The following is a summary of the meeting.

RECOMMENDED ACTION:

None; receive and file.

Sergio Lopez, Chair
Mobile Source and Climate Impacts Committee

SL:mh

Committee Members

Present, In-Person (Bay Area Metro Center (375 Beale Street, Yerba Buena Room, San Francisco, California, 94105): Vice Chairperson Sergio Lopez; and Director Lynda Hopkins.

Present, In-Person Satellite Location (Office of Contra Costa County Supervisor John Gioia, Conference Room, 11780 San Pablo Ave., Suite D, El Cerrito, California 94530): Director Steve Young.

Present, In-Person Satellite Location (Office of Santa Clara County Supervisor Otto Lee, 70 W Hedding Street, East Wing, 10th Floor, San Jose, California 95110): Director Otto Lee.

Absent: Chairperson Myrna Melgar; Board Chairperson John J. Bauters; and Directors John Gioia, Juan Gonzalez, David Hudson, Ray Mueller, Shamann Walton.

Call to Order

Vice Chair Lopez called the meeting to order at 1:05 p.m.

For additional details of the Mobile Source Committee Meeting, please refer to the webcast, [which will be posted here](#), 24 hours after the meeting adjourns. Please use the webcast's index to view specific agenda items.

CONSENT CALENDAR

- 3. **APPROVAL OF THE DRAFT MINUTES OF THE MOBILE SOURCE AND CLIMATE IMPACTS COMMITTEE MEETING OF OCTOBER 11, 2023**

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Due to a lack of quorum, no action was taken. This item will be continued to the next meeting (December 13, 2023.)

ACTION ITEM

4. PROJECTS AND CONTRACTS WITH PROPOSED GRANT AWARDS OVER \$500,000 AND ACCEPTANCE OF NEW STATE MONIES

Due to a lack of quorum, no presentation was given. This item will be presented at the Board of Directors meeting on November 15, 2023.

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Due to a lack of quorum, no action was taken. This item will be considered at the Board of Directors meeting on November 15, 2023.

INFORMATIONAL ITEMS

5. TRANSPORTATION FUND FOR CLEAN AIR 60% FUND GRANT PROGRAM GUIDANCE

Dr. Minda Berbeco, Manager in the Strategic Incentives Division, gave the staff presentation *Transportation Fund for Clean Air Grant Program Guidance*, including: informational item; outline; TFCA background; funding available for projects and programs in FY Ending (FYE) 2024; TFCA Board awards by project type FYE 2019-2023; Board awards by project category FYE 2019-2023; emissions reduced by replacing 50 cars with One Shuttle Bus (in tons); comparison of project categories; guiding principles for Committee discussion; and next steps.

Public Comments

Public comments were given by “Paul”.

Committee Comments

The Committee and staff discussed whether “priority communities” are income-based; shuttle project cost effectiveness trends; the typical scope of an eligible school bus project, and whether school districts that currently do not have buses are eligible to apply for such projects; to what extent prioritized funding for projects that would benefit priority communities is consciously being made part of TCFA criteria; the desire to see the Vehicle Buy Back program expanded and increased in grant amount, as it has historically been popular and ranks favorably, regarding cost effectiveness; whether increasing the grant amount of the Vehicle Buy Back program would decrease its cost-effectiveness; whether the Air District administers the Vehicle Buy Back program (versus another entity); and whether the vehicles newer than 1998 may be retired into the Vehicle Buy Back program.

Committee Action

None; receive and file.

6. TRANSPORTATION FUND FOR CLEAN AIR PROGRAM AUDIT #24 RESULTS

Clair Keleher, Senior Staff Specialist, gave the staff presentation *TFCA Audit #24*, including: outcome; outline; TFCA background; TFCA Audit #24 scope; TFCA Audit #24 results; next steps; and actions requested.

Public Comments

No requests received.

Committee Comments

The Committee congratulated staff for a clean audit.

Committee Action

None; receive and file.

7. CLEAN CARS FOR ALL PROGRAM UPDATE

Deanna Yee, Staff Specialist, gave the staff presentation *Clean Cars for All Program Update*, including: outcome; outline; background on Bay area Zero-Emission Vehicle (ZEV) goals; Bay Area ZEVs and projected increase to meet 2050 goal; ZEV adoption in the Bay Area; program overview: outreach and education; funds awarded; participant data: replacement vehicles;

demographics: income, gender & age, and race & ethnicity; 2023-2024 program changes; incentive amounts; and action requested.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed which entity determines the income limit for this program; why Asians may be participating at higher rates than other groups; the suggestion of advertising the program on Spanish radio stations; how the grant amount for the new program was determined; changes between the current and new program; and the request for a list of program grants broken down by zip code and to observe where inequities may exist.

Committee Action

None; receive and file.

OTHER BUSINESS

8. PUBLIC COMMENT ON NON-AGENDA MATTERS

Public comments were given by “Paul.”

9. COMMITTEE MEMBER COMMENTS

None.

10. TIME AND PLACE OF NEXT MEETING

Wednesday, December 13, 2023, at 1:00 p.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Committee members and members of the public will be able to either join in-person or via webcast.

Adjournment

The meeting was adjourned at 2:17 p.m.

Attachments

- #3: Draft Minutes of the Mobile Source and Climate Impacts Committee Meeting of October 11, 2023
- #4: Projects And Contracts With Proposed Grant Awards Over \$500,000 And Acceptance Of New State Monies
- #5: Transportation Fund For Clean Air 60% Fund Grant Program Guidance
- #6: Transportation Fund For Clean Air Program Audit #24 Results
- #7: Clean Cars For All Program Update

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

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

From: Philip M. Fine
Executive Officer/APCO

Date: November 15, 2023

Re: Comprehensive Administrative Code Update and Accompanying Implementation
Policies and Board Rules of Procedure

RECOMMENDED ACTION

As recommended by the Finance & Administration Committee, adopt a Resolution to do the following, with an effective date of January 1, 2024:

1. Adopt a proposed comprehensive update and overhaul of the **Administrative Code** that will replace Division I and Division II of the current code, which contain the Air District’s Operating Policies and Procedures and Fiscal Policies and Procedures, respectively, with a proposed new Administrative Code;
2. Adopt proposed **Board Rules of Procedure**; and
3. Adopt the following proposed **Implementation Policies** to accompany the new Administrative Code:
 - Remote Teleconferencing Meeting Policy
 - Meeting Compensation & Expense Reimbursement Policy
 - Records Management & Access Policy
 - Revised Records Retention Schedule
 - Procurement Policy
 - Grants Policy
 - Sponsorships Policy
 - Non-Discrimination Policy
 - Employer-Employee Relations Resolution

Copies of all of the proposed documents are attached hereto. A copy of the current Administrative Code is also attached for reference.

BACKGROUND

The Air District's Administrative Code is outdated and in need of updating. Much of the current Code dates to the 1990s, and it does not align with current law. In addition, it is cumbersome and inefficient, difficult to use, and does not comport with current best-practice standards.

The Board of Directors discussed this situation at its retreat on March 1, 2023, and gave direction to staff to undertake a complete overhaul of the current Administrative Code. Staff have been working on this project since that time, in conjunction with an Ad Hoc Committee of the Board of Directors composed of Chair Bauters and Directors Barnacle, Jue and Melgar.

Staff initiated a Request for Proposals for the administrative code update project, and based on the proposals received selected Renne Public Law Group, a law firm in San Francisco specializing in all aspects of California public agency law. Renne Public Law Group put together a team of specialists in multiple relevant areas, led by partner Amy Ackerman, head of the firm's Government Practice Group. Ms. Ackerman and her team from Renne Public Law Group were joined by District Counsel Alexander Crockett, Interim Chief Operating Officer Sharon Landers, Acting Deputy Executive Officer for Administration (now Chief Technology Officer) John Chiladakis, and Director of External Affairs Lisa Fasano. These staff members, along with Ms. Ackerman and her colleagues from Renne Public Law Group, made up the staff team for this project.

The staff team realized at the outset that the project would need to be divided into two phases, for a number of reasons. **Phase One** is the current phase, and it will overhaul Division I and Division II of the current Administrative Code, which contain the Operating Policies & Procedures and Fiscal Policies & Procedures, respectively. The proposed new Administrative Code will replace these provisions. **Phase Two** of the project will address Division III of the current Administrative Code, which contains the Personnel Policies & Procedures. Division III is in need of an update for the same reasons as Divisions I and II, and the staff team has begun to look at the process for doing so. But that portion of the overall update project will be implemented next year, in Phase Two, in part because some of those policies and procedures will be subject to negotiation with the Employees Association (EA). It is important to provide sufficient time to engage cooperatively with the EA in developing revised personnel policies and procedures that comport with current best-practices standards. We anticipate that this process will result in improved personnel policies and procedures that will benefit all parties.

Focusing on Phase One of the project, the staff team met regularly with the Ad Hoc Committee to develop the proposed Administrative Code and related documents that will be considered by the Board of Directors. This included an early meeting to discuss the conceptual design of the project, and subsequent meetings as Ms. Ackerman and the rest of the staff team drafted the code and rule provisions and finalized the language of the documents.

As directed by the Ad Hoc Committee, the staff team have followed several guiding principles in developing the proposed new Administrative Code. The fundamental goals of the Ad Hoc Committee and the staff team have been to ensure (i) that the Air District's Administrative Code is consistent with current law; (ii) that it promotes effective oversight of Air District functions by

the Board of Directors; (iii) that it promotes transparency in all of the agency's programs and operations; (iv) that it incorporates current best practices for public agency management and administration; and (v) that it streamlines the work of the Board of Directors so the Board can perform its functions in an efficient manner.

Consistent with these principles, one of the staff team's first tasks was to address the level of detail appropriate for the Administrative Code, as compared with implementation policies that specify procedures to govern specific agency programs or functions. The current Administrative Code does not strike the right balance in this respect, with no provisions addressing some important areas, and overly detailed provisions governing the smallest minutiae in others. For example, the current Administrative Code has a provision specifying that agency memoranda should be dated. (See Div. I, § 12.1) Putting the date on a memorandum is certainly good practice. But it is not something that needs to be specified in the agency's Administrative Code.

The staff team therefore adopted a revised approach that separates out much of the detail in the current Administrative Code into policy documents. Consistent with best practices, the Administrative Code should set forth the rules and principles under which the Air District will govern itself, with the details of implementation left to the policies – similar to the relationship between an agency's authorizing statutes and its implementing regulations. The Ad Hoc Committee approved of this approach and directed the staff team to go ahead with it.

Incorporating this approach, the proposed new Administrative Code provides for how the Board of Directors and related bodies (the Advisory Councils and Hearing Board) will conduct their business. To accompany the Code, staff have prepared a comprehensive suite of implementation policies, including:

- A Remote Teleconferencing Meeting Policy for Standing Committees
- A Meeting Compensation and Expense Reimbursement Policy
- A Records Management and Access Policy
- Proposed Revisions to the Air District's Records Retention Schedule
- A Procurement Policy
- A Grants Policy
- A Sponsorship Policy
- A Non-Discrimination Policy
- An Employer-Employee Relations Resolution
- An Executive Leadership Continuity Policy

Some of these have already been approved by the Board of Directors, and others have been drawn directly from existing provisions in the current Administrative Code that will be moved into a policy document. But in all cases, the staff team and Ad Hoc Committee have used this opportunity to evaluate these policies and see if there are opportunities for improvement.

In addition, the staff team also developed proposed Board Rules of Procedure. These Rules set forth the procedures for how the Board will hold meetings and conduct its business, covering

things like agendas, quorum and voting. As with the Implementation Policies, it is important that the Board have clear rules to govern these matters, but this level of detail is more appropriate in a separate procedures document and not in the agency's Administrative Code itself.

All of these proposed documents have been considered by the Finance & Administration Committee, which recommended that the Board of Directors adopt them. The Finance & Administration Committee reviewed the proposed new Administrative Code and Board Rules of Procedure at its October 4, 2023, meeting, and it reviewed the proposed implementation policies at its November 1, 2023, meeting. The documents are now ready for consideration and discussion by the Board of Directors.

DISCUSSION

The proposed new Administrative Code, Board Rules of Procedure, and Implementation Policies are discussed in detail below.

Proposed New Administrative Code

For the proposed new Administrative Code, the Ad Hoc Committee and the staff team developed a number of important updates based on the guiding principles that have driven this project as outlined above. Significantly, the proposed new Administrative Code incorporates the following changes:

- **Two-Officer Board Leadership Model:** The revised Code moves from the current three-officer Board leadership model, with a Chairperson, Vice-Chairperson, and Secretary, to a two-officer model, with only a Chairperson and Vice-Chairperson. The Secretary position is not crucial for the Air District's Board, since the Board employs the service of a professional Clerk of the Boards to run meetings, keep a record the proceedings, and oversee the Board's related administrative affairs. This two-officer model is used by the Metropolitan Transportation Commission (MTC) and South Coast Air Quality Management District, and it has worked successfully for those agencies.
- **Two-Year Officer Terms:** The revised Code provides that the Chairperson and Vice-Chairperson will serve two-year terms, instead of the current one-year officer terms. Two-year terms allow for a greater focus on the Air District's business by each individual member who serves in the officer roles, which will provide for more effective oversight. This is also the approach MTC and the South Coast air district use for their two-officer model, and again it has worked successfully for those agencies.
- **Streamlined Board Committees:** The revised Code consolidates the Board's standing committees into four main committees corresponding to the principal areas of the Board's work (plus the Nominating Committee, which is specialized committed that meets only to nominate candidates for officer positions). Specifically, the three committees that currently deal with grants, advocacy, and similar areas outside of the Air District's core stationary-source regulatory function – which are the Mobile Source & Climate Impacts Committee, the Legislative Committee, and the Technology Implementation Office

Steering Committee – would be merged into a new, consolidated Policy, Grants & Technology Committee that would have jurisdiction over all of these related areas. With this consolidated committee, the Board’s four main standing committees would be:

1. The **Stationary Source Committee**, with jurisdiction over the Air District’s core regulatory function of regulating emissions from stationary source of air pollution;
2. The **Community, Equity Health & Justice Committee**, with jurisdiction over the Air District’s equity-related work;
3. The new **Policy, Grants & Technology Committee**, which will address all the other areas besides stationary-source regulation in which the Air District seeks to encourage a lower-emissions, decarbonized Bay Area through advocacy and incentivizing clean air choices; and
4. The **Finance & Administration Committee**, which will handle all of the administrative matters regarding how the agency runs itself.

This consolidated committee structure will streamline the number of committees, which means fewer committees that Board members need to sit on; fewer meetings for Board members to attend; and fewer meetings that staff have to support – which will lead to overall efficiency improvements while still giving a space for all of the Air District’s important work to be heard in a committee.

- **Board and Committee Meeting Schedules:** Per direction from the Finance and Administration Committee, the Code moves to a meeting schedule of one regular Board meeting a month, with the potential for a second meeting in months when it may be necessary, for example around budget time. Additional regular meetings would be specified in an annual Board and committee meeting schedule adopted at the beginning of each year. Per the Finance and Administration Committee’s direction, Board meetings will be in-person at the Air District’s Beale Street headquarters, with no provisions for remote teleconferencing (except for AB 2449 just cause/emergency circumstances remote participation), with a 10:00 am start time to make sure members have sufficient travel time. Committee meetings will continue to use remote teleconferencing options, with detailed requirements for such meetings provided in the proposed new Remote Teleconferencing Meeting Policy discussed in more detail below.
- **Quorum Required for All Board and Committee Meetings:** The new Code specifies that Board and Committee meetings cannot be held unless a quorum is present. The current code provides that committees can meet without a quorum, as long as they do not take action, which raises some significant Brown Act concerns and is not recommended. To alleviate these concerns, the new Code provides that a quorum needs to be present for any meeting to go ahead.
- **Codify Community Advisory Council in Administrative Code:** The new Code formally codifies the Community Advisory Council, or CAC, for the first time, which will give it equal dignity with the Board’s technical Advisory Council and put it on the footing it deserves in the Administrative Code. There would be no change to the CAC as it is currently constituted. The new Code incorporates the CAC governance structure that

the Board recently approved in July, but formally codifies it as an official part of the Air District's Administrative Code.

- **Specify Board and Council Compensation Amounts in Code:** The new Code specifies provisions for compensation for meeting attendance for members of the Board of Directors, Advisory Council, Community Advisory Council, and Hearing Board. The one notable change to current practice in this area is that the Code will provide for compensation for Advisory Council members for the first time. Compensation for the Advisory Council, whose members put in a great deal of time advising the Air District on technical matters related to air quality, was recently authorized by a change in state law that will allow such compensation starting January 1, 2024. The staff team are recommending compensation for Advisory Council members at a rate of \$200 per meeting.
- **Single Comprehensive Expense Reimbursement Policy:** The new Code also requires a single, comprehensive expense reimbursement policy that will apply to the Board and to all of these other bodies, based on the Board's own current expense reimbursement rules. Having a single policy applicable to all of these bodies will promote consistency and make it easier for staff to process reimbursement requests. Members of the CAC, Advisory Council, and Hearing Board will be subject to the same expense reimbursement rules as the Board of Directors. Staff have prepared a proposed Meeting Compensation and Expense Reimbursement Policy, which is discussed in more detail below, for this purpose.
- **Codify Roles of APCO, General Counsel, and Clerk of the Boards:** The new Code specifies the powers and duties of the Air Pollution Control Officer (APCO) and General Counsel, the two staff positions that report to the Board of Directors. The Code specifies that the APCO is the sole appointing authority for Air District staff positions (except for positions in the Office of the General Counsel), with no role for the Board of Directors in such decisions. The Code specifies that the General Counsel is the appointing authority for positions in the General Counsel's office, and has contracting authority to retain outside counsel. The Code also changes the terminology from the current "District Counsel" to the more widely understood "General Counsel," which is what the chief legal officer is called at most public agencies, including MTC and the South Coast air district. The Code also specifies the role and duties of the Clerk of the Boards, who performs a number of functions referred to throughout the Code.
- **\$200,000 Contracting Authority for Procurement Expenditures:** The new Code revises the current code's financial provisions to promote more effective and efficient financial management and oversight. It codifies the Air District's budget preparation and approval process, as well as the provisions governing the agency's annual audits. The new Code also updates the current code's procurement and contracting provisions. Specifically, it increases the APCO's contracting authority from \$100,000 to \$200,000 without requiring Board approval (although any contracts over \$100,000 will still have to be reported to the Board). The current \$100,000 contracting authority limit was adopted many years ago, and inflation has reduced the effective purchasing power of that limit such that the Board is now being asked to consider and approve relatively small

contracts. Increasing the limit to \$200,000 will reduce the volume of contracts the Board needs to consider and allow the Board to focus on truly significant agency expenditures, while still retaining Board visibility into all contracts over the current \$100,000 threshold.

The new Code also provides exceptions in case of emergency or where the APCO cannot appropriately execute a contract due to legal, confidentiality, or personnel reasons, or because other good cause exists. These exceptions are intended to be narrowly applied and used only in extremely unusual circumstances. But they are necessary to ensure that contracts can be executed when necessary to address emergency situations.

- **Incentive Grants Authority Remains at \$500,000:** On April 6, 2023, the Board of Directors increased the APCO's authority to execute grant agreements and amendments for voluntary emissions reduction projects that are funded by state revenues and local vehicle registration fees up to \$500,000. The new Code codifies the APCO's authority to award grants for these projects up to the previously authorized \$500,000 threshold. All other grants will be subject to the \$200,000 APCO authority limit that applies to procurement contracts.
- **\$50,000 Authority to Settle Legal Claims:** The new Code also authorizes the APCO to settle legal claims up to \$50,000 without Board approval, although all such settlements would have to be reported to the Board. Any settlement over \$50,000 would require Board approval. This threshold would allow the APCO to settle minor claims without the need for Board involvement or action.
- **Requirement for New Procurements, Grants and Sponsorships Policies to be Developed for Board Approval:** The new Code also requires the APCO to develop policies to govern financial expenditures for approval by the Board of Directors -- including a Procurement Policy, a Grants Policy, and a Sponsorships Policy. These policies will specify procedures and protocols to protect public funds and to ensure that funds are being expended consistent with the Air District's mission, applicable legal requirements, and government contracting best practices. Staff have developed draft policies for consideration by the Board, as outlined below. As noted, the Finance & Administration Committee reviewed and recommended these draft policies for adoption at its November 1, 2023, meeting.
- **Non-Interference in Administrative Affairs:** The new Code states explicitly that members of the Board of Directors may not give direction to Air District staff except through the APCO (or subordinates if the APCO has given express consent), and only as a collective body and not as individual Board members. This is an important principle of good governance and is implicit in the Board's relationship with staff already. This new provision would make this restriction explicit in the Administrative Code. Violations of the non-interference requirement would constitute official misconduct and would be subject to enforcement as provided for under the proposed Board Rules of Procedure (see section 8.3), which is discussed in more detail below.

- **Use of Electronic Signatures:** Use of electronic signatures is commonplace in the modern world to reduce paperwork burdens associated with signing physical documents. The new Code would specify formal procedures for the use of electronic signatures to ensure consistency with the Uniform Electronic Transactions Act (Cal. Civil Code § 1633.1 et seq.).

The Finance and Administration Committee considered this proposed Administrative Code update at its October 4, 2023, meeting, and voted to recommend to the Board of Directors that the Board adopt the proposed Administrative Code update. Per Division I, Section 14.1 of the current Administrative Code, notice must be provided at a Board of Directors regular meeting before the Board may adopt any amendments to the Administrative Code. This notice was provided to the Board at its regular meeting on November 1, 2023.

Proposed Board Rules of Procedure

In addition to the new Administrative Code, the Ad Hoc Committee and the staff team developed the attached Board Rules of Procedure, which set forth the procedures for how the Board will hold meetings and conduct business. The Rules cover matters such as calling meetings, setting the agendas, the order of business at meetings, procedures for public comment, closed session procedures, quorum, and voting.

Of particular note given some recent events at Board and committee meetings, the Rules of Procedure specify principles and procedures for public participation and comment at meetings (see Section 7). The Rules affirm the rights of all members of the public to make comments – even those critical of the Air District – but also provide procedures to remove commenters if they make discriminatory or harassing comments that disrupt the meeting and the Board’s ability to conduct its business. These procedures have been vetted by outside counsel to ensure consistency with the First Amendment and related free-speech law.

The Rules of Procedure also contain a Code of Conduct for Board Members (see Section 8) requiring civility and decorum among members. The Rules also provide an enforcement mechanism in the event that a member is determined to have violated the Administrative Code, the Rules of Procedure, or any other Board-approved policy. In such instances, the Rules authorize the Board of Directors to (i) adopt a resolution to censure the member; (ii) adopt a resolution that does not censure the member, but expresses the Board’s disapproval over the violation; (iii) remove the member from Board committees; (iv) if the member serves in an officer position, to remove the member from that position; and/or (v) inform the member’s appointing authority of the Board’s action related to the member.

Proposed Implementation Policies

The staff team have also developed the following proposed Implementation Procedures and related documents to accompany the new Administrative Code, in conjunction with and subject to direction by the Ad Hoc Committee. The staff team also incorporated input regarding applicable legal requirements and best practices from Ms. Ackerman.

- **Remote Teleconferencing Meeting Policy for Standing Committees:** This is a new policy that sets forth requirements for members of the Board’s standing committees to take advantage of the remote teleconferencing provisions of the Ralph M. Brown Act as an alternative to attending committee meetings in-person at the Air District’s Beale Street headquarters. The intent is to minimize the risks of Brown Act provisions not being met, which could result in committee actions being invalidated, or meetings being delayed or canceled altogether. While the new policy does not restrict the number or location of remote teleconferencing sites, it establishes procedures to be met to qualify as a remote teleconferencing location, including but not limited to training for Board members that want to host remote teleconferencing meetings and their staff; a minimum of two points of contact at a remote teleconferencing location; electronic connectivity through speaker and video; and a signed agreement between the hosting Board member and the Air District where the Board member commits to following the requirements set forth in the Policy. This Policy was reviewed and discussed in detail by the Finance & Administration Committee at that committee’s October 18 and November 1 meetings. Per direction received at those meetings, staff plan to bring this Policy back to the Finance & Administrative Committee to be reviewed after six months of implementation to determine if any changes are required.
- **Meeting Compensation and Expense Reimbursement Policy:** The proposed Meeting Compensation and Expense Reimbursement Policy, called for under Section 2.10 of the proposed new Administrative Code, consolidates all of the rules for compensation and expense reimbursement for meeting attendance for members of the Board of Directors, Community Advisory Council (CAC), Advisory Council and Hearing Board. It specifies the types of meetings and events for which members of these bodies are entitled to compensation and travel expenses (for example, Board members are covered for Board and Committee meetings and pre-approved trips for events like COP or the Washington, D.C., congressional advocacy trip); and it establishes the rules governing pre-approval for travel and for what types of expenses are or are not reimbursable. Currently, these rules are scattered in various provisions throughout the Administrative Code and in separate documents like the CAC stipend policy and expense reimbursement guidelines. This proposed Policy will put all the rules in one comprehensive, common document, and it will provide a single set of procedures for expense reports and compensation for all four bodies. It also covers payments by the Air District for the District’s representative to the California Air Resources Board (CARB) for attending CARB board and committee meetings pursuant to Health & Safety Code section 39512.5.
- **Records Management and Access Policy:** The proposed Records Management and Access Policy will replace the records management provisions in Division I, Section 11 of the current Administrative Code (entitled “Guidelines for Records Management and Access.”). The proposed new Policy covers essentially the same material as in the current Administrative Code, but staff have worked with Renne Public Law Group to update it to reflect current best practices. In particular, the new Policy will clarify how Air District staff handle trade secret information submitted by permit applicants. Permit applicants will be required in all cases to designate any trade secret information at the time of submission, and provide a trade-secret copy and a redacted public copy. That way, when

the Air District receives a Public Records Act request staff will have a public copy ready to give the requestor immediately, with no need to seek input from the applicant as to what information (if any) contains trade secret material. The proposed Policy also contains a provision for review of trade secret designations by the General Counsel's Office if there is a dispute over whether the designated information actually qualifies for confidentiality under the Public Records Act.

- **Revised Records Retention Schedule:** The proposed Records Management and Access Policy also incorporates by reference the Air District's Records Retention Schedule, which was adopted by the Board most recently on July 5, 2023. Staff are proposing one change to the Records Retention Schedule, regarding ephemeral records that do not contain information of significant or lasting value – for example, things like yellow sticky notes, responses accepting calendar invites via email, rough notes, etc. Historically, California law has never required public agencies to retain such records, so the Air District's Records Retention Schedule does not address them. But a statutory revision last year means that the Records Retention Schedule now does have to address them. Unless the Schedule affirmatively states that such ephemeral records do not have to be maintained, the Air District will be required to keep them for the retention periods specified in the Schedule. Staff propose revising the Records Retention Schedule to specify that such records do not have to be maintained, because the value of these records is minimal and the burden of retaining them all is very high.
- **Procurement Policy:** The current Administrative Code contains provisions governing procurement in Division II, Section 4 (entitled "Purchasing Procedures"). These provisions are somewhat lacking, and the Air District has hired a public agency procurement consultant to help develop new procurement procedures consistent with current best practices. That process is underway and is expected to be complete and ready for Board approval early next year. In the meantime, staff have worked with the consultant to develop an interim procurement policy to augment and clarify the current Administrative Code language in Division II, Section 4, which is what staff are currently using to govern procurements of goods and services.

Staff are proposing to carry over this current situation in the proposed new Procurement Policy. This proposed Policy would govern procurements from January 1, 2024, until the consultant completes its work and a comprehensive new procurement system is in place. The Policy pulls the procurement requirements from the current Administrative Code, coupled with the interim procurement policy that staff are currently using, with necessary revisions to reflect the changes being proposed in the new Administrative Code such as the proposed \$200,000 APCO contracting authority. This will allow Air District staff to continue to operate under the current procurements system (with the new \$200,000 APCO approval limit) while the new system is being finalized.

- **Grants Policy:** All of the Air District's formal grant programs, such as TFCA, Carl Moyer, FARMER, etc., operate under very strict guidelines and procedures to ensure that public funds are being awarded appropriately. But in addition to these approved grant programs, the Air District has at times also given out informal, one-off grants of up to \$100,000 to entities that solicited them, without any principles or guidelines about how

such funds were awarded. The proposed new Grants Policy will restrict the APCO's discretion to award such grants, in order to increase Board oversight and implement controls to ensure that public funds are spent appropriately. The Policy will provide that grants can be awarded only through a formal Board-approved grants program. It will also provide a mechanism for the APCO to develop additional grants programs for Board consideration when circumstances warrant it. This will still allow for a certain amount of appropriate grant-making activity, but subject to full oversight by the Board of Directors.

- **Sponsorship Policy:** The Sponsorship Policy is a new policy called for under Section 9.7 of the proposed new Administrative Code. As with grants, the Administrative Code has never had any provisions governing sponsorships. This new Policy will govern how the Air District decides to sponsor activities, events and programs consistent with the Air District's mission, values and goals. The Policy will authorize the APCO to award sponsorships of up to \$35,000 (or up to \$70,000 for bundled sponsorships for promoting the Spare the Air program) without approval by the Board of Directors. This new policy also requires the Deputy Executive Officer for Public Affairs to review each sponsorship award for consistency with the Policy and final approval by the APCO. The Policy also requires an annual reporting to the Board of Directors as part of the budget process of all sponsorships awarded over the prior year, which will enable the Board to have better oversight of the Air District's sponsorship activities.
- **Non-Discrimination Policy:** The proposed Non-Discrimination Policy is taken essentially verbatim from the current Non-Discrimination Policy language in Division 1, Section 15 of the current Administrative Code. The only change to the substance of the policy is to add an element stating that, if the Air District receives a complaint about alleged discrimination, the complaint procedure will follow EPA guidance on investigating and responding to complaints under Title VI of the federal Civil Rights Act. This will help ensure that the Air District is following best practices regarding such investigations.
- **Employer-Employee Relations Resolution:** The current Administrative Code has a lengthy section recognizing employee organizations (i.e., the Employees' Association) in Division I, Section 10. Per guidance from Renne Public Law Group, best practice for a provision like this is to include it in a separate Employer-Employee Relations Resolution (EERR), not in an Administrative Code provision. Staff are therefore proposing to transfer it into a standalone EERR, which would be adopted along with all of the Implementation Policies to take effect January 1, 2024. Transferring these provisions to an EERR will not affect the substance of them in any way and will maintain the Board's commitment to recognizing the Employees' Association as a partner in furthering the Air District's mission.
- **Executive Leadership Continuity Policy:** Finally, the implementation policies called out in the proposed new Administrative Code include an Executive Leadership Continuity Policy to provide procedures to ensure continuity in executive leadership in the event that either of the Board-appointed leadership positions (APCO and General Counsel) becomes incapacitated or is otherwise unable to perform their duties. This Policy was adopted by the Board on July 5, 2023, and no further action is needed at this

time. Staff are including this Policy in the attachments hereto for completeness and to ensure that the Board has the full suite of implementation policies before it as it considers this item.

Proposed January 1, 2024, Effective Date

The staff team recommend that the Board of Directors adopt all of these documents outlined above - the proposed Administrative Code, the proposed Board Rules of Procedure, and the proposed Implementation Policies - with an effective date of January 1, 2024. With this effective date, the old code will sunset at the end of this year (except for the personnel policies and procedures in Division III, which will remain in effect and will be addressed in Phase Two of this project as discussed above), and the new Administrative Code and related documents will take its place to start the new year.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Alexander Crockett
Reviewed by: Sharon Landers

ATTACHMENTS

1. Draft Administrative Code
2. Current Admin Code – As Revised 9-6-2023
3. Draft Board Rules of Procedure
4. Draft Remote Teleconference Meeting Policy for Standing Committees
5. Draft Meeting Compensation and Expense Reimbursement Policy
6. Draft Records Management and Access Policy
7. Draft Amended Record Retention Schedule (redline)
8. Draft Amended Record Retention Schedule (clean)
9. Draft Procurement Policy
10. Draft Grants Policy
11. Draft Sponsorship Policy
12. Draft Non-Discrimination Policy
13. Draft Employer-Employee Relations Resolution
14. Executive Leadership Continuity Policy - Resolution 2023-13 - Approved July 5 2023

15. Draft Board Resolution
16. Board Meeting Presentation Slides



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

PROPOSED

Bay Area Air Quality Management District Administrative Code

**For Consideration by the Board of Directors
at its meeting on November 15, 2023**

TABLE OF CONTENTS

	Page
Section One. Title and Purpose	1
1.1 Title.....	1
1.2 Purpose and Overview	1
1.3 Adoption and Amendment of the Air District Administrative Code.....	1
1.4 Air District Seal	1
1.5 Non-Discrimination	1
Section Two. Board of Directors	2
2.1 Appointment	2
2.2 Terms	2
2.3 Quorum.....	2
2.4 Action	2
2.5 Rules of Procedure.....	2
2.6 Board of Directors Meetings	2
(a) Location.....	2
(b) Regular Meeting Time	2
(c) Special Meetings	3
(d) Teleconference Meetings	3
2.7 Officers	3
(a) Officers; Election, Removal.....	3
(b) Terms of Officers	4
(c) Officer Rotation.....	4
(d) Chairperson	4
(e) Vice-Chairperson	4
2.8 Non-interference in administration affairs.....	4
2.9 Compensation for attendance at meetings	5
(a) Meetings eligible for Compensation	5
(b) Attendance requirements.....	5
(c) Amount of compensation	5
(d) Active Transportation Calculation	5

2.10	Expense Reimbursement	6
2.11	Report of County Population	6
Section Three. Committees of the Board of Directors		6
3.1	Purpose	6
3.2	Standing Committees.....	7
	(a) Community Equity, Health, and Justice Committee	7
	(b) Finance and Administration Committee	7
	(c) Nominating Committee	8
	(d) Policy, Grants, and Technology Committee	9
	(e) Stationary Source Committee.....	9
3.3	Standing Committee Procedures.....	10
	(a) Meetings	10
	(b) Quorum and Action.....	10
	(c) Minority Report.....	10
3.4	Appointments to Committees	10
3.5	Ad Hoc Committees	10
3.6	Removal of Committee Members.....	11
Section Four. Advisory Council.		11
4.1	Advisory Council.....	11
4.2	Membership	11
4.3	Terms of Office.....	11
	(a) Term of Office.....	11
	(b) Limitations of Term of Office.....	11
4.4	Meetings	11
4.5	Compensation; Expenses	11
	(a) Compensation for Attendance at Meetings.	11
	(b) Expense Reimbursement	12
Section Five. Community Advisory Council.....		12
5.1	Community Advisory Council.....	12
5.2	Membership	12
5.3	Terms of Office.....	13
	(a) Term of Office.....	13

(b) Term Limits.....	13
(c) Vacancy.....	13
5.4 Meetings	13
5.5 Compensation; Expenses	13
(a) Compensation for Attendance at Meetings and for Other Activities.....	13
(b) Expense Reimbursement.....	14
Section Six. Hearing Board	14
6.1 Hearing Board.....	14
6.2 Terms of Office.....	14
6.3 Rules of Procedure.....	14
6.4 Compensation, Expenses	14
(a) Hearing Board Meetings	14
(b) Expense Reimbursement.....	15
Section Seven. Adoption of Regulations	15
7.1 Regulation Authority	15
7.2 Rule Adoption Files.....	15
7.3 Public Hearing Notice Requirements	15
(a) Time of Publication.....	15
(b) Content of Notice	16
7.4 Public Hearing Requirements	16
(a) Public Hearing Required	16
(b) Hearing Procedure.....	16
(c) Findings.....	17
Section Eight. Personnel.....	17
8.1 Air Pollution Control Officer (APCO).....	17
(a) Appointment.....	17
(b) Duties	17
8.2 Air District General Counsel	18
(a) Appointment.....	18
(b) Duties	18
8.3 Clerk of the Boards.....	19
8.4 Continuity Policy	19

Section Nine. Fiscal Policies and Procedures.....	20
9.1 Treasurer	20
9.2 Annual Audit	20
9.3 Adoption of Budget	20
(a) Budget Preparation.....	20
(b) Presentation to Finance and Administration Committee.....	20
(c) Adoption by the Board of Directors.....	20
(1) Notice.....	20
(2) Public Hearing to Review the Budget	20
(3) Adoption of the Budget	21
9.4 Procurement and Contracting	21
9.5 Acceptance of Grants and Gifts Made to the Air District	22
9.6 Grants of Air District Funds	22
9.7 Sponsorships	23
9.8 Agreements for Employee Compensation, Benefits.....	23
9.9 Claims Against the Air District	23
9.10 Electronic Signatures	23
(a) Definitions.....	23
(b) Electronic and Digital Signatures Accepted.....	24
(c) Accepted Technologies	24
Section 10. Conflicts of Interest Code	24
10.1 Conflict of Interest Code	24
Section 11. California Environmental Quality Act (“CEQA”)	25
11.1 CEQA Regulations	25
Section 12. Transition Provisions, Interpretation of the Code.....	25
12.1 Operative Date	25
12.2 Obligations of Contract Not Impaired	25
12.3 Effect of Headings	25
12.4 Severability	26

Bay Area Air Quality Management District Administrative Code

Section One. Title and Purpose

1.1 Title

This Code shall be known as the “Bay Area Air Quality Management District Administrative Code” or “Air District Administrative Code.”

1.2 Purpose and Overview

This Code sets forth the governance, administrative, and financial provisions for the Bay Area Air Quality Management District (hereafter “Air District”), the method of appointment of Air District employees, and procedures for the operation and management of the Air District.

The Air District is an independent special district created, pursuant to Chapter 4 of Part 3 of Division 26 of the California Health and Safety Code, to regulate stationary sources of air pollution in the nine counties that surround San Francisco Bay: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, southwestern Solano, and southern Sonoma counties.

1.3 Adoption and Amendment of the Air District Administrative Code

This Code is adopted and may be amended by ordinance of the Board of Directors, after review and recommendation by the Finance and Administration Committee. The Board of Directors shall ensure that the Air District Administrative Code is reviewed at least every five (5) years, and the Board of Directors shall approve amendments, as necessary.

1.4 Air District Seal

The Air District may provide for and adopt an official seal. The seal of the Air District shall be used only for purposes directly connected with the official business of the Air District.

1.5 Non-Discrimination

The Air District is committed to non-discrimination and equity throughout the organization and in carrying out the agency’s mission. The Board of Directors shall adopt by resolution a Non-Discrimination Policy to articulate this commitment and to ensure compliance with all legal obligations, including without limitation the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, Title VI of the Civil Rights Act of 1964, and California Government Code Section 11135. The Air Pollution Control Officer (“APCO”) shall implement this Non-Discrimination Policy and shall ensure that the Policy is communicated in a transparent fashion to Air District staff and to the public and is posted on the Air District’s website.

Section Two. Board of Directors

2.1 Appointment

The Board of Directors is the governing body of the Air District and consists of members appointed pursuant to Article 3 of Chapter 4 of Part 3 of Division 26 of the Health and Safety Code. (Health and Safety Code section 40220 *et seq.*)

2.2 Terms

Each member of the Board of Directors appointed by a board of supervisors shall hold office for a term of four years and until the appointment and qualification of their successor, and each member appointed by a city selection committee shall hold office for a term of two years and until the appointment and qualification of their successor. (Health and Safety Code section 40222.)

2.3 Quorum

A majority of the members of the Board of Directors constitute a quorum for the transaction of business. The Board may meet only when a quorum is present. (Health and Safety Code section 40226.)

2.4 Action

Unless otherwise specified in state law or this Administrative Code, an action of the Board of Directors shall require the presence of a quorum and the affirmative vote of a majority of the total membership of the Board. The Board may act by ordinance, resolution, or motion. (Government Code section 54952.6; Health and Safety section 40226.)

2.5 Rules of Procedure

The Board of Directors shall adopt Rules of Procedure to govern the conduct of its meetings. The Board of Directors may amend those Rules to conform to changes in law or as otherwise needed.

2.6 Board of Directors Meetings

(a) Location

All regular meetings of the Board of Directors and all regular meetings of Board Committees shall be held at the offices of the Air District located at 375 Beale Street, San Francisco, California.

(b) Regular Meeting Time

The Board of Directors shall adopt annually by resolution a schedule of regular meetings for each calendar year. Regular meetings of the Board of Directors shall be held on the first Wednesday of each month, beginning at the hour of 10:00

a.m., and at additional dates and times as specified in the annual meeting schedule adopted by the Board.

(c) Special Meetings

A special meeting may be called whenever the business of the Air District may require it. A special meeting may be called at the request of the Chairperson of the Board of Directors in consultation with the APCO, or at the request of a majority of the members of the Board of Directors. Whenever a special meeting is called, notice shall be given to each member of the Board of Directors at least twenty-four (24) hours in advance, and to others as required by law, stating the date and hour of the meeting, the location of the meeting, and the purpose for which the meeting is called. No business shall be transacted at the meeting except as stated in the notice. (Government Code section 54956.)

(d) Use of Remote Teleconferencing

The Board of Directors shall hold all regular meetings in person at the location specified in subsection 2.6(a) above, without provision for members to participate via remote teleconferencing technology (except that members may participate for “just cause” or “emergency circumstances” as provided for under Government Code section 54953(f), to the extent that all the requirements of that provision are satisfied). The Board of Directors shall hold all special meetings in person without remote teleconferencing in the same manner as regular meetings as provided in the preceding sentence, except that special meetings for the sole purpose of holding a closed session may be held using remote teleconferencing technology to the extent permitted under Government Code section 54953(b). As a courtesy to and for the convenience of members of the public, the Board of Directors may provide a webcast or streaming service for any meeting to allow members of the public to watch or participate in the meeting virtually. By choosing to participate in a meeting virtually, members of the public accept the risk that in the event of a disruption to the webcast or streaming service, the Board will continue with its meeting. (Government Code sections 54950 *et seq.*)

2.7 Officers

(a) Officers; Election, Removal

The Board of Directors shall elect a Chairperson and Vice-Chairperson. The Board of Directors shall elect these Officers in November prior to the commencement of the Officers’ terms, or as otherwise necessary to fill a vacancy. The Officers shall serve at the pleasure of the Board of Directors and may be removed by a two-thirds vote of the membership of the Board of Directors held at a regular meeting.

(b) Terms of Officers

The Chairperson and Vice-Chairperson shall serve two-year terms, which shall begin on January 1 of each even-numbered year. Members of the Board of Directors elected to serve as Chairperson and Vice-Chairperson for the one-year 2024 term under the predecessor to this Code shall serve in those positions for the two-year 2024-2025 term under this Code. No member of the Board of Directors may serve more than four years in any one office.

(c) Officer Rotation

The Officer positions shall be rotated among the members of the Board of Directors in a manner to assure participation in the affairs of the Air District from a wide representation of the membership. In selecting members to serve as Officers, the Board of Directors shall consider and balance representation by members appointed by Boards of Supervisors, members appointed by City selection committees, members from large counties, and members from small counties, as well as geographic representation from all parts of the Bay Area, although the Board need not follow any strict rule of rotation.

(d) Chairperson

The Chairperson's duties include without limitation:

- (1) Presiding over the meetings of the Board of Directors.
- (2) Signing all ordinances and resolutions adopted by the Board of Directors while the Chairperson presides.
- (3) Appointing members of committees of the Board of Directors.

(e) Vice-Chairperson

The Vice-Chairperson shall have the following duties:

- (1) In the event the Chairperson is unable to attend a meeting, the Vice-Chairperson shall preside over the meeting and shall sign ordinances and resolutions adopted at the meeting.
- (2) In the event that the Chairperson is unable, for whatever reason, to fulfill their term of office, the Vice-Chairperson shall succeed the Chairperson.

2.8 Non-interference in administration affairs

The Board of Directors and its members shall deal with the administration of the Air District only through the APCO, except for the purpose of inquiry, and neither the Board of Directors nor any member thereof shall give orders or direction to any subordinates of the APCO, without the express consent of the APCO. The APCO shall take their orders and instructions from the Board of Directors only when sitting in a duly held meeting of

the Board, and no individual member of the Board of Directors shall give any orders or instructions to the APCO.

Except as expressly provided in this Administrative Code, the Board of Directors, and its members, shall have no power or authority over, nor shall they dictate, suggest, or interfere with respect to, any appointment, promotion, compensation decision, disciplinary action, contract or requisition for purchase, or other administrative action or recommendation of the APCO.

Violation of this section of the Administrative Code constitutes official misconduct.

2.9 Compensation for attendance at meetings

Each member of the Board of Directors shall be entitled to compensation for attendance at meetings as follows:

(a) Meetings eligible for Compensation

- (1) Meetings of the Board of Directors and of Board Committees; and
- (2) Other meetings while on official business of the Air District as authorized under the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10.

(b) Attendance requirements

A member of the Board of Directors shall be entitled to compensation for attending a meeting of the Board or a Board Committee only if:

- (1) The member arrives for the meeting no later than 30 minutes after the scheduled beginning of the meeting; and
- (2) The member is present at the meeting for at least three quarters ($\frac{3}{4}$) of the total meeting time, including closed session time.

(c) Amount of compensation

Members of the Board of Directors shall be entitled to compensation of one hundred dollars (\$100) per meeting for attendance at meetings under this Section 2.9, up to a maximum of two hundred dollars (\$200) per day; plus, compensation for active transportation travel calculated as specified in Paragraph (d) below. No Board member may receive compensation of more than six thousand dollars (\$6,000) in any calendar year for meeting attendance pursuant to this Section 2.9.

(d) Active Transportation Calculation

Compensation for active transportation travel pursuant to Paragraph (c) above shall be calculated as follows:

(1) \$1.56 per mile for travel by personal/private non-motorized bicycle or similar nonmotorized pedal-operated vehicle; and

(2) \$1.50 per mile for travel on foot or by wheelchair.

For multi-modal travel, compensation shall be provided only for miles traveled using the alternative transportation travel modes specified in this Paragraph (d). Members shall provide to the Clerk of the Boards the date of travel, starting and ending points, and purpose of travel when claiming compensation, and must document the distance traveled with a printout from a map website such as Google Maps.

2.10 Expense Reimbursement

Members of the Board of Directors are entitled to receive reimbursement for actual and necessary expenditures incurred in connection with the performance of their official duties. Pursuant to Government Code section 53232.2, the Board of Directors shall adopt a written Meeting Compensation and Expense Reimbursement Policy, at a public meeting, specifying the types of occurrences that qualify a member to receive reimbursement for expenses relating to travel, meals, lodging, and other actual and necessary expenses. The Expense Reimbursement Policy shall also apply to other boards and councils of the Air District as specified in this Code. Members of the Board of Directors and other covered boards and councils may receive reimbursement only as provided in the Policy and subject to the Policy's requirements. Members shall comply with the limits and reporting requirements of federal, state, and local law.

2.11 Report of County Populations

Appointments to the Board of Directors are determined by the population of the counties within the geographical jurisdiction of the Air District at the time of appointment according to the provisions of Health and Safety Code sections 40221 and 40221.5. The Clerk of the Boards shall report to the Board of Directors each year the population of each county included, in whole or in part, within the Air District's jurisdiction according to the latest estimate prepared by the Demographic Research Unit of the Department of Finance. For counties for which only a portion of the county is included within the Air District's jurisdiction, the Clerk of the Boards shall report the population of that portion within the Air District's jurisdiction. (Health and Safety Code section 40220.5.) The Clerk of the Boards shall report the populations promptly after the Demographic Research Unit publishes its estimates.

Section Three. Committees of the Board of Directors

3.1 Purpose

The Board of Directors establishes standing committees to advise and make recommendations to the Board on matters within the scope of the committee's

jurisdiction. In addition to the functions specified herein, any committee may also consider additional matters as referred by the Board of Directors. Except where explicitly authorized in this Code, the standing committees shall not have authority to approve any action or policy on behalf of the Board of Directors, to alter, change, or reverse any action or policy established by the Board of Directors, or to authorize the expenditure of any funds.

In the normal course of business, matters will be considered by the relevant committee(s) before being considered by the Board of Directors. However, the Board of Directors may take up any matter directly, without previous consideration by a committee, when necessary and appropriate.

3.2 Standing Committees

The standing committees of the Board of Directors are the following:

(a) Community Equity, Health, and Justice Committee

The Community Equity, Health, and Justice Committee advises and makes recommendations to the Board of Directors regarding equitable and inclusive actions the Air District takes to create a healthy breathing environment and clean air for the people of the Bay Area, regardless of race, ethnicity, age, gender identity, economic status, national origin, immigration status, ability, sexual orientation, or other distinguishing characteristics. The Committee oversees the development of policies for both internal and external operations impacting the Bay Area. Internal operations include applying an equity lens to programs, policies, and procedures related to staffing, recruitment, promotions, inclusive workplace practices, contracting for capital projects and services, and ongoing racial equity training. The committee prioritizes traditionally marginalized and underserved communities for investment opportunities to ensure communities overburdened by air pollution receive the programmatic, policy, and investment resources most needed.

The Community Equity, Health, and Justice Committee also advises and makes recommendations to the Board of Directors regarding the overall direction of the Air District's community engagement activities, civil rights compliance, and the implementation of Assembly Bill 617 (Stats. 2017, Ch. 136), including community selection and approval of Community Emission Reduction Plans. It is also the lead committee interacting and partnering with the Community Advisory Council. The Committee also advises and makes recommendations to the Board of Directors regarding grants related to matters within its jurisdiction.

(b) Finance and Administration Committee

The Finance and Administration Committee advises and makes recommendations to the Board of Directors relating to the administration of the Air 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 Finance and Administration Committee advises and makes recommendations to the Board of Directors with respect to strategic planning regarding the goals and objectives of the Air District. The Committee considers and recommends to the Board of Directors each year proposed updates and/or changes to the Air District's strategic plan, considering the goals and objectives and short- and long-range plans of the California Air Resources Board, as appropriate. The Committee uses the strategic plan approved by the Board of Directors to review and develop the proposed budget each year.

The Finance and Administration Committee oversees the preparation of the Air District's annual budget and presents the annual proposed budget with recommendations to the Board of Directors. At budget review time each year, the Committee evaluates the Air District's goals and objectives, financial plan, and fee schedules and recommends appropriate changes to the Board of Directors. The proposed budget prepared by the APCO is automatically deemed referred to the Finance and Administration Committee for consideration, without need for further action by the Board of Directors.

The Finance and Administration Committee receives and reviews the Air District's annual audited financial statement reports from the independent financial auditors and reports any findings or recommendations to the Board of Directors. The Committee also receives and reviews reports from independent management performance auditors and reports any findings or recommendations to the Board of Directors.

The Finance and Administration Committee keeps itself informed as to the work of the Advisory Council and Hearing Board, and it recommends to the Board of Directors the appointment of members of the Advisory Council and Hearing Board whenever vacancies occur on those bodies.

The Finance and Administration Committee considers and recommends 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 the functions of, the Personnel Committee as that committee existed prior to January 1, 2023.

(c) Nominating Committee

The Nominating Committee considers and makes recommendations to the Board of Directors regarding candidates for Board Officer positions. In making its recommendations, the Nominating Committee shall consider the principles governing officer rotation as set forth in Section 2.7(c), although it need not follow any strict rule of rotation.

The Nominating Committee consists 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 is no longer serving on the Board, four (4) appointees of the Chairperson of the Board). The Chairperson shall appoint the Nominating Committee no later than October 15th of the final year of the Board Officers' terms, and the Committee shall meet in November of that year to recommend candidates to the Board of Directors for Board Officers for the upcoming terms. The Nominating Committee members shall serve until the appointment of a new Committee, and shall recommend candidates to the Board of Directors in the event a Board Officer position becomes vacant in the middle of a term.

(d) Policy, Grants, and Technology Committee

The Policy, Grants, and Technology Committee advises and makes recommendations to the Board of Directors on policies and funding related to sources and activities that affect air pollution and climate impacts that do not fall within the jurisdiction of the Stationary Source Committee. In particular, the Committee advises and makes recommendations to the Board of Directors on policies and funding related to transportation and mobile sources, as well as equity for impacted communities related to these sectors. The Committee also advises and makes recommendations to the Board of Directors on policies and funding to catalyze innovation and incentivize low-carbon-intensity practices. The Committee also advises and makes recommendations to the Board of Directors relating to legislative advocacy. The Committee adopts legislative priorities each year to guide the work of the Committee and Air District staff related to legislative advocacy.

(e) Stationary Source Committee

The Stationary Source Committee advises and makes recommendations to the Board of Directors relating to the air quality and climate impacts of stationary sources, including indirect sources. The Committee advises and makes recommendations to the Board of Directors regarding all aspects of the Air District's stationary source programs, including but not limited to the following: permitting, compliance, small business assistance, rule development, California Environmental Quality Act thresholds of significance, and state and federal regulations that affect stationary sources. The Committee advises and makes recommendations to the Board of Directors regarding air quality planning and the development and implementation of State and Federal Air Quality Management Plans, as well as support for regional and local climate planning.

3.3 Standing Committee Procedures

(a) Meetings

The Board of Directors shall adopt annually by resolution a committee meeting calendar setting the time and place for meetings of each standing committee. Standing committees may hold any meeting using remote teleconferencing technology in accordance with Government Code sections 54953(b) and (f).

(b) Quorum and Action

A quorum of a standing committee is a majority of the members of the committee. A committee may meet only when a quorum is present. An action of a committee shall require the presence of a quorum and the affirmative vote of a majority of the total membership of the committee.

(c) Minority Report

A standing committee member may submit a Minority Report to accompany a committee recommendation submitted to the Board of Directors, provided that no Air District staff resources are used to prepare such a report.

3.4 Appointments to Committees

The Chairperson shall appoint members of the Board of Directors to the standing committees annually in January, or as soon thereafter as new members are named by their appointing authorities (except for the Nominating Committee, which shall be appointed as specified in Section 3.3(e)). The Chairperson may also appoint members at any time a vacancy occurs. The Chairperson shall ensure that Committee membership is rotated to provide equitable representation of cities and counties and geographical diversity to allow participation in the work of the Air District by as broad a representation as may be possible. In no event shall a committee be composed of a quorum of the Board of Directors or any committee of the Board.

3.5 Ad Hoc Committees

The Chairperson may establish ad hoc advisory committees, composed solely of members of the Board of Directors, constituting less than a quorum of the Board of Directors or any of its standing committees, to accomplish a specific task in a short period of time. The Chairperson shall appoint the members of those ad hoc Committees. The Chairperson shall create each ad hoc committee and appoint its members in writing, which shall specify the task of the committee. An ad hoc committee expires upon completion of its designated task. The Board of Directors may overrule the Chairperson's decisions regarding the creation, appointment of members, or designated purpose of the ad hoc committee by majority vote. (Government Code section 54952(b).)

3.6 Removal of Committee Members

The Chairperson may remove a member from serving on a standing or ad hoc committee at any time. The Board of Directors may overrule the removal by a majority vote.

Section Four. Advisory Council.

4.1 Advisory Council

Pursuant to Health and Safety Code section 40261, the Board of Directors shall appoint a Bay Area Air Quality Management Council (also known as the Advisory Council) to advise and consult with the Board and the APCO on matters referred to it by the Board of Directors or the APCO. Members serve at the pleasure of the Board of Directors and may be removed at any time by a majority vote of the Board of Directors.

4.2 Membership

The Advisory Council shall consist of seven members who are skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution, plus one liaison member from the Board of Directors. Advisory Council members shall be selected to include a diversity of perspectives, expertise, and backgrounds. The APCO shall develop position qualifications for serving on the Advisory Council, which shall be approved by the Board of Directors.

4.3 Terms of Office

(a) Term of Office

Each Advisory Council member shall hold office for a term of two years and until the appointment and qualification of the member's successor.

(b) Limitations of Term of Office

The Board of Directors shall not re-appoint a member of the Advisory Council who has served on the Council for twelve (12) consecutive years. A person who has served on the Advisory Council for twelve (12) consecutive years is eligible for re-appointment after an absence of two (2) years from the Council.

4.4 Meetings

The Advisory Council shall meet four (4) times each year, or more frequently if the Board of Directors or Advisory Council deems necessary.

4.5 Compensation; Expenses

(a) Compensation for Attendance at Meetings.

Members of the Advisory Council shall be entitled to compensation of two hundred dollars (\$200) per meeting for attending meetings of the Advisory

Council and other authorized meetings as specified in the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10.

(Health and Safety Code section 40266.)

(b) Expense Reimbursement

Members of the Advisory Council shall be entitled to reimbursement for actual and necessary expenses incurred by them in attending meetings of the Advisory Council and Advisory Council committees of which they are a member in accordance with the Expense Reimbursement Policy adopted pursuant to Section 2.10.

(Health and Safety Code sections 40260-40268.)

Section Five. Community Advisory Council

5.1 Community Advisory Council

The Board of Directors shall appoint a Community Advisory Council to provide guidance to the Board of Directors on programs and policies that impact all communities, including overburdened communities, within the Air District's jurisdiction; to make recommendations to the Board of Directors on equity and environmental justice matters to improve air quality in all communities, prioritizing the most impacted communities; to meaningfully engage impacted communities to represent and address stakeholders' interests; to advise Air District leadership on community-related matters to advance an equity-forward policy agenda; and to carry out any additional duties as the Board of Directors may prescribe. The Community Advisory Council shall be governed in its work by a Governing Structure adopted by the Board of Directors ("Governing Structure").

5.2 Membership

In accordance with the Governing Structure, the Board of Directors shall appoint seventeen (17) members to the Community Advisory Council, who shall serve at the pleasure of the Board, as follows: Four (4) members shall live or work in Alameda County; four (4) members shall live or work in Contra Costa County; one (1) member shall live or work in the City and County of San Francisco; one (1) member shall live or work in San Mateo County; two (2) members shall live or work in Santa Clara County; one (1) member shall live or work in Solano County; two (2) members shall be youths who are between the ages of fourteen and twenty-four at the start of their term; and two (2) members shall serve in at-large seats. The Board of Directors shall grant priority to individuals living or working in Marin, Napa, or Sonoma counties or individuals with special expertise, such as wildfire management, when filling the at-large seats. A minimum of seventy percent (70%) of members shall be residents living in the County represented, and no more than six (6) members may represent a County where they work for the benefit of overburdened communities. If selected to fill a seat, a representative of

a business holding an Air District permit, or of an industrial company subject to regulation, shall be a non-voting member.

5.3 Terms of Office

(a) Term of Office

The Board of Directors shall appoint each member to a two-year or four-year term, in accordance with the Governing Structure. A member's term shall end upon expiration of the two- or four-year term, removal by the Board of Directors, or upon other disqualifying event as provided for in the Governing Structure.

(b) Term Limits

No member shall serve on the Community Advisory Council for more than eight years.

(c) Vacancy

In the event of a vacancy, the Board of Directors may appoint a new member to fill the vacant seat for the remainder of the term.

5.4 Meetings

The Community Advisory Council shall set, by resolution, a regular time and place for meetings.

5.5 Compensation; Expenses

(a) Compensation for Attendance at Meetings and for Other Activities

Members of the Community Advisory Council shall be entitled to compensation for their time spent working on Council matters as follows. The Board of Directors shall include provisions in the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10 to establish procedures for administering these compensation provisions.

(1) Members shall be entitled to compensation of five hundred dollars (\$500) per meeting for attending meetings of the Community Advisory Council.

(2) Co-Chairs shall be entitled to compensation of seventy-five dollars (\$75) per hour for attending Co-Chair meetings, up to a maximum of four (4) hours per month.

(3) Members of ad hoc or standing committees shall be entitled to compensation of seventy-five dollars (\$75) per hour for attending committee meetings, up to a maximum of six (6) hours per month.

(4) Members shall be entitled to compensation of seventy-five dollars (\$75) per hour for pre-approved participation in events, activities, or services related to the

mission and purpose of the Community Advisory Council authorized in accordance with the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10, up to a maximum of one thousand dollars (\$1,000) per year.

(b) Expense Reimbursement

Members of the Community Advisory Council shall be entitled to reimbursement for actual and necessary expenses incurred by them in connection with attending or participating in any of the meetings or events for which they are entitled to compensation under Section 5.5(a) above. Members shall be entitled to reimbursement for such expenses in accordance with the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10.

Section Six. Hearing Board

6.1 Hearing Board

Pursuant to Health and Safety Code section 40800, the Board of Directors shall appoint a Hearing Board consisting of five members, as provided in Health and Safety Code section 40801. In filling the two seats designated for public members under Health and Safety Code section 40801(d), the Board of Directors shall give priority to applicants who do not qualify for the seats designated for members of professions under Health and Safety Code sections 40801(a)-(c). The Hearing Board shall have the power and authority to issue variances under Health and Safety Code sections 42350 *et seq.*, to issue orders for abatement under Health and Safety Code sections 42451 *et seq.*, to hear appeals from decisions by the APCO to issue, deny, or suspend a permit under Health & Safety Code sections 42302 *et seq.*; to revoke a permit under Health and Safety Code section 42307, and to take all other actions authorized under other provisions of the Health and Safety Code and related law.

6.2 Terms of Office

The term of office for a member of the Hearing Board shall be three years.

6.3 Rules of Procedure

The Hearing Board shall, as it may deem necessary, adopt, re-adopt, or amend rules of procedure for the conduct of its hearings and other matters before it.

6.4 Compensation, Expenses

(a) Hearing Board Meetings

Members of the Hearing Board shall be entitled to compensation of four hundred dollars (\$400), or four hundred fifty dollars (\$450) for the Chairperson, for each day attending meetings of the Hearing Board, and shall be entitled to

compensation of one hundred dollars (\$100) per day for attending other meetings as a representative of the Hearing Board upon authorization by the Board of Directors pursuant to the Meeting Compensation and Expense Reimbursement Policy adopted pursuant to Section 2.10.

(b) Expense Reimbursement

Members of the Hearing Board shall be entitled to reimbursement for actual and necessary expenses incurred by them in attending meetings of the Hearing Board and other meetings for which compensation is authorized under subsection 6.4(a) in accordance with the Meeting Expense Reimbursement Policy adopted pursuant to Section 2.10.

(Health and Safety Code section 40800 *et seq.*)

Section Seven. Adoption of Regulations

7.1 Regulation Authority

Pursuant to Health and Safety Code sections 40000, 40001, and 40702, among other provisions of law, the Board of Directors shall adopt rules and regulations to execute the powers and duties granted to, and imposed upon, the Air District, including but not limited to rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under the Air District's jurisdiction.

7.2 Rule Adoption Files

The APCO shall maintain a file for each rule and regulation adopted by the Board of Directors containing (1) petitions received by the Air District proposing the adoption, amendment, or repeal of the rule or regulation; (2) notice of proposed adoption, amendment, or repeal of the rule or regulation; (3) written comments, data, studies, reports, and any other factual information submitted by any member of the public in connection with the adoption, amendment, or repeal of the rule or regulation; (4) a transcript, recording, or minutes of public hearings held in connection with the adoption, amendment, or repeal of the rule or regulation; and (5) the text of the rule or regulation as originally proposed, and any modified text, that was made available to the public prior to adoption.

(Health and Safety Code section 40728.)

7.3 Public Hearing Notice Requirements

(a) Time of Publication

The Clerk of the Boards shall provide notice of the time and place of a public hearing to adopt, amend, or repeal any rule or regulation not less than 30 days

prior thereto in accordance with Health and Safety Code section 40725 for such notice, and by publication in each county of the Air District pursuant to Section 6061 of the Government Code.

(b) Content of Notice

The published notice shall include the following information:

- (1) The time and place of the public hearing.
- (2) A brief description of the proposed action.
- (3) Information on how members of the public may obtain the full text of the regulatory language that is proposed to be adopted, amended, or repealed, including a statement that it is available for public inspection at the Air District's headquarters during regular business hours.
- (4) An invitation for the submission of written public comments on the proposed action prior to the hearing. The notice shall include information on how the comments should be submitted, including the name, address and telephone number of the person to whom they should be directed (with addresses for mailing, physical delivery, and electronic submission), and it shall specify the date by which the comments must be received.

7.4 Public Hearing Requirements

(a) Public Hearing Required

The Board of Directors shall not adopt, amend, or repeal any rule or regulation without first holding a public hearing thereon. The public hearing may be agendaized and held in the same manner as any other agenda item in accordance with the Board's Rules of Procedure; no formal action of the Board is required to set the public hearing.

(b) Hearing Procedure

At the public hearing held to adopt, amend, or repeal a rule or regulation, the Board of Directors shall provide for the submission of statements, arguments, or contentions, either oral, written, or both. In addition, any submitted written comments shall be made available to each Board member. Following consideration of all relevant matters presented, the Board of Directors may adopt, amend, or repeal a rule or regulation unless the Board determines to make changes in the text originally made available to the public that are so substantial as to significantly affect the meaning of the proposed rule or regulation. The Board of Directors shall not take action on a rule or regulation containing changed text where the change is so substantial as to significantly affect the meaning of the proposed rule or regulation before its next regular meeting and shall allow further

statements, arguments, and contentions either written, oral or both, to be made and considered prior to taking final action.

(c) Findings

Before adopting, amending, or repealing a rule or regulation, the Board of Directors shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined in Health and Safety Code Section 40727, based upon relevant information presented at the hearing.

Section Eight. Personnel

8.1 Air Pollution Control Officer (APCO).

(a) Appointment

The Board of Directors shall appoint the Air Pollution Control Officer (APCO), who shall serve at the pleasure of the Board.

(b) Duties

The APCO shall serve as the Executive Officer of the Air District and possess the power and duty to administer the business of the Air District. Those duties include, without limitation:

- (1) Supervising and directing the preparation and submission of all required air quality plans.
- (2) Enforcing all laws, rules, regulations, and orders to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction and enforcing all applicable provisions of state and federal law.
- (3) Supervising and directing the preparation of the annual budget for the Air District.
- (4) Submitting to the Board of Directors each year a complete report of the finances and administrative activities of the Air District from the preceding year.
- (5) Except as otherwise specified in this Administrative Code, executing and administering contracts entered into by the Air District and executing and administering grants and sponsorships funded by the Air District.
- (6) Except as otherwise specified in this Administrative Code, serving as the appointing authority for all positions of employment in the Air District, with plenary and sole authority to hire, fire, discipline, layoff, supervise, and assign employees in the Air District.

- (7) Developing a comprehensive Personnel Policy Manual setting forth personnel policies and procedures for the Air District for approval by the Board of Directors; making the Personnel Manual available to Air District employees and to the public; and administering the personnel policies and procedures set forth in the Personnel Manual.
- (8) Recommending compensation and benefits for Air District employees for approval by the Board of Directors.
- (9) Overseeing the Air District's labor relations program, including its compliance with relevant labor laws, its implementation of any labor agreements approved by the Board of Directors, and negotiations with any Air District labor organization.
- (10) Overseeing a comprehensive classification and position control plan, subject to approval by the Board of Directors.
- (11) In consultation with the Air District General Counsel, ensuring compliance with all relevant Equal Employment Opportunity and Non-discrimination laws.
- (12) Providing the day-to-day administration of the Air District and carrying out all duties required under the Health and Safety Code.
- (13) Retaining and maintaining records according to state law and the Air District's Records Management and Access Policy, which shall be approved by a resolution of the Board of Directors.
- (14) Designating the Air District employee with principal responsibility for the financial affairs of the Air District to hold the title of Chief Financial Officer.
- (15) Performing such other and additional duties as the Board of Directors may prescribe.

8.2 Air District General Counsel

(a) Appointment

The Board of Directors shall appoint a General Counsel to the Air District, who shall serve at the pleasure of the Board.

(b) Duties

The General Counsel shall serve as the chief legal officer of the Air District and possess the power and duty to administer the legal affairs of the Air District and to represent the Air District in all legal matters. The General Counsel's duties include, without limitation:

- (1) Providing advice and legal opinions, either orally or in writing as appropriate to the circumstances, to the Board of Directors, the APCO, Board Committee, Hearing Board, Advisory Councils, or other committee or employee as directed by the Board of Directors.
- (2) Making recommendations to the APCO and Board of Directors on the settlement of all claims and litigation involving the Air District.
- (3) Approving as to form, prior to enactment, all surety bonds, contracts, ordinances, resolutions, and other legal documents and instruments; and examining and approving title to all real property to be acquired by the Air District.
- (4) Serving as the appointing authority for all positions of employment in the Air District's Legal Division, with plenary and sole authority to hire, fire, discipline, layoff, supervise, and assign employees in that Office.
- (5) Hiring outside legal counsel when in the interests of the Air District. The General Counsel may execute contracts for legal services in an amount that does not exceed two hundred thousand dollars (\$200,000). Contracts in excess of the amount shall be approved by the Board of Directors. The General Counsel shall report all contracts for outside legal services to the Board of Directors. In hiring outside counsel, the General Counsel shall endeavor to follow the Procurement Policy adopted pursuant to Section 9.4 to the extent practicable under the circumstances, but shall not be strictly bound by that Policy.
- (6) Carrying out other and additional duties as the Board of Directors may prescribe.

8.3 Clerk of the Boards

The APCO shall appoint a Clerk of the Boards. The Clerk of the Boards shall take the minutes, prepare the correspondence, assemble and distribute the agendas, post and deliver the meeting and hearing notices, keep the records, and generally provide administrative support for the Board of Directors and its committees, the Advisory Councils, and the Hearing Board, as required by law and as requested by the Chairperson and APCO. The Clerk of the Boards shall be the sole entity authorized to accept service of process on behalf of the Air District and its Board of Directors and Hearing Board.

8.4 Continuity Policy

In the event that either the APCO or the General Counsel is temporarily unable to perform their duties, or if either position becomes vacant, the duties of that position shall be performed as specified in the Executive Leadership Continuity Policy adopted by the Board of Directors.

Section Nine. Fiscal Policies and Procedures

9.1 Treasurer

The Treasurer of the County of San Mateo shall be ex-officio Treasurer of the Air District and shall have the duties imposed by law.

9.2 Annual Audit

The Board of Directors shall contract with either a certified public accountant or the county auditor of one of the counties of the Air District to conduct an annual audit of the accounts and records of the Air District. The audit shall be conducted in accordance with generally accepted auditing standards for financial audits as specified in the Government Auditing Standards issued by the Comptroller General of the United States. A report of the audit shall be reviewed by the Board of Directors and shall be filed with the County Auditor of each of the counties within the Air District's jurisdiction, the State Controller's Office, and the U.S. Environmental Protection Agency, within twelve months of the end of the fiscal year under examination. (Government Code section 30200; Health and Safety Code section 40276.)

9.3 Adoption of Budget

(a) Budget Preparation

No later than the 15th day of January of each year, the APCO shall start the preparation of the budget for submission to the Board of Directors via the Finance and Administration Committee.

(b) Presentation to Finance and Administration Committee

The APCO, or their designee, shall present the budget to the Finance and Administration Committee by no later than the 4th Wednesday in March to receive direction. By no later than the 4th Wednesday in April, the APCO, or their designee, shall present a revised budget to the Finance and Administration Committee for the Committee's approval.

(c) Adoption by the Board of Directors

(1) Notice

No less than thirty (30) days before any Board of Directors public hearing on the budget, the APCO, or their designee, shall prepare and make available to the public a summary of the Air District budget and any supporting documents, including, but not limited to, a schedule of fees to be imposed by the Air District to fund its programs.

(2) Public Hearing to Review the Budget

Not less than two weeks before the public hearing at which the budget is adopted, the Board of Directors shall hold a public hearing for the exclusive purpose of

reviewing the proposed budget and providing the public with the opportunity to comment upon the proposed budget.

(3) Adoption of the Budget

The Board of Directors shall adopt the budget at a public hearing held not less than two weeks after the public hearing to review the proposed budget required under subsection 9.3(c)(2), but under no circumstances any later than the last day of June. (Health and Safety Code section 40130-40131.)

9.4 Procurement and Contracting

- (a) The APCO shall develop for approval by the Board of Directors a Procurement Policy establishing procedures for competitive bidding, awarding, administering, and executing contracts for goods and services, leases, and other similar contractual agreements (collectively referred to herein as “contracts”).
- (b) The APCO may execute contracts in an amount that does not exceed two hundred thousand dollars (\$200,000) as specified in the Procurement Policy. The APCO shall report such contracts to the Board of Directors if they exceed one hundred thousand dollars (\$100,000). Contracts in excess of two hundred thousand dollars (\$200,000) must be approved by the Board of Directors.
- (c) The APCO may execute amendments to contracts if the amount of the contract as amended does not exceed two hundred thousand dollars (\$200,000) as specified in the Procurement Policy. If the amount of the contract as amended exceeds two hundred thousand dollars (\$200,000), the APCO may execute an amendment if the amount of the amendment does not exceed twenty-five percent (25%) of the contract amount or two hundred thousand dollars (\$200,000), whichever is the lesser amount. Any amendment in an amount that exceeds twenty-five percent (25%) of the contract amount or two hundred thousand (\$200,000) must be approved by the Board of Directors, if the total amount of the contract as amended exceeds two hundred thousand dollars (\$200,000). If an amendment does not require approval by the Board of Directors, the APCO shall nevertheless report the amendment to the Board of Directors if the amount of the amendment exceeds ten percent (10%) of the contract amount and the total amount of the contract as amended exceeds one hundred thousand dollars (\$100,000).
- (d) Notwithstanding any limitations in this Section 9.4, the APCO may execute contracts for goods and services without approval by the Board of Directors in the event of a declared state of emergency that causes a need to immediately procure such goods or services to make repairs, to safeguard the lives or property of residents within the Air District jurisdiction or Air District employees or property, or to otherwise protect public health or welfare as a result of extraordinary conditions created by war, epidemic, weather, fire, flood, earthquake or other catastrophe, or the breakdown of any plant, equipment, structure, or public work.

The APCO may execute such a contract in an expeditious manner to the extent necessary to respond to the emergency; however, if the emergency permits, the APCO shall obtain the approval of the Chairperson of the Board of Directors. The APCO shall report to the Board of Directors on the execution of the contract as soon as practicably possible.

- (e) In circumstances where a contract is required to be executed independently from the APCO, and no other Air District employee can appropriately execute the contract due to legal, confidentiality, or personnel reasons, or because other good cause exists, the Chairperson of the Board of Directors may execute the contract on behalf of the Air District, with notification to the Board of Directors, if the amount of the contract does not exceed two hundred thousand dollars (\$200,000). Such contracts in excess of two hundred thousand dollars (\$200,000) must be approved by the Board of Directors. In approving such contracts, the Board of Directors shall authorize and direct the Chairperson, the Vice-Chairperson, or another member of the Board of Directors to execute the contract on behalf of the Air District. In entering into contracts under this subsection 9.4(e), the Chairperson and the Board of Directors shall endeavor to follow the Procurement Policy to the extent practicable under the circumstances, but shall not be strictly bound by that Policy.
- (f) The General Counsel may execute contracts for legal services as provided for in Section 8.2(b).

9.5 Acceptance of Grants and Gifts Made to the Air District

The Board of Directors must approve the acceptance of all grants and gifts made to the Air District of more than five hundred dollars (\$500) in value. The Board of Directors may, in its discretion, approve the acceptance of multiple grants or gifts from a single source or entity in one blanket approval.

9.6 Grants of Air District Funds

- (a) The APCO shall develop for approval by the Board of Directors a Grants Policy for the awarding of grants of Air District funds. The APCO shall ensure that all Air District grants comply with the Grants Policy as approved by the Board of Directors. The APCO shall ensure that opportunities, qualifications, and criteria for applying for Air District grants are widely publicized, posted on the Air District's website, and provided to any person or entity who requests notice of such information, as provided for in the Grants Policy.
- (b) The APCO may approve the award of grants of Air District funding in an amount of up to two hundred thousand dollars (\$200,000) per fiscal year per grantee, or up to five hundred thousand dollars (\$500,000) for voluntary emissions reduction projects that are funded by state revenues and local vehicle registration fees. The APCO shall report these grants to the Board of Directors. Awards of grants in

excess of two hundred thousand dollars (\$200,000) to a single grantee in a fiscal year, or five hundred thousand dollars (\$500,000) for voluntary emissions reduction projects that are funded by state revenues and local vehicle registration fees, must be approved by the Board of Directors. The Board of Directors may, in its discretion, approve such grants for an entire grant program in a blanket approval for that program.

9.7 Sponsorships

The APCO shall develop for approval by the Board of Directors a Sponsorship Policy for the award of Air District funds to sponsor activities and events consistent with the Air District's mission, values and goals. The APCO shall ensure that funds expended for sponsorships of such activities and events comply with the Sponsorship Policy as approved by the Board of Directors.

9.8 Agreements for Employee Compensation, Benefits

- (a) The Board of Directors shall approve all employment and labor agreements regarding Air District employees. All such agreements shall be made available to the public and published on the Air District's website.
- (b) The Board of Directors shall approve all contracts for health, retirement, or other employee benefits. All such contracts shall be made available to the public and published on the Air District's website.
- (c) The Board of Directors shall approve the terms of all pay and benefits provided to Air District employees. The terms of such pay and benefits shall be made available to the public and published on the Air District's website.

9.9 Claims Against the Air District

- (a) All claims against the Air District shall be filed with the Clerk of the Boards and the General Counsel. The Air District shall make available a claims form, which shall be published on the Air District's website and available upon request from the Clerk of the Boards, for purposes of advancing a claim.
- (b) With the approval of the General Counsel, the APCO may allow, compromise, or settle a claim or lawsuit against the Air District for an amount not to exceed fifty thousand dollars (\$50,000). The APCO shall report all such resolutions of claims to the Board of Directors. Any allowance, compromise or settlement of a claim or lawsuit in excess of fifty thousand dollars (\$50,000) must be approved by the Board of Directors.

(Government Code section 935.4)

9.10 Electronic Signatures

- (a) Definitions: The following definitions apply to this Section 9.10:

(1) “Electronic signature” has the same meaning as in Section 1633.2 of the California Civil Code.

(2) “Digital signature” has the same meaning as in Section 16.5 of the California Government Code.

(3) “Transaction” has the same meaning as in Section 1633.2 of the California Civil Code.

(4) “UETA” means the Uniform Electronic Transactions Act, commencing at Section 1633.1 of the California Civil Code.

(b) Electronic and Digital Signatures Accepted

(1) In any transaction with the Air District, in which the parties have agreed to conduct the transaction by electronic means, the Air District may use and accept an electronic signature, if the electronic signature complies with the UETA.

(2) In any written communication with the Air District, in which a signature is used or required, the Air District may use or accept a digital signature, if the digital signature complies with Section 16.5 of the California Government Code.

(3) The APCO or their designee shall determine the documents for which the Air District may use and accept electronic signatures or digital signatures.

(c) Accepted Technologies

The APCO or their designee shall determine acceptable technologies and vendors under this section to ensure the security and integrity of any data and signatures. In determining which technologies and vendors are acceptable for digital signatures, the APCO or their designee shall comply with all applicable regulations, including, but not limited to, ensuring that the level of security used to identify the signer of a document and the level of security used to transmit the signature are sufficient for the transaction being conducted. In addition, to the extent necessary, the APCO or their designee shall ensure that any certificate involved in obtaining a digital signature by the signer is sufficient for the Air District's security and interoperability needs.

Section 10. Conflicts of Interest Code

10.1 Conflict of Interest Code

Pursuant to Government Code section 87300, the Board of Directors shall, by resolution, adopt and maintain a Conflict-of-Interest code.

Section 11. California Environmental Quality Act (“CEQA”)

11.1 CEQA Regulations

Pursuant to Public Resources Code section 21082, the Board shall adopt procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations required under the California Environmental Quality Act.

Section 12. Transition Provisions, Interpretation of the Code.

12.1 Operative Date

Except as provided herein, this Administrative Code shall be operative on January 1, 2024. On that date, Division I and Division II of the Administrative Code of the Air District that existed prior to that date are hereby repealed; provided however, Section 10 of Division I shall be adopted “as is” in an Employer-Employee Relations Resolution (“EERR”), to also become operative on January 1, 2024. Any differences between the EERR and Section 10, Division I, shall be subject to meet and consult/confer per the Meyers-Milias-Brown Act, as appropriate. The definitions in Division I preceding Section 1, shall remain in effect to the extent they apply to provisions in Division III.

With respect to Division III (Personnel Policies & Procedures) of the prior Administrative Code:

Represented Employees: With respect to Air District employees represented by a labor organization recognized by the Air District’s Board of Directors as their exclusive bargaining representative, policies within Division III shall be repealed after the adoption of new comprehensive personnel policies and labor relations rules, subject to meeting and conferring with the applicable labor organization as provided by law.

Unrepresented Employees: With respect to Air District employees who are unrepresented, personnel policies may be hereafter adopted by the Board of Directors that supersede policies in Division III. If and when such superseding policies are adopted, the superseded policy shall be identified upon adoption of the new policy.

In the event of a conflict between Division III and this Administrative Code, Division III shall prevail.

12.2 Obligations of Contract Not Impaired

All rights, claims, actions, orders, obligations, proceedings, bond authorizations, and contracts existing on the operative date of this Administrative Code shall not be affected by the adoption of this Administrative Code.

12.3 Effect of Headings

Section headings contained in this Administrative Code do not constitute any part of the law. Citations to state law are provided for reference only.

12.4 Severability

If any section, subsection, sentence, clause, word, or phrase of this Administrative Code is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Code. The Board of Directors hereby declares that it would have adopted this Administrative Code and each section, subsection, sentence, clause, word, and phrase it contains, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases may be held invalid.

BAY AREA
AIR QUALITY MANAGEMENT DISTRICT

Administrative Code

TABLE OF CONTENTS

ADMIN CODE DEFINITIONS	1
SECTION 1 BOARD OF DIRECTORS, MEETINGS	2
SECTION 2 BOARD OF DIRECTORS, OFFICERS - DUTIES	4
SECTION 3 BOARD OF DIRECTORS, ORDER OF BUSINESS	5
SECTION 4 BOARD OF DIRECTORS, CONDUCT OF BUSINESS	6
SECTION 5 BOARD OF DIRECTORS, VOTING	7
SECTION 6 BOARD OF DIRECTORS, COMMITTEES	8
SECTION 7 ADVISORY COUNCIL	11
SECTION 8 HEARING BOARD	12
SECTION 9 REGULATION ADOPTION	12
SECTION 10 RECOGNITION OF EMPLOYEES' ORGANIZATIONS	14
SECTION 11 GUIDELINES FOR RECORDS MANAGEMENT AND ACCESS	21
SECTION 12 COMMUNICATIONS WITHIN THE ORGANIZATION	25
SECTION 13 COMMERCIAL SOFTWARE POLICY	26
SECTION 14 AMENDMENTS TO ADMINISTRATIVE CODE	26
SECTION 15 NON-DISCRIMINATION POLICY AND COMPLAINT PROCEDURE	27

Division II Fiscal Policies & Procedures

SECTION 1 TREASURER	1
SECTION 2 DISTRICT AUDIT	1
SECTION 3 FISCAL PROCEDURES	1
SECTION 4 PURCHASING PROCEDURES	2
SECTION 5 ALLOWABLE EXPENSES	7

Division III Personnel Policies & Procedures

SECTION 1 GENERAL POLICIES	1
SECTION 2 EQUAL EMPLOYMENT OPPORTUNITY POLICY (REVISED 10/5/11)	1
SECTION 3 RIGHTS AND OBLIGATIONS	3
SECTION 4 GRIEVANCE PROCEDURE	10
SECTION 5 CLASSIFICATION PLAN	12
SECTION 6 SALARIES	19
SECTION 7 EMPLOYMENT AND MERIT INCREASES	22
SECTION 8 HOURS OF WORK	23
SECTION 9 SEPARATIONS	27
SECTION 10 FRINGE BENEFITS	29
SECTION 11 LEAVE AND HOLIDAYS	34
SECTION 12 PERSONNEL TRANSACTIONS AND RECORDS	44
SECTION 13 METHOD OF FILLING VACANCIES	45

Division I

Operating Policies & Procedures

ADMIN CODE DEFINITIONS

As used in this Administrative Code, the following terms shall be defined as indicated.

- (a) **APCO** means the Air Pollution Control Officer, Deputy Air Pollution Control Officer acting for the APCO in his/her absence or other person to whom the APCO's duties have been delegated by the APCO.
- (b) **ASSOCIATION** means the Bay Area Air Quality Management District Employees' Association Inc., a recognized employee association, which represents the employees in the Clerical, Technical/General and Professional representation units for all matters of employer/employee relations.
- (c) **BOARD** means the Board of Directors of the Bay Area Air Quality Management District or an authorized committee composed of members of the Board of Directors.
- (d) **CLERICAL EMPLOYEE** means an employee engaged in administrative support activities which include internal and external communication, recording and retrieval of data and/or information and other paper work required in an office. Positions include, but are not limited to, Office Assistant, Accounting Assistant, Secretary.
- (e) **CONFIDENTIAL EMPLOYEE** means any employee who is privy to the decision-making process of the Bay Area Air Quality Management District management or the Board of Directors affecting employer-employee relations matters.
- (f) **DISTRICT** means the Bay Area Air Quality Management District.
- (g) **EMPLOYEE RELATIONS OFFICER** means the APCO or other person designated by the APCO or the Board of Directors to act for the District in employer-employee relations matters.
- (h) **EMPLOYEE** means any person employed by the District on a regular, probationary, or limited term basis, excepting those persons elected or appointed to the Board of Directors, Advisory Council, Hearing Board or similar body. Limited term employees shall not be treated as employees for the purposes of Division III of this Administrative Code until they have worked at least 1,000 hours within a fiscal year. (Rev. 7/20/94)
- (i) **EMPLOYEE ORGANIZATION** means any employee organization recognized and certified by the District which includes employees of the District and which has as one of its primary purposes the representation of such employees in their relations with the District. (Rev. 7/20/94)
- (j) **LIMITED TERM EMPLOYEE** means any person employed by the District to work on one or more specific projects of limited duration, or for a specified period of time, and whose employment with the District is expected to terminate at the conclusion thereof. (Rev. 7/20/94)
- (k) **MANAGEMENT EMPLOYEE** means the APCO, Deputy Air Pollution Control Officers, Division Directors, Section Managers, District Counsel, attorneys and Senior Advanced Projects Advisors.
- (l) **MEET AND CONFER** means the mutual obligation to meet and confer in good faith in order to freely exchange information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. No agreement shall be

binding on any party unless it is reduced to writing and approved by the Board and the Association.

- (m) **MEMORANDUM OF UNDERSTANDING** means the agreement between the Board and the Association.
- (n) **PROFESSIONAL EMPLOYEE** means an employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, accountants, engineers, planners, meteorologists, statisticians, and the various types of physical, chemical and biological scientists.
- (o) **RECOGNIZED EMPLOYEE ORGANIZATION** means an employee organization which has been certified pursuant to the revisions of Section I-10.5(a) through (h) as representing the employee in a particular representation unit.
- (p) **REPRESENTATION UNIT** means a unit of District employees established pursuant to the provisions of Sections I-10.4(a) through (g).
- (q) **REPRESENTATIVE** means a person or persons designated and authorized by a recognized employee organization to represent its membership.
- (r) **SCOPE OF REPRESENTATION** includes all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment; except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.
- (s) **TECHNICAL EMPLOYEE** means an employee engaged in work requiring scientific or technical knowledge and manual skills attained through college training or through on the job training, including, but not limited to; inspectors, laboratory technicians, and instrument specialists.

SECTION 1 BOARD OF DIRECTORS, MEETINGS

1.1 MEETING DATES. (Revised 12/21/2022)

meetings of the Bay Area Air Quality Management District Board of Directors shall be held on the first and third Wednesday of each month, beginning at the hour of either 9:00 or 9:30 a.m., at the discretion of the Chairperson, with either meeting being subject to cancellation by the APCO with the concurrence of the Chairperson if there is insufficient District business to warrant such meeting. When the day, or the day preceding the day, fixed for a regular meeting of the District Board falls upon a legal holiday, that meeting shall be held at the same hour seven (7) days later not on a holiday.

1.2 COMPENSATION FOR MEETING ATTENDANCE. (Revised 12/21/2022)

(a) MEETINGS ELIGIBLE FOR COMPENSATION.

Board members shall receive compensation for attendance at:

- (1) Meetings of the Air District Board and of Board Committees; and
- (2) Other meetings while on official business of the District, including but not limited to educational seminars designed to improve officials' skill and information levels, meetings of regional, state and national organizations whose activities affect the Air District's interest with a District staff member in attendance, Air District events, and meetings to discuss community and/or business concerns with regard to air quality in the region.

(b) BOARD MEETING ATTENDANCE REQUIREMENTS.

Unless excused by the Chairperson, a Board member shall receive compensation for attending meetings of the Board only if: (1) the Board member arrives for the meeting no later than 30 minutes after the scheduled beginning of the meeting; and (2) the Board member misses no more than 30 minutes of the meeting plus, in the event a meeting continues beyond noon, the time between noon and adjournment.

(c) PRE-APPROVAL AND REPORTING REQUIREMENTS.

Board members shall not receive compensation for attending meetings of the type specified in subparagraph (a)(2) above unless the compensation is approved by the Chairperson in an open session prior to attendance at the meeting, or, for meetings held outside the State of California, unless the compensation is approved by the Board in an open session prior to attendance at the meeting. Board members who receive compensation for attending a meeting of the type specified in subparagraph (a)(2) above must provide a report on the meeting at the next regular board meeting.

(d) AMOUNT OF COMPENSATION.

Board members shall receive compensation of one hundred dollars (\$100) per meeting for attendance at meetings under this Section 1.2, up to a maximum of two hundred dollars (\$200) per day; plus compensation for active transportation travel calculated as specified in Paragraph (e) below. No Board member may receive compensation of more than six thousand dollars (\$6,000) in any fiscal year for meeting attendance pursuant to this Section 1.2.

(e) ACTIVE TRANSPORTATION TRAVEL CALCULATION.

Compensation for active transportation travel pursuant to Paragraph (d) above shall be calculated as follows:

- (1) \$1.56 per mile for travel by personal/private non-motorized bicycle or similar nonmotorized pedal-operated vehicle;
- (2) \$1.50 per mile for travel by foot or wheelchair.

For multi-modal travel, compensation shall be provided only for miles actually traveled using the alternative transportation travel modes specified in this Paragraph (e). Board members must provide details on the date of travel, starting and ending points, and purpose of travel when claiming compensation, and must document the distance traveled with a printout from a map website such as Google Maps.

- (f) REIMBURSEMENT FOR EXPENSES. In addition to compensation for meeting attendance as specified in this Section 1.2, Board members shall also be entitled to reimbursement for actual and necessary expenditures in connection with meeting attendance as provided for in Division II, Section 5. Board members do not need prior approval to be eligible for reimbursement for expenditures in connection with meetings of the Air District Board and Board Committees. To the extent a meeting for which compensation is available includes a meal, Board members shall be entitled to reimbursement for their meal expenditures as specified in Division II, Section 5.1(g), notwithstanding that provision's limitation on meal reimbursement for One Day Travel. A Board member receiving reimbursement for expenditures under this Paragraph (f) must comply with the limits and reporting requirements of local, state and federal law.

1.3 BOARD MEETING LOCATION.

All regular meetings of the Board of Directors and all regular meetings of Board Committees shall be held at the offices of the District located at 375 Beale Street, Suite 600, San

Francisco, California, unless at a previous regular Board meeting or committee meeting some other place was designated.

1.4 SPECIAL MEETINGS.

Whenever the business of the District may require special meetings, in the opinion of the Chairperson of the Board of Directors or at the express written request of any three (3) members of the Board, such meetings shall be called. Whenever a special meeting shall be called, notice shall be given to each member of the Board of Directors at least twenty-four (24) hours in advance, and to others as required by law, stating the date and hour of the meeting and the purpose for which such meeting is called. No business shall be transacted thereat except such as is stated in the notice.

1.5 AGENDA.

All reports, communications, resolutions, contract documents or other matters to be submitted to the Directors shall be delivered to the APCO one (1) week prior to the Board meeting. The APCO shall thereupon arrange a list of such matters according to the order of business. The Clerk of the Boards shall furnish each Board Director with a copy of the same no later than the Friday prior to the meeting and as far in advance of the meeting as is feasible.

SECTION 2 BOARD OF DIRECTORS, OFFICERS - DUTIES

2.1 OFFICERS OF THE BOARD. (Revised 1/21/04)

The presiding officer of the Board is the Chairperson of the Board of Directors. The Chairperson, Vice Chairperson and Secretary shall, no later than the first meeting in December of each year, be elected by the Board of Directors and assume office January 1, (effective January 1, 2005). The Chairperson shall preserve order and decorum at regular and special meetings of the Board. The Chairperson shall state each question, shall announce the decision, shall decide all questions of order subject to an appeal to the Board. The Chairperson shall vote on all questions, last in order of the roll, and shall sign all ordinances and resolutions adopted by the District Board while the Chairperson presides. (see Section II-4.3)

In the event that the Chairperson is unable, for whatever reason, to fulfill his or her one-year term of office, the Vice-Chairperson shall succeed the Chairperson and the Secretary shall succeed the Vice-Chairperson. Section 2.3 below shall determine the filling of the Secretary vacancy. In any event, no Board Officer shall serve more than three (3) years in any one Board office (Chairperson, Vice-Chairperson, or Secretary).

2.2 CHAIRPERSON. (Revised 1/14/09)

The Chairperson shall take the chair at the hour appointed for the meeting and call the District Board to order. In the absence of the Chairperson, the Vice-Chairperson shall call the Board to order and serve as temporary Chairperson. Upon arrival of the Chairperson, the Vice-Chairperson shall relinquish the chair upon the conclusion of the business then pending before the Board. In the absence, or self-determined inability to act, of the Chairperson, or the Vice-Chairperson when the Chairperson is absent, the Board Secretary shall call the Board to order and serve as temporary Chairperson. Upon arrival of the Chairperson or Vice-Chairperson, the Secretary shall relinquish the Chair upon the conclusion of the business then pending before the Board. In the absence, or self-determined inability to act, of the Chairperson, Vice Chairperson or Secretary, members of the Board of Directors shall, by an order on the Minutes, select one of their members to act as temporary Chairperson. Upon the arrival or resumption of ability to act, the Chairperson or Vice-Chairperson shall resume the Chair, upon the conclusion of the business then pending before the Board. It shall be the duty of the

Chairperson to attend all meetings of the Bay Area Air Quality Management District Advisory Council.

2.3 VICE CHAIRPERSON.

If, for any reason, the Chairperson ceases to be a member of the Board, the Vice-Chairperson shall automatically assume the office of Chairperson and the Board Secretary shall automatically assume the office of Vice-Chairperson. If, for any reason, the Vice-Chairperson ceases to be a member of the Board, the Board Secretary shall automatically assume the office of Vice-Chairperson. In either eventuality, the Board Nominating Committee shall, upon the request of the Chairperson, make a recommendation at the Board meeting following such request to fill the office of Board Secretary. An election will then immediately be held for that purpose.

2.4 BOARD SECRETARY.

The Board Secretary shall be official custodian of the Seal of the District and of the official records of the District and shall perform such secretarial duties as may require execution by the Board of Directors. The Board Secretary may delegate any of these duties to the APCO, or to the Clerk of the Boards.

2.5 MEETING ROLL CALL.

Before proceeding with the business of the Board, the Clerk of the Boards shall call the roll of the members, and the names of those present shall be entered in the Minutes. The names of members who arrive after the initial roll call shall be noted in the Minutes at that stage of the Minutes.

2.6 QUORUM.

A majority of the members of the Board constitutes a quorum for the transaction of business, and may act for the Board.

2.7 OFFICER ROTATION.

It is intended that the positions of Chairperson, Vice Chairperson, and Board Secretary be rotated among the members in a manner to assure participation in the affairs of the District from a wide representation of the membership. In making its recommendations, the Nominating Committee shall take into account such factors as representation by those members appointed by Boards of Supervisors, those members appointed by City selection committees, those members from large counties, and those from small counties.

SECTION 3 BOARD OF DIRECTORS, ORDER OF BUSINESS

3.1 PUBLIC MEETING.

All meetings of the Board of Directors shall be open to the public, except when in a closed session as permitted by the Brown Act.

3.2 ORDER OF BUSINESS.

The following shall be the ordinary Order of Business for meetings of the Board of Directors:

- (a) Roll Call
- (b) Public Presentation
- (c) Approval of Minutes of previous meeting plus consent calendar
- (d) The agenda items as prepared by the APCO

- (e) Special items may be introduced by a Board Member with the consent of a three-fourths vote of the Board Members present, if the requirements of the Brown Act are satisfied.

3.3 READING OF MINUTES.

Unless a reading of the Minutes of a previous meeting is requested by a member of the Board, such Minutes may be approved without reading if the APCO has furnished each member with an advance copy thereof per Section I-1.5.

3.4 COMMUNICATIONS TO THE BOARD.

The Clerk of the Boards shall furnish to the members of the Board and to the APCO a synopsis of communications received for consideration by the Board up to twenty-four (24) hours prior to the time scheduled for the meeting. Later communications may be considered as new business.

SECTION 4 BOARD OF DIRECTORS, CONDUCT OF BUSINESS

4.1 ROBERT’S RULES OF ORDER.

Robert’s Rules of Order, Latest Edition, except where inconsistent with express provisions of law, this Code or other resolutions of the Board of Directors of the Bay Area Air Quality Management District, shall govern the conduct of meetings of the Bay Area Air Quality Management District Board of Directors.

4.2 MOTIONS.

A Director moving the adoption of an ordinance or resolution shall ordinarily have the privilege of closing debate thereon.

4.3 RECONSIDERATION.

A motion to reconsider any action taken by the Board of Directors may be made only on the day such action was taken or at the next succeeding regular or special meeting. It may be made either immediately during the same session or at a recessed or adjourned session thereof. It may be made only by a Director who voted on the prevailing side, but may be seconded by any member. It may be made at any time and have precedence over all other motions, or while a member has the floor, and shall be considered as is provided in Robert’s Rules of Order, Latest Edition. If such a motion is to be brought at a succeeding meeting the Director bringing the motion must notify the Chairperson or the Board Secretary at least ninety-six (96) hours in advance of the meeting.

4.4 SUBSTITUTE MOTION.

The Chairperson may, at his or her discretion, allow a substitute motion to take the place of a main motion pending before the Board if the Chairperson determines that the substitute motion clarifies and furthers the intent of the main motion and does not constitute a drastic deviation from the main motion. The Chairperson’s determination to allow a substitute motion may be overruled by a majority of the Board.

4.5 MINUTES - BOARD COMMENTS.

A Director may request through the Chairperson, the privilege of having an abstract of his statement on any subject under consideration entered in the Minutes. If the Board consents thereto, such statement shall be entered in the Minutes. The Director so requesting shall furnish the APCO and Clerk of the Boards, with an abstract or transcript of his statement.

4.6 ADDRESSING THE BOARD.

Persons who are not members of the Board of Directors desiring to address the Board shall first secure permission of the Chairperson to do so. The Chairperson shall ordinarily recognize for the purpose of address to the Board:

- (a) Persons who have addressed written communications to the District may be recognized in regard to the matters under discussion,
- (b) Persons who have made written request for permission to address the Board on any matter outlined in their request, and
- (c) Persons interested in matters under discussion who have appeared for the purpose of protest, petition, or other presentation.

4.7 CLOSE OF PUBLIC HEARING.

After a motion to close a public hearing has been made by a member of the Board, no person shall address the Board until the motion is disposed of.

4.8 PUBLIC PRESENTATIONS TO THE BOARD.

Each person addressing the Board shall step up to the speaker's podium, shall give his or her name and address in an audible tone of voice for the record, and, if appearing in a representative capacity, shall state the party represented or, if appearing in a professional capacity such as attorney-at-law or registered engineer, shall state that fact to the Board. Unless further time is granted by the Board Chairperson, remarks shall be limited as set forth in Section I-4.9. All remarks shall be addressed to the Board as a body and not to any individual member thereof. No person, other than members of the Board and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Board, without the permission of the Chairperson. No questions shall be asked of a member of the Board except through the Chairperson.

4.9 PRESENTATION TIME LIMITS. (Revised 2/15/2023)

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.

4.10 DECORUM.

- (a) **By Directors.** While the Board of Directors is in session the members shall preserve order and decorum and shall not, either by conversation or otherwise, delay or interrupt the proceedings of the Board nor disturb any member while speaking, or refuse to obey the orders of the Board or its Chairperson, except as may be otherwise expressly provided.
- (b) **By Other Persons.** Any person making personal, impertinent, slanderous or indecorous remarks, or who shall become boisterous while addressing the Board, shall be barred by the Chairperson from further discussion before the Board unless permission to continue is granted by a majority vote.

4.11 SERGEANT-AT-ARMS.

At the request of the Chairperson of the Board, the APCO shall obtain the services of a Peace Officer to perform the duties of Sergeant-at-Arms at the meetings of the Board. Whenever necessary, additional Peace Officers may be employed to serve as assistant Sergeants-at-Arms.

SECTION 5 BOARD OF DIRECTORS, VOTING

5.1 VOICE VOTE.

The usual method of taking a vote is by voice; provided, however, that the Chairperson may, and when requested to do so by two (2) Directors, shall, take a vote by roll call.

5.2 ROLL CALL.

All ordinances, rules, regulations or amendments thereto and any matters involving the disbursement of money shall be adopted by roll call, except where a voice vote is declared by the Chairperson to be unanimous, and shall require the affirmative vote of the majority of the members of the Board. In addition, all proposals to settle any pending litigation in which the District is a defendant in a judicial action, whether approved in open session or in closed session, shall require the affirmative vote of the majority of the members of the Board.

5.3 CONFLICT OF INTEREST.

When one or more members determines that participation by the member(s) is prohibited by Section 87100 of the Government Code, because of the member(s) financial interest, the total membership of the Board shall be deemed to be reduced by the number of members prohibited from participation for the purpose of determining the number of affirmative votes required pursuant to Section I-5.2.

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 2/15/23)

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. (REVISED 2/15/23)

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]

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.

SECTION 7 ADVISORY COUNCIL

7.1 ACTIVITIES OF COUNCIL. (Revised 12/17/14)

- (a) The Advisory Council shall meet four (4) times each year.
- (c) The Advisory Council shall consider and report to the Board on specific matters which may be referred to the Council.

7.2 TERM OF OFFICE.

The terms of office for members of the Advisory Council are fixed by Health and Safety Code Section 40263.

7.3 LIMITS ON TERM OF OFFICE.

Effective with appointments for terms on the Advisory Council commencing on January 1, 1992, and thereafter, it is the policy of the Board of Directors that members with twelve (12) consecutive years of membership on the Council not be re-appointed to the Council, except that such members who were serving on the Council on the date of adoption of this policy may be appointed to one additional term. A member not re-appointed because of having served twelve (12) consecutive years on the Council shall again be eligible for appointment after an absence of two years from the Council.

7.4 EXPENSE REIMBURSEMENT. (Revised 12/17/14)

Members of the Advisory Council shall be reimbursed for actual and necessary expenses incurred by them in attending meetings of the Advisory Council and meetings and public hearings conducted by the Board of Directors. Transportation, meals, lodging and other incidental expenses will be allowed at the same rate as is allowed to Members of the Board of Directors provided that receipts are presented pursuant to Section II-5.6.

7.5 OTHER EXPENSES. (Revised 1/14/09)

Other expenses may be allowed after prior specific approval by a majority of the Board of Directors.

7.6 CLERK CERTIFICATION OF ATTENDANCE AND EXPENSES.

The Clerk of the Boards shall certify to the Director of Administrative Services the attendance and the expense reports of members of the Advisory Council.

SECTION 8 HEARING BOARD

8.1 RULES OF PROCEDURE.

The Hearing Board shall, from time to time, as it may deem necessary, adopt, re-adopt, or amend rules of procedure for the conduct of its hearings and for the conduct of matters which may be submitted to it and which are not inconsistent with law.

8.2 EXPENSE REIMBURSEMENT. (Revised 10/04/00)

Members of the Hearing Board may be paid for actual and necessary expenses incurred by them in attending meetings of the Hearing Board, the Board of Directors, Advisory Council and public hearings conducted by the Board of Directors. Mileage, tolls, parking fees, meals and other incidental expenses will be allowed at the same rate as is allowed to the Directors provided that receipts are presented pursuant to Section II-5.6). They shall be allowed a per diem of one hundred dollars (\$100) for each day attending a meeting, other than meetings of the Hearing Board, when requested to do so by the Board or APCO. They shall be allowed a per diem of four hundred dollars (\$400) for each day attending meetings of the Hearing Board. The hearing Board Chairperson shall be allowed a per diem of four hundred fifty dollars (\$450) for each day attending meetings of the Hearing Board.

8.3 CLERK OF HEARING BOARD.

The Clerk of the Boards shall be ex-officio the Clerk of the Hearing Board to perform clerical duties for the Hearing Board and to keep and maintain its records.

8.4 CERTIFICATION OF ATTENDANCE AND EXPENSES.

The Clerk of the Hearing Board shall certify to the Director of Administrative Services the attendance and the expense reports of the members of the Hearing Board.

8.5 OTHER EXPENSES.

Other expenses may be allowed after prior specific approval of a majority of the Executive Committee or the Board.

8.6 LIMITS ON TERM OF OFFICE. (Revised 5/14/2014)

Effective with appointments for terms on the Hearing Board commencing on April 1, 2014, and thereafter, members with fifteen (15) consecutive years of membership on the Hearing Board shall not be re-appointed to the Hearing Board, without exception. A member not re-appointed because of having served fifteen (15) consecutive years on the Hearing Board shall again be eligible for appointment after an absence of three years from the Hearing Board.

SECTION 9 REGULATION ADOPTION

9.1 PUBLIC HEARING.

The Board of Directors shall not adopt, amend or repeal any rule or regulation without first holding a public hearing thereon. The vote necessary to adopt, amend or repeal a rule or regulation shall be as set forth in Section I-5.2

9.2 DOCKET FILES.

The APCO shall establish a file for each District rule and regulation which shall include the latest version of the text of the rule and regulation. These are to be known as the Docket Files and are to be regarded as the starting point for the record of any rule- making proceedings which may thereafter occur. Copies of any petitions received by the District from interested persons proposing the adoption, amendment or repeal of a regulation, shall be included in the appropriate Docket File.

9.3 PUBLIC HEARING NOTICE REQUIREMENT.

Notice of the time and place of a public hearing to adopt, amend, or repeal any rule or regulation shall be given not less than 30 days prior thereto in accordance with the provisions specified in the Health and Safety Code for such notice, and by publication in each county of the District pursuant to Section 6061 of the Government Code.

9.4 NOTICE OF PUBLIC HEARING.

The published notice shall include the following information:

- (a) The time and place of the public hearing;
- (b) A brief description of the proposed action;
- (c) A statement that the full text of the regulatory language which is proposed to be adopted, amended, or repealed is available for public inspection at the District office during regular business hours; and
- (d) An invitation for the submission of written public comments to be submitted to the APCO by 5:00 p.m. on the second business day prior to the hearing. The notice shall include the name, address and telephone number of the APCO.

9.5 CONDUCT OF PUBLIC HEARING.

At the public hearing held to adopt, amend or repeal a rule or regulation, the Board shall provide for the submission of statements, arguments, or contentions, either oral, written, or both. In addition, the written comments submitted pursuant to Section I-9.4(d) shall be made available to each Director. Following consideration of all relevant matters presented, the Board may adopt, amend, or repeal a rule or regulation unless the Board determines to make changes in the text originally made available to the public that are so substantial as to significantly affect the meaning of the proposed rule or regulation. The Board shall not take action on a changed text where the change is so substantial as to significantly affect the meaning of the proposed rule or regulation before its next regular meeting, and shall allow further statements, arguments and contentions either written, oral or both, to be made and considered prior to taking final action.

9.6 FINDINGS.

Before adopting, amending, or repealing a rule or regulation, the District Board shall make findings of necessity, authority, clarity, consistency, non-duplication and reference, as defined in Health and Safety Code Section 40727, based upon relevant information presented at the hearing.

9.7 PUBLIC HEARING RECORDS.

The APCO shall maintain a file of the appropriate rule or regulation which shall be deemed to be the record for that rule-making proceeding. The file shall include the Docket File for the appropriate rule or regulation supplemented by the following:

- (a) Copies of published notices of proposed adoption, amendment, or repeal of the rule or regulation.
- (b) All data and other factual information, any studies or reports, and written comments submitted to the District in connection with the adoption, amendment or repeal of the rule or regulation. The District staff shall ascertain that this material includes all such material on which it relies to support any action which it has recommended to the Board.
- (c) The cost-effectiveness of the control measure and the direct costs expected to be incurred by regulated parties, including businesses and individuals as determined by the District.
- (d) The minutes of any public hearing by the Board in connection with the adoption, amendment or repeal of the regulation.
- (e) The text of the regulatory language as originally proposed to be adopted, amended or repealed, and the modified text, if any, that were made available to the public prior to the adoption.
- (f) A copy of the Board's resolution adopting the change in the rule or regulation.

9.8 RECORD OF ADOPTION.

Following adoption of a change in a rule or regulation, the APCO shall include the rule or regulation as it reads following such adoption in the Docket File.

SECTION 10 RECOGNITION OF EMPLOYEES' ORGANIZATIONS

10.1 GENERAL PROVISIONS.

- (a) It is the purpose of this article to promote full communication between the Bay Area Air Quality Management District and its employees regarding wages, hours, and other terms and conditions of employment. It is also the purpose of this article to promote the improvement of personnel management and employer-employee relations within the District by providing a uniform basis for recognizing the right of employees of the District to join organizations of their own choice and be represented by such organizations in their employment relationships with the District. Nothing contained herein shall be deemed to supersede the provisions of existing State Law and ordinances affecting the District.
- (b) Nothing in this article shall be interpreted as precluding or discouraging the discussion of any and all matters of mutual interest, at the appropriate level, to the end that there be full understanding and cooperation among the parties and that problems be resolved expeditiously.
- (c) Nothing in this article shall be interpreted as precluding or discouraging the District from requesting assistance or advice, whether from outside experts or otherwise, in situations deemed appropriate by the Board.
- (d) If, after meeting and conferring for a reasonable period of time, representatives of the District and the recognized employee organization or organizations fail to reach agreement, the District and the recognized employee organization or organizations

together may, but are not required to, submit any matters within the scope of representation to mediation and may make the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the District and one-half to the recognized employee organization or organizations.

10.2 REPRESENTATION.

- (a) Management and confidential employees shall not represent any employee organization which represents other than management and confidential employees of the District on matters within the scope of representation.
- (b) Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees.

10.3 REGISTRATION PROCEDURE PRIOR TO RECOGNITION.

- (a) No employee organization shall have rights under this article unless and until it has been registered with the District through the Employee Relations Officer. Employee organizations, having been registered, shall thereafter report in writing to the Employee Relations Officer any changes in the facts submitted in the registration within thirty (30) days of the occurrence of the change.
- (b) The registration shall consist of:
 - (1) the name and address of the employee organization;
 - (2) a list of the officers and principal representatives of the employee organization and a list of designated representatives authorized by the employee organization to act for it in matters within the scope of representation;
 - (3) a statement that the employee organization includes employees within its membership;
 - (4) a statement that the employee organization has, as one of its primary purposes, the function of representing employees in their relations with the District.
 - (5) the designation of two or more persons and their addresses to whom notice, sent by United States mail, or to a specific place at the District office, will be deemed sufficient notice on the employee organization for any purpose; and
 - (6) a statement that the employee organization has no restriction on membership based on race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age, or sexual orientation.

10.4 PROCEDURES FOR ESTABLISHING REPRESENTATION UNITS.

- (a) Representation units shall be established by the Board following submission of requests as hereinafter set forth. The decision of the Board shall be binding on all parties for the period established in Section I-10.4(f).
- (b) The APCO shall make a recommendation to the Board concerning proposed representation units for the District. No District employee shall be included in more than one representation unit. Management and confidential employees shall not be included in a representation unit containing classifications of non-management and non-confidential employees. The Employee Relations Officer shall be guided by the policy of the Board that any single representation unit shall encompass as many position classifications as possible consistent with the full use by employees of the privileges of organization and representation established by this article. Within the limits of this policy, criteria used in recommending representation units may include, but shall not be limited to, such factors as community of interest among employees and

the general field of work. No unit shall be established solely on the basis of the extent to which employees in the proposed unit have previously organized.

- (c) Employees or employee organizations may request of the Board the establishment of a particular representation unit by listing classifications and positions to be included and submitting a petition signed by at least thirty percent (30%) of the full-time regular and probationary employees within the proposed representation unit.
- (d) The Employee Relations Officer shall verify all petitions and, upon verification, shall within ten (10) working days give notice to the employees within the proposed representation unit of the contents of the petition.
- (e) Employees within the proposed representation unit shall have ten (10) working days from the date of notification to submit petitions requesting changes in the proposed representation unit. Such petitions must be signed by at least thirty percent (30%) of the employees within the proposed modified representation unit.
- (f) Petitions for changes in representation units may be submitted not sooner than two (2) years following designation of the representation unit by the Board, except that in the event that the end of such two-year period shall occur during the months of April, May, or June of any year, such petitions may be submitted on or after December 1 of the preceding year.
- (g) For the purpose of this chapter, only full-time regular and full-time probationary employees shall be eligible to sign petitions for the establishment of representation units

10.5 CERTIFICATION AND DE-CERTIFICATION AS A RECOGNIZED EMPLOYEE ORGANIZATION. (Revised 8/6/94)

- (a) An employee organization shall be considered for certification as a recognized employee organization by the Board, through the Employee Relations Officer, following the submission of a request for recognition accompanied by, or in the form of, a petition indicating that at least thirty percent (30%) of the employees within the proposed or existing representation unit desire the petitioning employee organization to be their sole representative.
- (b) The Employee Relations Officer shall verify each petition and, following verification, shall within ten (10) working days give notice to all employees within the proposed or existing representation unit and all employee organizations of the contents of the request.
- (c) Any other employee organization seeking certification as a recognized employee organization to represent the employees of a proposed or existing representation unit for which a request has been submitted and verified pursuant to Sections I-10.5(a) and (b) may, within ten (10) working days of the date of notice given pursuant to Section I-10.5(b), request the Board through the Employee Relations Officer for recognition accompanied by, or in the form of, a petition indicating at least thirty percent (30%) of the employees within the proposed or existing representation unit desire the petitioning employee organization to be their sole representative.
- (d) If the request for recognition shows a proof of employee approval of thirty percent (30%) of the employees within the unit and no challenging petition is filed within ten (10) working days following the date of notice, or, if two or more requests are filed, the Employee Relations Officer, upon verifying all petitions, shall cause a secret election to be conducted or supervised by an agency independent of the District. All the employees of the representation unit shall be given the opportunity to choose among the petitioning employee organizations and no organization. Full-time employees

within the representation unit on the payroll immediately preceding the election shall be entitled to vote.

- (e) The Board shall officially certify as the recognized employee organization the organization, if any, receiving a majority of such ballots cast. If a majority of such ballots cast is for no organization, the Board shall certify that no recognized employee organization represents the employees within the representation unit. If none of the choices on the ballot receives a majority of the ballots cast, a run-off election shall be held between the choices receiving the two highest number of votes. The Board shall certify as the recognized employee organization for the representation unit the choice receiving the most votes in a valid election, or shall certify that no recognized employee organization represents the employees within the representation unit. For any election provided for in this article to be valid, at least fifty percent (50%) of the eligible voters must vote. The Board shall make its official certification within fifteen (15) working days of the official notification of the election results.
- (f) A request for de-certification of a recognized employee organization or for the certification of an employee organization other than the organization currently certified must be accompanied by, or, in the form of, a petition executed by at least thirty percent (30%) of the employees within the representation unit. The Board may also initiate a de-certification petition where, because of substantial changes in District functions, organizational structure, or job classifications within the representation unit, it appears that the recognized employee organization no longer retains significant support among employees within the representation unit. No de-certification petition under this section shall be filed earlier than two (2) years following certification of the recognized employee organization or earlier than one hundred and twenty (120) days and no later than ninety (90) days prior to the expiration of the period of time covered by an agreement or memorandum of understanding. The provisions of Section I-10.5(b) and (c) shall apply to a proceeding under this section. The Employee Relations Officer shall cause a secret election to be conducted or supervised by an agency independent of the district wherein the employees within the representation unit on the payroll immediately preceding the election shall be entitled to vote. The recognized employee organization shall be de-certified or changed by the Board only if a majority of those casting valid ballots in an election vote for de-certification or change.
- (g) For the purpose of Section I-10.5(a) through (h), only full-time regular and full-time probationary employees shall be eligible to sign representation petitions or to vote in representation elections.
- (h) Requests for certification as a recognized employee organization may be submitted not sooner than one (1) year following the certification that the representation unit shall not be represented by a recognized employee organization.

10.6 MEETINGS.

- (a) The Employee Relations Officer, and/or others as designated by the Board or APCO, shall meet and confer with representatives of recognized employee organizations on matters within the scope of representation. The recognized employee organizations shall be advised of the name and address of the Employee Relations Officer.
- (b) It is in the interest of the District and of recognized employee organizations that the annual meet and confer process on the subject of salaries, fringe benefits and conditions of employment be brought to a mutually agreeable conclusion prior to that time when the Board adopts its annual budget for the District, which normally takes place in June. In order to meet this goal, the representatives of the District and of the recognized employee organization or organizations shall endeavor to adhere to the following schedule for the conduct of the annual meet and confer process.

- (c) By February 15 of each year, the APCO shall designate three management employees to serve with the Employee Relations Officer as the Board's designated representatives in that year's meet and confer process. The APCO shall designate one of these individuals to serve as chief negotiator.
- (d) During the month of February of each year, the members of the recognized employees organization or organizations should confer among themselves in order to agree upon a list of issues within the scope of representation which the members of the recognized employee organization or organizations wish to address in the course of that year's meet and confer process. In addition, management representatives shall meet and confer among themselves in order to agree upon a list of issues to be addressed in the course of that year's meet and confer process. To the extent practicable, this list shall be drafted in the form of proposed language changes to the then existing memorandum of understanding between the District and the recognized employee organization. These lists should be exchanged by no later than the end of February of each year.
(Revised 9/6/95)
- (e) The Board's designated representatives shall meet with the designated representatives of the recognized employee organization or organizations at a mutually acceptable time as soon as possible after the submission of each employee organization's list of issues.
- (f) The APCO shall present the matters set forth in each employee organization's list of issues to the full Board at a closed session to be held at the second regularly scheduled Board meeting in March. At this session, the Board shall instruct its designated representatives as to the Board's position on the issues to be addressed during that year's meet and confer process including any issues raised by the Board or by management.
- (g) Beginning in April of each year and until the meet and confer process is concluded, each regularly scheduled Board meeting shall have agenda'd a brief closed session in order for the designated representatives to update the Board on the progress of that year's meet and confer process and, if necessary, to enable the Board to modify its instructions to its designated representatives concerning the subjects at issue.
- (h) To the extent practicable, the designated representatives of the Board and of the recognized employee organization or organizations shall meet as often as necessary during the course of the meet and confer process. The parties shall endeavor to bring the meet and confer process to a mutually agreeable conclusion by the first scheduled Board meeting in June.
- (i) The purpose of the meet and confer process is to promote an amicable resolution of issues within the scope of representation. This purpose is best served by following the procedures outlined above. For this reason, it is the view of the Board that the spirit of good faith and mutual obligation which the meet and confer process is intended to foster would be compromised if any recognized employee organization, its officers or designated representatives, or the designated representatives of the Board, were to circumvent these procedures or deviate from the meet and confer process with respect to any matter which is the subject of an on-going meet and confer process.
- (j) The District staff will furnish any recognized employee organization, on request, with sufficient data on wage rates, job classifications and related matters to enable the recognized employee organization to bargain understandingly and to prepare for meet and confer sessions.
- (k) If after a reasonable period of time, the representatives of any recognized employee organization and the designated representatives of the Board fail to reach agreement concerning any subject matter at issue during an on-going meet and confer process, the Board and the recognized employee organization together may agree upon the

appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the District and one-half to the recognized employee organization.

- (l) The procedures outlined in Section I-10.6(b) are intended to apply to issues within the scope of representation which are normally addressed in connection with the District's annual budget process. In the event that other issues within the scope of representation arise outside of the time frame outlined in Section I-10.6(b), either the affected recognized employee organization or organizations, or the Employee Relations Officer, may request in writing that the designated representatives of each party meet and confer concerning said issue or issues. The designated representatives of each affected party shall meet at a mutually acceptable time as soon as possible thereafter concerning the issue or issues specified in said written request.
- (m) All meetings shall occur at District facilities, unless otherwise mutually agreed.
- (n) If the subject of a meeting affects more than one representation unit, a joint meeting will be held with all of the recognized employee organizations affected.
- (o) If agreement is reached, the participants shall jointly prepare and sign a written memorandum of such understanding, which shall be presented to the Board for determination and shall not be binding until approved by the Board.
- (p) Unless otherwise mutually agreed, no more than four (4) District employees, who are representatives of each recognized employee organization, shall be granted reasonable time off without loss of compensation or other benefits when formally meeting and conferring with designated Board representatives on matters within the scope of representation.
- (q) Timely requests in writing for reasonable time off for the purpose of Section I-10.6(p) shall be submitted to the employee's department head or his/her designated representative. Such requests shall include:
 - (1) the name of the employee;
 - (2) the name of the organization represented;
 - (3) the time, place, nature and estimated duration of the meeting.Any such request may be denied by the department head on the basis of an operational emergency, the existence of which shall be reported by the department head to the Employee Relations Officer, who shall then contact the representative of the recognized employee organization, so that the meeting may be re-scheduled, if the recognized employee organization so desires.
- (r) Except in cases of emergency as provided in Section I-10.6(s), the Employee Relations Officer shall give reasonable written notice to each recognized employee organization affected of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the Board and shall give such recognized employee organization an opportunity to meet with the Employee Relations Officer of the District.
- (s) In cases of emergency when the Board determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the Board shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

10.7

ACCESS TO EMPLOYEES DURING WORKING HOURS.

- (a) Any authorized representative of an employee organization seeking recognition under this article has the right to contact individual employees working within the proposed or existing representation units in District facilities during business hours on matters within the scope of representation, except on matters outlined in Section I-10.7(c) below, providing prior arrangements have been made for each such contact with the department head or his/her designated representative, who shall grant permission for such contact if it will not disrupt the business of the work unit involved. When contact on the work location is precluded by confidentiality of records, or of work situation, health and safety of employees or the public or by disturbance to others, the department head shall have the right to make other arrangements for a contact location removed from the work area.
- (b) Meetings of representatives of employee organizations seeking recognition under this article and a group of employees shall not be permitted during working hours. The Employee Relations Officer or his/her designated representative may, upon timely application, allow meetings of a representative of an employee organization seeking recognition and a group of employees during the lunch period in District facilities and at convenient dates.
- (c) No contacts shall be permitted during working hours with employees regarding membership, collection of moneys, election of officers, or other similar internal employee organization business.
- (d) Unless otherwise agreed, employees or representatives of employee organizations shall not be permitted to attend meetings or conferences called by District personnel concerning matters arising out of the normal course of District activities.

10.8

AGENCY SHOP. (Revised 8/6/94)

- (a) The District shall deduct and transfer to the Association dues for members of the Association and agency fees for non-member probationary and regular employees who are in job classifications which are non-management and non-confidential.
- (b) Within thirty (30) days from the date of hire any employee who is in a non-management and non-confidential classification may become a dues paying member of the Association or, subject to subsection (e) below, shall thereafter pay an agency fee, in an amount equal to the Employee Association's dues, to the Association. **(Revised 9/6/95)**
- (c) Dues and agency fees shall be withheld by the District twice monthly, and shall be transferred monthly with an itemized statement to the Association member designated in writing as the person authorized to receive such funds, at the address specified.
- (d) The District shall not be obligated to put into effect any new, changed, or discontinued deduction until the pay period commencing after such submission.
- (e) No District employee shall be required to join the Association or to make an agency fee payment if the District employee is an actual verified member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting employee organizations; or if the District employee has personal moral objections to joining or financially supporting employee organizations. Such employee must, instead, arrange to satisfy his/her obligation by donating the equivalent amount to a non-labor, non-religious charitable fund chosen by the employee, which is tax exempt under Section 501(c)(3) of the Internal Revenue Code (IRC).

10.9 CONSTRUCTION OF SECTION I-10. (Renumbered 8/6/94)

- (a) Nothing in this section shall be construed to deny any person, organization, or employee any rights granted by federal, state, or local law or charter provision.
- (b) The provisions of this section are intended to be consistent with the provisions of Article 10, Division 4, Title I (Section 35, et seq.) of the Government Code of the State of California.
- (c) If any provision of this section or the application of such provision to any person, organization, employee or circumstance shall be held to be invalid, the remainder of section or the application of such provision to person, organization, employees, or circumstances other than those being held invalid shall not be affected thereby.
- (d) Subject to the limitations pertaining to representation units contained in Section I-10.4(b), nothing contained herein shall be construed to prohibit two (2) or more employee organizations from acting jointly, as a single organization, to register, to petition for a representation unit, or to petition for certification as a recognized employee organization, and if certified, to represent the employees within the representation unit.
- (e) It is recognized that the provisions of this article may require amendments from time to time. The Board, through the APCO, shall consult with employee organizations prior to enacting any such amendments.

SECTION 11 GUIDELINES FOR RECORDS MANAGEMENT AND ACCESS

11.1 RECORDS MANAGEMENT POLICY. (New 2/3/10)

- (a) It is the policy of the Bay Area Air Quality Management District to identify, maintain, safeguard, and dispose of records in the normal course of business; to ensure prompt and accurate retrieval of records; and, to ensure compliance with legal and regulatory requirements.
- (b) District records shall be maintained as electronic records to the extent feasible and reasonable. Electronic records shall be created, stored, and maintained in accordance with standards adopted or recommended by the California Secretary of State pursuant to Government Code Section 12168.7.
- (c) Retention and disposal of records shall be governed by the provisions of Government Code Sections 60201 and 60203 and the provisions below in Sections I-11.3 and I-11.4.
- (d) The APCO is authorized by the Board of Directors to interpret and implement this policy, and, in order to ensure the efficient operation of the District in compliance with all legal requirements, to retain and destroy records in accordance with this policy.

11.2 DEFINITIONS. (New 2/3/10)

- (a) Duplicate record – Means a record that is produced by the same impression as the original, or from the same matrix, or by any other technique that accurately reproduces the original in a manner that complies with Government Code Section 60203, subdivisions (a)(1), (a)(2), and (a)(3).
- (b) Electronic record – Means a record created or reproduced in any medium by means of any system requiring the aid of electronic technology to make the record readable or otherwise comprehensible by ordinary human sensory capabilities.

- (c) Original record – Means a record prepared in the first instance or any counterpart intended to have the same effect by a person executing or issuing it. If data are stored in a computer or similar device, any printout or other output readable by sight shown to reflect the data accurately is an “original.”
- (d) Public Record – Means any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by the District, regardless of physical form or characteristics.
- (e) Record – Means, pursuant to Government Code Section 60201, a “writing” as defined by Government Code Section 6252, subdivision (f), i.e. any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.
- (f) Retention Period – The length of time a record must be retained to fulfill its administrative, fiscal and/or legal function as specified in the record retention schedule developed in accordance with Section I-11.3.

11.3 RETENTION PERIODS. (New 2/3/10)

- (a) Pursuant to Government Code Section 60201, the APCO shall create and periodically revise a record retention schedule that classifies all of the District’s records by category and establishes a retention period for each category.
- (b) Pursuant to Government Code Section 60201, the Board of Directors shall adopt by resolution the record retention schedule and any revisions to the schedule.

11.4 DESTRUCTION OF RECORDS. (New 2/3/10)

- (a) Except as provided in Section I-11.4(b), a record may be destroyed if:
 - (1) The retention period for the record has passed; or
 - (2) The record is not expressly required by law to be filed and preserved in the format or medium in which it exists, and a duplicate record is retained.
- (b) In no instances is a record to be destroyed if there is a continuing need for the record for such matters as pending litigation or special projects, or if the record falls within one of the categories listed in Government Code Section 60201, subdivision (d).
- (c) The destruction of records pursuant to Section I-11.4(a)(1) shall occur as soon as possible after the retention period has passed.
- (d) The destruction of records pursuant to Section I-11.4(a)(2) may be carried out at any time provided the retained duplicate records comply with the provisions of Government Code Section 60203, subdivisions (a)(1), (a)(2), and (a)(3), which require that:
 - (1) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document in compliance with Government Code Section 12168.7 for recording of permanent records or nonpermanent records.
 - (2) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one that accurately reproduces the original thereof

in all details and that does not permit additions, deletions, or changes to the original document images.

- (3) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are placed in conveniently accessible files and provision is made for preserving, examining, and using the files.

11.5 DISCLOSURE POLICY.

It is the policy of the Bay Area Air Quality Management District that all records not exempted from disclosure by state law shall be open for public inspection with the least possible delay and expense to the requesting party. Additionally, unless otherwise prohibited by law, the District may authorize disclosure of those records identified in Section 6254 of the Government Code where the District determines that such disclosure would benefit the public interest.

11.6 DISCLOSURE PROCEDURE.

- (a) A request to inspect public records in the custody of the District need not be in any particular form, but it must describe the records with sufficient specificity to enable the District to identify the information sought. Records requests should be in writing, and should include the following information:
 - (1) Name, address and plant number of the subject of the request
 - (2) Date range for records to be reviewed
 - (3) Types of records to be reviewed, e.g., complaints, violation notices, permits or variances
 - (4) Type of copies requested, e.g., photocopy, microfiche or printout
- (b) A request to inspect public records should be addressed to the, Enforcement Services Section, Attention: Records Section, Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, California 94105. Telephone inquiries should be directed to (415) 749-4784.
- (c) Except as provided in sub-section (d) below, the District shall make available the records requested, as provided in Section I-11.1 above, within a reasonable period of time after the date of the request. If, for good cause, the information cannot be made available within a reasonable period of time, the District will notify the requesting person of the reasons for the delay and when the information will be available.
- (d) Within a reasonable period of time after receipt of a request to inspect public records, the District shall advise the requesting person of the following facts when appropriate:
 - (1) The location at which the public records in question may be inspected, and the date and office hours during which they may be inspected.
 - (2) If copies of the public records are requested, the cost of providing such copies, if any.
 - (3) Which of the records requested, if any, have been labeled pursuant to Section 6254.7 of the Government Code as “trade secret” and are not public records.
 - (4) The specific reason why the records cannot be made available, if such is the case. Reasons for unavailability may be, but are not limited to, the following: the records are exempt from disclosure by state law; the records cannot be identified from the information contained in the request; the records do not exist; the District has determined pursuant to Section 6255 of the Government Code that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of

OPERATING POLICIES & PROCEDURES

the records; or the records in question are not in custody of the District. In the latter situation the District shall, if possible, notify the requesting party of the entity most likely to have custody of the records requested.

11.7 TRADE SECRETS.

Under the provisions of Government Code Section 6254.7, trade secrets will not be disclosed if the following procedure is followed:

- (a) The company whose records are requested may, within fourteen (14) days following notification, identify in writing any material which it claims to be a trade secret as defined in Government Code Section 6254.7 (c), and state the grounds on which the claim is based;
- (b) The claim and grounds will be forwarded to the person seeking disclosure and;
- (c) If the person seeking disclosure notifies the District that disclosure is still desired within five (5) days of receipt of the company's written claim of trade secret, the company will be given ten (10) days notice to apply for a judicial determination that the material in question may or may not be disclosed; however if no such judicial relief is applied for within the ten (10) day period, the material in question will be disclosed.

11.8 REVIEW PROCEDURES FOR DISTRICT DOCUMENTS.

(a) General Policy

Documents provided to the public must be reviewed for quality and accuracy in content. Any technical reports, technical memoranda and data shall be treated as preliminary until a formal quality assurance review is complete. For most documents, this review shall be carried out by the author's supervisor, division director, DAPCO and APCO, in that order.

Until the review process has been completed, documents shall be stamped "PRELIMINARY" or "DRAFT", preferably on each page. Such documents shall not be public records, and shall not be cited, quoted or distributed outside the District without "DRAFT-DO NOT QUOTE OR CITE" on each page

(b) Draft Technical Reports - Peer Review

Drafts of technical reports and technical memoranda generated by District personnel including but not limited to technical reports, abstracts, journal articles and conference papers are often subjected to peer review for accuracy and content by technical experts outside the District. The limited release of a draft or preliminary report for peer review shall not waive the draft or preliminary nature of the report, and the draft or preliminary report shall not be cited, quoted or distributed outside the District other than to those conducting the peer review. Such documents shall be stamped "PRELIMINARY" or "DRAFT" and "DISTRIBUTED FOR PURPOSES OF PEER REVIEW ONLY" on each page.

(c) Documents Intended for Internal Use Only:

Documents intended for internal use only shall include a disclaimer on the cover page that states: "THIS IS A TECHNICAL REPORT INTENDED FOR INTERNAL DISCUSSION ONLY. THIS REPORT DOES NOT REPRESENT DISTRICT POLICY AND IS NOT INTENDED FOR PUBLIC RELEASE. DO NOT CITE OR QUOTE."

(d) District Policy Regarding Technical Papers Written by District Employees:

The procedures set forth in this Section shall apply to all abstracts, journal articles, reference papers and technical reports prepared by District employees within the scope of their employment. Nothing herein is intended to prohibit District employees from

publishing articles or delivering papers which may not reflect the policy of the District provided the work is done on the employees own time. However, any such paper, article or report prepared by a District employee outside the scope of his or her employment which has not been subjected to the review process provided for in this Section shall not be a District document, and the employee shall not represent the article or paper as such. Moreover any such paper shall include an explicit disclaimer that the article or paper does not reflect the views or policy of the Bay Area Air Quality Management District.

SECTION 12 COMMUNICATIONS WITHIN THE ORGANIZATION

12.1 COMMUNICATION POLICY.

The policy of the District is to inform all employees promptly and fully of policy plans and changes which relate to or affect their work. The APCO, through each Division Director, is responsible for developing effective communication with all employees. The Personnel Section will prepare "Employee Bulletins" to inform employees of significant developments within the District, including policy changes and other pertinent matters.

12.2 WRITTEN COMMUNICATIONS.

Memoranda between or within Divisions should be addressed specifically to those concerned. The APCO will receive an information copy of Divisional memoranda relating to policy within a Division. Memos shall be dated.

12.3 BULLETIN BOARDS.

Bulletin boards will be maintained on each business floor of the District for announcements, recruitment bulletins and other communications for the information of all District employees. District bulletin boards are for District employees. District bulletin boards are for District business only. The Employees' Association will be allowed use of bulletin boards.

12.4 CONFERENCE PARTICIPATION.

Employees of the District may, with the prior approval of the APCO, or with the Chairperson of the Board in the case of the APCO, attend meetings, conventions, and conferences of specialists, on District time and payroll, within or without the State, at their own expense. In granting approval, the APCO, or the Chairperson of the Board in the case of the APCO, will be guided by whether attendance is apt to increase their professional competence in fields for which they are employed by the District.

12.5 LITIGATION.

From time to time the District and its officers are parties to law suits involving a wide range of factual and legal questions. When an action has been formally commenced (filed with a court and properly served), contacts between the parties are to be made through counsel. Employees are not obliged to speak to any person outside of the District staff regarding pending litigation involving the District. The exception to this rule is the situation in which proper discovery procedure (notice of deposition, interrogatories, requests for admissions) has been followed.

The District Legal Division should be advised of any and all inquiries addressed to an employee by any party or attorney involved in a legal action to which the District is a party.

SECTION 13 COMMERCIAL SOFTWARE POLICY

13.1 LICENSE AGREEMENTS.

All employees shall use software only in accordance with its license agreement. Unless otherwise stated in the license agreement, any duplication of copyrighted software, except for backup or archival purposes, is prohibited. The following points are to be followed to comply with software license agreements:

- a) No employee shall give software to anyone outside the District.
- b) With the exception of software covered by a multi-user site license, all software manuals shall contain the software serial number and shall be maintained in the immediate vicinity of the computer system where the software is installed.
- c) All software used by the organization on District computers will be purchased through appropriate procedures, except as follows: an employee may install software which the employee has legitimately purchased on a single computer system which has been provided by the District for the employee's exclusive use provided that, prior to installation:
 - 1) The employee presents the software to the Information Systems Section (ISS) for a virus scan,
 - 2) The installation and use of the software do not violate the applicable license agreement for that software.

13.2 TELECOMMUTING.

An employee who is participating in an approved telecommuting program may also install software which the District has provided on a District computer system for that employee's exclusive use, on the employee's home computer system provided that:

- a) The employee notifies ISS prior to installation.
- b) The installation and use of the software do not violate the applicable license agreement for that software.
- c) The employee agrees to remove the software when the employee leaves the District or is no longer participating in an approved telecommuting program.

13.3 DATABASE OF SOFTWARE.

ISS will maintain a database of the software products installed on District computer systems and District-provided software installed on employees' home computer systems. ISS may conduct periodic audits of District computer systems to ensure compliance with District policy.

SECTION 14 AMENDMENTS TO ADMINISTRATIVE CODE

14.1 AMENDMENT MECHANISM.

This Administrative Code may be amended at any meeting by a vote of a majority of the members of the Board of Directors provided notice of such amendment has been given at a preceding regular meeting.

SECTION 15 NON DISCRIMINATION POLICY (New 10/19/2016)

15.1 POLICY

Accessibility and Non-Discrimination Policy: The Bay Area Air Quality Management District (BAAQMD) 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 BAAQMD's policy to provide fair and equal access to the benefits of a program or activity administered by BAAQMD. BAAQMD 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 BAAQMD. Members of the public who believe they or others were unlawfully denied full and equal access to a BAAQMD program or activity may file a discrimination complaint with BAAQMD under this policy. This non-discrimination policy also applies to other people or entities affiliated with BAAQMD, including contractors or grantees that BAAQMD 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 BAAQMD 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 a BAAQMD program or activity, you may contact the Non-Discrimination Coordinator identified below or visit our website at www.baaqmd.gov/accessibility to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the BAAQMD Non-Discrimination Coordinator, (415) 771-6000 or visit www.baaqmd.gov/accessibility for more information.

15.2 COMPLAINT PROCEDURE

The complaint procedure has four steps:

1. Submission of Complaint:

A person who believes that he or she or a specific class of persons has, on the basis of any protected class, been excluded from or denied the benefits of, or been subjected to discrimination under, any program or activity of the Air District may file a written complaint with the Non-Discrimination Coordinator for the Air District. Such complaint must be filed within 180 calendar days after the date the person believes the discrimination occurred. See the [Discrimination Complaint form](#) (277 k PDF, 2 pgs).

2. Referral to Review Officer:

Upon receipt of the complaint, the Non-Discrimination Coordinator will appoint one or more staff review officers, as appropriate, to evaluate and investigate the complaint, in consultation with the District Counsel. The staff review officer(s) will complete their review no later than 60 calendar days after the date the Air District received the complaint using a preponderance of the evidence standard. If more time is required, the Non-Discrimination Coordinator will notify the complainant of the estimated time for completing the review. Upon completion of the review, the staff review officer(s) will make a recommendation regarding the merit of the complaint and whether remedial actions are available to provide redress. Additionally, the staff review officer(s) may recommend improvements to the Air District's processes as they

relate to the Non-Discrimination Policy and environmental justice, as appropriate. The staff review officer(s) will forward their recommendations to the Non-Discrimination Coordinator for review. The Non-Discrimination Coordinator will issue the Air District's written response to the complainant.

3. Appeal:

If the complainant is dissatisfied with the response, the complainant may request an appeal, in writing, to the Executive Officer/Air Pollution Control Officer within 10 calendar days after receipt of the response. The request for appeal should explain any items the complainant feels were not addressed by the Non-Discrimination Coordinator. The Executive Officer/Air Pollution Control Officer will notify the complainant within 10 calendar days whether the request for appeal has been accepted or rejected.

4. Re-Evaluation:

In cases where the Executive Officer/Air Pollution Control Officer agrees to reconsider the matter, the matter shall be returned to the staff review officer(s) to re-evaluate in accordance with Paragraph 2, above.

Division II

Fiscal Policies & Procedures

SECTION 1 TREASURER

1.1 SAN MATEO COUNTY TREASURER.

The Treasurer of the County of San Mateo shall be ex-officio Treasurer of the Bay Area Air Quality Management District and shall have the duties imposed by law.

SECTION 2 DISTRICT AUDIT

2.1 ANNUAL AUDIT. (10/15/03)

The Board of Directors shall contract with either a certified public accountant or the county auditor of one of the counties of the District to make an annual audit of the accounts and records of the District. The minimum requirements of the audit shall be as prescribed by the State Controller and Comptroller General of the United States according to the Single Audit Act Amendments of 1996, Budget Circular 133, Statement on Auditing Standards No. 63, Government Accounting Standards Board Statement 34, and shall conform to generally accepted auditing standards. A report thereof shall be filed with the County Auditor of each of the counties within the District's jurisdiction, the State Controller's Office, the U. S. Environmental Protection Agency, and a copy of the report shall be filed with the Board of Directors, within twelve months of the end of the fiscal year under examination.

SECTION 3 FISCAL PROCEDURES

3.1 BUDGET PROCEDURE.

Not later than the 15th day of January of each calendar year, the APCO shall start the preparation of a tentative budget for submission to the Board of Directors.

3.2 COMPLIANCE WITH GOVERNMENT CODE. (Revised 10/15/03)

Pursuant to Health and Safety Code Section 40276, the Budgetary procedures for the Bay Area Air Quality Management District shall comply as nearly as possible with the provisions of Chapter 1, Division 3, Title 3, of the Government Code (County Budget Act). On or before the first regular meeting in May, the APCO shall deliver a proposed budget to the Board of Directors pursuant to Section 29064 of the Government Code. The Board shall refer the proposed budget to the Budget and Finance Committee and, when applicable, to the Personnel Committee. The Committees shall consider the proposed budget and report to the Board of Directors at the Public Hearing held pursuant to Section 29080 of the Government Code.

3.3 ACCOUNTS TRANSFER. (Revised 10/15/03)

- (a) The APCO may make budget transfers between any accounts by notifying the Director of Administrative Services in writing of each such change. This transfer provision does not apply to the transfer of personnel from one program to another or from one expenditure class to another, which will require Board notification.

- (b) Whenever the APCO transfers a position from one program to another, the APCO may also transfer the pertinent funds from permanent salary accounts (and accounts for related benefits). Each such transfer shall be reported by the APCO to the Board of Directors at the next regular Board meeting.
- (c) A Division Director may transfer funds from any account in one program managed by that Director's Division to any account, except permanent salaries, in another program within the same Division, by notifying the Director of Administrative Services in writing of such a transfer, subject to the following restrictions:
 - (1) Total cumulative transfers made pursuant to this subsection to or from either account have not exceeded \$50,000 within the fiscal year.
 - (2) The funds being transferred have not been encumbered.
 - (3) Prior written approval has been granted by the APCO.
- (d) A Program Manager may make transfers between any accounts within that program except permanent salaries by notifying the Director of Administrative Services in writing of such a change, subject to the following restrictions.
 - (1) Total transfers made pursuant to this subsection to or from each account have not exceeded \$20,000 within the fiscal year.
 - (2) The funds being transferred have not been encumbered.
 - (3) The change shall be reported to the Division Director.
- (e) All other transfers of funds require advance Board approval.

3.4 PAYMENT OF CLAIMS.

Claims for items for which funds have been budgeted, or for which authorized adjustments in the budget have been made, shall be made by demand for a check approved by the APCO and directed to the Director of Administrative Services. Such claims shall be supported by such vouchers or other supporting material as may be required by the Director of Administrative Services to establish and identify the claim, the budget item, the delivery of the goods or services, and the justification according to good accounting practices of the payment of the claim. Claims for other items, which have not been budgeted or for which authorized budget adjustments have not been made, shall be presented by the APCO to the Board of Directors at the next succeeding meeting of the Board. Claims involving tort liability of the District, its officers or employees, or un-liquidated claims shall be referred to the District Counsel for recommendation to the APCO and submitted to the District's insurance carrier.

3.5 REFUND OF MONEY.

Any monies paid to the District may be refunded as hereinafter set forth, provided that such payment was made by reason of:

- (a) Duplicate payment.
- (b) Payment made in excess of the actual amount due.
- (c) Payment erroneously collected by reason of a clerical error of the District.
- (d) Payment made less than that required by law and for which no performance may, of a consequence, be had.
- (e) Refund of payment made when request for refund is made prior to any official act and is for an amount justly due.

Claims for refund shall be presented and filed with the District within one year after the claim accrued.

Claims for refund shall be itemized, shall be presented by the claimant or a person acting on behalf of the claimant, and shall show the matters required in Section 711 of the Government Code.

Such claim shall be made under penalty of perjury as provided in the Code of Civil Procedure Section 2015.5 and shall be made by the person or authorized agent or guardian or the person who paid the money, or in case of death, by the executor, executrix, administrator, or administrative of that person's estate.

3.6 APPROVAL OF REFUND CLAIM.

The APCO shall act on the claim in one of the following ways:

- (a) If it is found that the claim is a proper charge against the District for any of the reasons cited in Section II-3.5(a) through (e), the APCO shall allow the claim. Otherwise, the claim shall be denied.
- (b) If it is found that the claim is a proper claim against the District but is for an amount greater than is justly due, it shall be rejected as to the balance. If the claim is allowed in part and rejected in part, the claimant may be required to accept the amount allowed in settlement of the entire claim.
- (c) Claims less than fifty thousand dollars (\$50,000), shall be processed by the Director of Administrative Services, claims fifty thousand dollars (\$50,000) or greater, shall be submitted to the APCO with a recommendation from the Director of Administrative Services for final action. Rejected claims shall be submitted to the Board of Directors, with a recommendation from the APCO, for final disposition
- (d) Refund deposits when the purpose for which such deposit was made has been achieved and there is no financial loss to the District.

The APCO shall execute such forms as are prescribed by the Director of Administrative Services, attach thereto the verified claim for refund, with the action endorsed thereon, and transmit same to the Director of Administrative Services.

3.7 REFUND PAYMENT.

The Director of Administrative Services is hereby authorized and directed to draw a check on the Treasurer in the amount of such refund as is allowed.

SECTION 4 PURCHASING PROCEDURES

4.1 DISTRICT PURCHASING AGENT. (Revised 4/19/95)

The APCO shall be ex-officio Purchasing Agent for the Bay Area Air Quality Management District. The APCO shall negotiate to obtain the best price obtainable on all goods and services required by the District.

4.2 SPECIFICATIONS. (Revised 10/15/03)

In all cases where written specifications are prepared and submitted for public bidding, wherever a trade name is specified the specifications shall contain the phrase "or equal" and a bidder shall be allowed to bid upon a specified trade name product or its equivalent in quality and performance. Specifications must include all criteria to be considered by the District in selecting a successful bidder. Wherever possible, purchasing of items of supply shall be through member counties or businesses in the nine (9) county District Area.

4.3 CONTRACT LIMITATIONS. (Revised 9/21/16)

The APCO or designee shall execute, on behalf of the Bay Area Air Quality Management District, contracts for purchase of supplies and materials and services costing not more than one hundred thousand dollars (\$100,000). Contracts for more than one hundred thousand dollars (\$100,000) shall be signed by either the Chairperson of the Board of Directors, or the APCO after being directed to execute such a contract by resolution of the Board of Directors.

For efficiency, recurring payments for routine business needs such as utilities, licenses, office supplies and the like, more than, or accumulating to more than one hundred thousand dollars (\$100,000) shall be presented in the quarterly Financial Report.

4.4 CONTRACTS WITH MINORITY BUSINESS ENTERPRISES AND WOMEN'S BUSINESS ENTERPRISES. (Revised 12/7/11)

It is the policy of the Board of Directors of the Bay Area Air Quality Management District that the District comply with its DBE Program where lawful and appropriate and to encourage minority, veteran, and women owned businesses bid on contracts with the District to the extent allowable by law.

4.5 PURCHASE REQUESTS. (Revised 10/15/03)

Purchase requests for supplies, equipment and/or services must be completed and submitted to the Business Manager in the Administrative Services Division prior to any order being given to a vendor. The name of the suggested vendor should be included in the request, as well as the cost, tax and estimated shipping charges.

Any deviation from this procedure must have prior written approval of the Business Manager, Finance Manager or Director of Administrative Services.

Purchases requests exceeding the remaining balance of unexpended funds within the budget for each line item for a section must be accompanied by an approval for a transfer of funds as described in Section II-3.3. The approval document must indicate the line item for the source and destination of the transfer of funds.

4.6 CONTRACTS. (REVISED 10/7/20)

(a) PURCHASING POLICY.

(1) Methods of Purchasing:

- (A) FORMAL BID - A bid obtained under sealed bid procedures and which is publicly opened and read.
- (B) INFORMAL BID - A written bid solicited from a vendor when the cost of the equipment or services/supplies is so low as to not justify the costs of the formal bidding procedures.
- (C) TELEPHONE BID - Telephone bids may be utilized by the Business Manager/designee when, in the judgment of the APCO or Director of Administrative Services, the best interest of the District may be served due to the need for immediate delivery or for other valid reasons.
- (D) MONOPOLY/SINGLE SOURCE BID - An award may be made without a formal bid when the item to be purchased can be obtained from only one source and the item/service is one which does not lend itself to substitution. Said bids must be confirmed in writing.
- (E) PRIOR BID/LAST PRICE - An award may be made on the basis of a prior bid or on the basis of a last price, if the conditions of a previous purchase are the same.

- (F) LETTER QUOTATION - Letter quotation is an informal, written offer made to the District by a vendor.
- (2) Formal bidding shall be used by the District when economies of scale can be achieved or when there are equal or competitive products and also when discounts are applicable.
- (3) Where federal money will fund all or part of the goods/services that will be purchased the proposals, bids or other documents prepared, shall include the following information: 1) the percentage of the total costs of the goods or services which will be financed with federal funds; 2) the dollar amount of federal funds for the goods or services; and 3) the percentage and dollar amount of the total costs of the goods or services that will be financed by non-governmental sources (per Public Notification Requirement Appropriation Laws).
- (4) In all cases in which written specifications are prepared and submitted for public bid and a trade name is specified, the specifications shall contain the phrase “or equivalent” and the bidder shall be allowed to bid upon such. The Director of Administrative Services shall determine whether the proposed alternative is equivalent.
- (5) The District reserves the right to accept one part of a bid and reject another, and to waive technical defects, if to do so best serves the interests of the District.
- (6) Subject to other provisions of District policy, a bid will be awarded to the bidders offering the best value for quality goods and services. The following may be considered in determining the bid that provides the best value: bid price, proven cost-effectiveness, extended warranty, extended quality discount, esthetic value, expedient delivery of goods or services or other features of sufficient value.
- (7) The preparation of detail specifications may be waived by the APCO if any of the following circumstances are present:
 - (A) Public health or property may be endangered by delay.
 - (B) Cost of labor will exceed savings.
 - (C) Required dates cannot be met.
 - (D) Monopoly/single source items are required.
 - (E) Prior experience has proven that a particular material, type of equipment, supplies or service is more economical to the District.
 - (F) The cost to prepare detailed plans/specifications or bids will exceed possible savings that could be derived from such plans/specifications or bids.
 - (G) Emergency purchases.
 - (H) Value of contract is less than \$25,000.
- (b) SERVICES OF CONSULTANTS.
 - (1) Consultant Selection Policy
 - (A) Due to the nature of the work to be performed or the level of staffing required, it may, from time to time, be necessary to utilize the services of outside consultants who are not employees of the District.

- (B) It is the policy of the District in the selection of any required outside consultants to encourage participation of minority, women and/or disadvantaged business enterprises in the bidding process in accordance with Section II-4.4 to the extent allowable by law.
 - (C) Prior to release of a request for consulting services, the following shall be prepared:
 - (i) A statement of the work to be performed,
 - (ii) A statement of the qualifications of persons necessary to perform the requested work, which can include a specification of experience/education/training in general or specific fields; and
 - (iii) An assessment of the resources needed to carry out the project, i.e. capital equipment or supplies.
 - (D) Determination of Provider Services

Based on an evaluation of the information prepared according to Section II-4.6 (b)(1)(C), and any other information gathered, the APCO or designee shall evaluate the ability of staff to perform all or part of the work. If it is determined that all or part of the work should be performed by an outside consultant, the APCO shall determine if the work should be performed by sole source or whether it should be performed after a bid solicitation and award.
 - (E) Contracts for temporary employment services or consultant services shall meet the requirement of the District Purchasing Policy.
- (c) BID SOLICITATION.
- (1) For all contracts for goods or services with a value of \$70,000 or greater, the following documents shall be prepared as required by the person(s) designated by the APCO.
 - (A) Instructions to Bidders (for written bids)
 - (B) Proposal Submittal Requirements
 - (C) Draft contract, including all terms and conditions of the work to be performed, and
 - (D) A list of potential bidders
 - (2) The following steps will be followed to identify potential bidders for all contracts for goods or services with a value of \$40,000 or more, but less than \$70,000.
 - (A) All qualified suppliers of the required goods or services with outlets in the Bay Area shall be contacted (in the case of informal or telephone bids); or
 - (B) At least one supplier of the required goods or services in each of the Bay Area counties shall be contacted (in the case of informal or telephone bids); or
 - (C) The steps listed in Section (3) shall be followed.
 - (3) The following steps will be followed to identify potential bidders for all contracts for goods or services with a value of \$70,000 or more.

- (A) Bids shall be solicited by any method as allowed in Section 4.6 (a) on purchases of services, materials or supplies excluding scientific and technical equipment and services uniquely available from a sole source. Where all sources of such services, materials or supplies in the Bay Area are known, bids may be requested from such sources by all means when it is deemed by the APCO or designee to be in the best interest of the District.
- (4) The APCO may waive the provisions of this section or award a sole-source bid if:
 - (A) The cost of labor for preparation of the documents exceeds the possible savings that could be derived from such detailed documents; or
 - (B) Public health or property may be endangered by delay; or
 - (C) Prior experience has shown that the desired services are only available from the sole-source; or
 - (D) Other circumstances exist which require such waiver in the satisfactory interests of the District.
- (d) BID AWARD.
 - (1) Prior to accepting a bid that is not the lowest of three qualified and responsive bids, other qualified and responsive bidders will be provided with an opportunity to match the additional features provided in the bid of highest value. These bidders will be provided with a list of the features, but not the price.
 - (2) The requesting staff person shall present to the APCO their evaluation of the bids and a recommendation for the award. Upon approval of the recommendation, staff shall negotiate an agreement and prepare it for the APCO's signature.
 - (3) If the APCO determines that no bidder could satisfactorily serve the interests of the District, the APCO may decline to make an award.
 - (4) The District reserves the right to have an Evaluation Panel comprised of District employees to review and analyze the bids and offer a recommendation of acceptance of a bid to the Director of Administrative Services. Upon review of the recommendation of the panel, the Director may accept or reject the recommendation of the panel. If accepted, the Director will recommend award of the bid to the APCO for his review/approval. If the recommendation of the panel is rejected by the Director of Administrative Services, the panel will reconvene to review the bids further.
 - (5) Further renewal of any contract that has been awarded for two consecutive years without competitive bid shall require APCO or Board approval depending upon authorization of the contract to be extended. Service contracts with the original manufacturer of equipment or software are exempt from this requirement.
 - (6) The District shall rebid a contract for financial auditing services every five years.

SECTION 5 ALLOWABLE EXPENSES

5.1 DIRECTOR TRAVEL EXPENSES. (REVISED 12/15/21)

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

a) General Procedures and Responsibilities

All travel for BAAQMD Board Members must be justified business travel (Section j) and must be preapproved in accordance with the Administrative Code to be eligible for reimbursement. For all in-state travel, the Chair may authorize Board Member travel on behalf of BAAQMD. For all out-of-state travel, including international travel, the Administration Committee must authorize Board Member travel on behalf of BAAQMD prior to travel. In the case of an unexpected or urgent need to travel on BAAQMD business, a Board Member may obtain the approval of the Chair, in writing, before the expenditures are incurred. Such approval must be reported to and ratified by the Administration Committee at the committee's next meeting.

Board 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 almost always required except where otherwise stated in this Policy.

When a Board Member combines business and personal travel on a business trip, the Board Member will be responsible for the additional charges related to the personal travel. Only Board Member's direct travel expenditures are eligible for reimbursement. BAAQMD is unable to provide reimbursement for travel expenditures incurred by a spouse or any another individual traveling with the Board Member.

Requests for reimbursement of expenditures must be submitted on the authorized BAAQMD 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 BAAQMD which is subsequently refunded to the traveler by a third party must be repaid to BAAQMD 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 BAAQMD to do so. Any Board Member reimbursement that requires the waiver of this policy by the Executive Director for approval will be brought back to the Administration Committee 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 Board Member authorized to travel on behalf of BAAQMD pursuant to this section shall provide a brief, written report on their travel on the Board Member Travel Report Back Form. The Chair may also request that Board Members who represent BAAQMD at meetings, conferences, or other events provide an oral report on their participation and experience to the Board.

b) Board Member Selection for Attendance

The Chair shall nominate for approval by the Administration Committee, Board 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 Chair shall solicit the interest of Board Members and consult with the Executive Director and any other relevant BAAQMD staff to ensure compliance with this policy.

The Chair, Vice Chair or Secretary shall have priority to represent BAAQMD at any event where attendance is limited or capped due to cost or capacity. In considering which other Board Members may be selected for travel, or who shall represent BAAQMD in the stead of the Executive Officers, the Chair shall consider, at a minimum, all the following:

- The history of attendance and participation by Board Members at regular BAAQMD Board and Committee Meetings
- The length of service on the Board by a Board Member
- The prior opportunities to travel and represent BAAQMD by Board Members
- The relevance or appropriateness of Board Members' committee assignments to the nature and purpose for the travel
- Opportunities for the professional growth or development of new Board Members
- The relevance and purpose of a meeting or agenda to the home jurisdiction of Board Members
- Equitable considerations that would elevate or include the voices of marginalized members of the Bay Area.

Additionally, the Chair shall have the authority to recommend non-Board Members for inclusion in BAAQMD-related travel. In making such a recommendation, the Chair shall demonstrate how and why the recommendation fulfills the mission of BAAQMD and is consistent with the goals of the Board and agency.

c) Conferences/Conventions

Registration fees for conferences and conventions are reimbursable for Board Members if the conference or convention is directly related to the mission of BAAQMD, the Board Member is attending as a representative of BAAQMD and the Board Member received preapproval from the Administration Committee.

d) Air Travel

Board 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 Board 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 Board Member purchases a first or business class ticket, he/she will be reimbursed for the lowest available “economy plus” fare only.

Board Members will be reimbursed for regular baggage fees charged pursuant to applicable airline policy. Excess baggage charges will be reimbursed only when the Board Member is traveling with heavy or bulky materials or equipment necessary for BAAQMD business.

e) Hotel Accommodations

When making hotel reservations, Board Members must use the approved Per Diem Rates for lodging located on the General Services Administration (GSA) website, www.gsa.gov for the location of the stay plus 25%, to determine the maximum hotel accommodation expenditure that BAAQMD will reimburse per night, plus any applicable taxes.

Board 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 BAAQMD by the hotel, such as governmental rates, to get the best rate possible.

If accommodations are shared with individuals who are not traveling on BAAQMD business, the Board 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 BAAQMD 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 BAAQMD 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. Board Members who operate vehicles on BAAQMD 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, BAAQMD 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 should, when available, should be used, even if the cost triggers a surcharge or exceeds the cost of a non-alternative fuel vehicle.

BAAQMD holds liability insurance to cover third parties in case a Board Member injures someone or causes property damage to another vehicle while renting a car or driving his/her own personal vehicle while engaging in BAAQMD 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 or the Board 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 for the location of the stay plus 25%. Note that separate rates are provided for Breakfast, Lunch and Dinner. For travel days where a Board 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 BAAQMD, then no separate reimbursement is allowed for that meal. A Board Member who pays the bill for a meal attended by more than one Board Member or BAAQMD 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 Board Members and BAAQMD 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.

Board 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 BAAQMD business, movies, shows, etc...

h) Other Meals

Expenditures for business meals other than meals during travel, such as meals with other elected officials where BAAQMD 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 BAAQMD-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

gratuities 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 BAAQMD 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. Board Members should apply prudent business judgment in determining the means of transportation to use.

Personal/Private Vehicle Usage – Board 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. 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. Board Members who operate vehicles on BAAQMD business must have a valid driver’s license and proof of insurance in their possession, and a good driving record.

j) Justified BAAQMD Travel

Justified BAAQMD travel trips include but are not limited to:

- Attending meetings with local representatives in Sacramento or Washington DC or Sacramento with BAAQMD Staff for legislative advocacy purposes.
- Attending the AWMA Conference as a BAAQMD representative
- Attending other air quality-related conferences as a BAAQMD representative
- Attending the annual COP Climate Conference as a BAAQMD 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 BAAQMD 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 Board Member Travel Report Back Form are kept by the Clerk of the Board.

5.2 DIRECTOR PER DIEM MEAL EXPENSES.

The Board of Directors is authorized to include meals in their expenses, when such expenses occur as a result of attendance at Board, committee or other authorized functions and provided that receipts are presented as required by Section II-5.6.

5.3 INCIDENTAL EXPENSES OF DIRECTORS AND APCO.

Actual and necessary incidental expenses in attendance at other meetings or on direction of the Board or Chairperson of the Board, or in conference on District business with qualified persons, shall be allowed to the Board of Directors and the APCO.

5.4 EMPLOYEE EXPENSES.

Employees shall be reimbursed for actual and necessary expenses, including meals, incurred by them in the performance of their duties provided that receipts are presented as required by Section II-5.6.

- (a) Employees shall be reimbursed for mileage at the rate per mile allowed by the Internal Revenue Service each year, plus necessary bridge tolls and parking charges. Mileage will ordinarily be computed from the District, except when an employee leaves from a location nearer the destination.
- (b) Travel of employees outside the District area on official business shall be at the direction of the APCO or his designee and with prior specific approval. The APCO shall approve out-of-state travel only after determining that there is no acceptable, lower cost alternative to the travel. Travel outside of-the state must be reported to the Board of Directors at the next regularly scheduled meeting.
- (c) Employees attending meetings, hearings, or conferences with qualified persons at the direction of the APCO in an official capacity will be allowed actual and necessary incidental expenses incurred in connection with such attendance, and shall submit travel requests on appropriate forms.

5.5 TRAVEL REPORTS.

Upon request by the APCO or supervisor, it shall be the duty of any assistant, deputy or employee whose duty it has been made to attend a conference or meeting outside of the District to file a reasonably complete report with the APCO.

5.6 RECEIPTS FOR EXPENSES. (Revised 1/18/12)

Vouchers or receipts shall be presented to the Director of Administrative Services for all necessary and incidental expenses over \$10.00 such as parking charges and fuel costs. However, vouchers or receipts need not be presented for meal expenses and hotel accommodations. Employees will be reimbursed for meal expenses and hotel accommodations using the applicable General Services Administration rate.

5.7 TRAVEL EXPENSE ADVANCES.

Advance payment for travel expenses may be authorized by the APCO to cover expenses which will be incurred by District personnel on approved travel. Such payments may include costs of transportation and other anticipated major expenses.

Division III

Personnel Policies & Procedures

SECTION 1 GENERAL POLICIES

The personnel policy of the Bay Area Air Quality Management District is to ensure District employees of uniform procedures for handling personnel matters and to maintain the efficiency of the District's operations through the employment of competent persons. The District seeks to provide working conditions that will be conducive to good morale.

This personnel policy is applicable to all employees of the District. However, some items herein may be superseded by provisions of the Memorandum of Understanding in effect between the District and the Employees' Association. Unless specifically made applicable to all employees by a resolution of the Board of Directors, conflicting provisions in the MOU will apply only to those persons in the representation units encompassed by the Employees' Association.

The personnel policies and procedures of the District are patterned after the State of California's Rules and Regulations.

The responsibility and authority for setting personnel policy and procedures are vested in the Board of Directors. The Personnel Committee of the Board is responsible for receiving recommendations from staff and other sources concerning policy and practices and making recommendations to the Board of Directors.

The responsibility and authority for the administration of the policy and procedures are vested in the APCO.

1.1 Representation Units

The staff of the District are represented by one of the following four Representation Units: Technical/General, Professional, Confidential or Management. The Technical/General Unit includes those employees identified as members of the Clerical and Technical classes except for those employees included in the Confidential Unit. The Professional Unit include those employees identified as members of the Professional classes. The Confidential Unit include those employees identified as members of the Legal Services class, the Personnel class and Executive Secretaries. The Management Unit include those employees identified as members of the Management classes. The above mentioned classes are described in Section III-5.7.

SECTION 2 EQUAL EMPLOYMENT OPPORTUNITY POLICY (REVISED 4/10/14)

The Board of Directors of the Bay Area Air Quality Management District affirms its policy to provide equal employment opportunities for all persons to be recruited, employed, placed, selected for training, trained, evaluated, promoted, demoted, laid off, terminated, compensated, assigned work and otherwise treated without regard to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age or sexual orientation.

The District is committed to maintaining a meaningful Equal Employment Opportunity Plan. It is the responsibility of the Human Resources Office, under the direction of the Director of Administrative Services and under the general direction of the Executive Officer/Air Pollution Control Officer, to ensure the spirit and intent of the Equal Employment Opportunity Plan is carried out.

2.1 OBJECTIVES. (Revised 4/10/2014)

- (a) The District will insure that each employee and applicant is afforded an equal opportunity in all aspects of the employment process without regard to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age or sexual orientation.
- (b) The District will analyze its work force and the population of the Bay Area.
- (c) The District will focus its equal opportunity efforts on enhanced outreach and training programs.
- (d) The District will establish and administer programs for employment, training and promotion of all employees without regard to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age or sexual orientation.
- (e) The District will be responsible for Equal Employment Opportunity Plan and designate an Equal Employment Opportunity Officer.
- (f) The District is committed to making a good faith effort to successfully achieve Equal Employment Opportunity.
- (g) Sexual harassment is contrary to basic standards of conduct between individuals and is prohibited by EEOC regulations. The District will therefore insure that the workplace is free from sexual harassment. Sexual harassment is defined in EEOC regulations, and includes, but is not limited to, the following: unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when such conduct is made explicitly or implicitly a term or condition of employment, is used as a basis for employment decisions, or has the purpose or effect of interfering with work performance or creating an otherwise offensive working environment.
- (h) The District will insure that no qualified person will be discriminated against on the basis of a disability. All qualified persons that can perform the essential functions of the job, with or without reasonable accommodation that does not create “undue hardship” for the District, shall be provided an equal opportunity for employment and promotion. All terms used in this section are defined in the regulations implementing the Federal Americans with Disabilities Act.

2.2 RESPONSIBILITY FOR EQUAL EMPLOYMENT OPPORTUNITY. (Revised 10/5/11)

- (a) The Air Pollution Control Officer of the District has the overall responsibility to the Board of Directors for actions by the staff in planning, coordinating, implementing, evaluating and reporting on all phases of the Equal Employment Opportunity Plan.
- (b) The responsibilities of the Equal Employment Opportunity Officer are listed in the Equal Employment Opportunity Plan.

2.3 DISCRIMINATION COMPLAINT PROCEDURE (Revised 4/10/2014)

Unlawful discrimination refers to discrimination based on race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age, or sexual orientation.

An employee or group of employees who believes an incident involving a violation of the District’s equal employment opportunity policy has arisen, may submit the complaint (in writing) to the Equal Employment Opportunity Officer.

STEP 1 The written complaint must be received by the Equal Employment Opportunity Officer within 30 days of the alleged discrimination and must specify the particulars of the alleged discrimination, including

PERSONNEL POLICIES & PROCEDURES

specific acts and/or statements. Although the specific act must have occurred within 30 days, supplementary or background information supporting the complaint may be included. If a complaint is received in an incomplete form, the Equal Employment Opportunity Officer will advise the complainant that help in its preparation can be arranged. A group of employees filing at the same time must allege acts of similar nature to be considered for class action.

STEP 2 The Equal Employment Opportunity Officer will evaluate the complaint and, if necessary, conduct an investigation.

STEP 3 Discrimination complaints found by the Equal Employment Opportunity Officer to be valid will be forwarded to the APCO for appropriate action. Complaints found by the Equal Employment Opportunity Officer to be invalid may be appealed to the APCO within ten (10) working days of the Equal Employment Opportunity Officer's decision. Any complaint decision forwarded or appealed to the APCO shall be acted upon within ten (10) working days of receipt.

SECTION 3 RIGHTS AND OBLIGATIONS

3.1 MANAGEMENT RIGHTS.

The rights of the District management include, but are not limited to, the exclusive right to, subject to the provisions of the Memorandum of Understanding and consistent with applicable laws and regulations:

- (a) Determine the mission of its constituent departments, boards, and staff committees.
- (b) Set standards of service.
- (c) Determine the procedures and standards of selection for re-employment and promotion.
- (d) Hire, promote, transfer, assign, retain in position, direct, or take other non-disciplinary action toward its employees and to relieve them from duty because of lack of work or for other legitimate reasons.
- (e) Maintain the efficiency of all operations and exercise complete control and discretion over its organization and the technology of performing its work.
- (f) Determine the methods, means and personnel by which District operations are to be conducted.
- (g) Determine the content of job classifications.
- (h) Take all necessary actions to carry out its mission in emergencies.

3.2 EMPLOYEE RIGHTS.

- (a) The rights of employees of the District include, but are not limited to, the right to, subject to the provisions of this agreement and consistent with applicable laws and regulations:
 - (1) Form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matter of employer-employee relations.
 - (2) Refuse to join or participate in the activities of any employee organizations.

- (3) Represent themselves individually in their employment relations with the District.
- (b) The scope of representation by the Association shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. This subsection parallels Sec. 3504 of the Meyers-Milias-Brown Act and will automatically be amended to reflect any amendment to or replacement of said statutory section on the effective date of any such change.
- (c) The District and the Association shall not interfere with, intimidate, restrain, coerce, or discriminate against employees because of their exercise of these rights.
- (d) Any matter which is within the scope of the Meyers-Milias-Brown Act and is within the scope of the Memorandum of Understanding that the District acts upon without meeting and conferring shall be null and void.

3.3 DISCIPLINARY ACTION AND RIGHT OF APPEAL. (Revised 9/6/2023)

- (a) Except for individuals in classifications which serve at the pleasure of the Board of Directors or the District Counsel (see Section III-3.3(c), below), the APCO shall have the right, for due cause, to demote, dismiss, reduce in pay, or suspend without pay any employee. Notice of such action must be in writing and served on such employee by personal service, by e-mail at the address on file with the District, or by first class U.S. mail (or equivalent). Except for individuals serving in the classifications listed in subsection (c), below, the notice will state the action to be taken and contain the reasons for such action.
- (b) Except as provided herein, employees, as defined in Section I, Definitions, shall have the right to appeal the disciplinary action, through the grievance procedure defined in Section III-4.
- (c) The following individuals shall serve at the will of the appointing authority and shall not have any right to appeal any disciplinary action through the grievance procedure defined in Section III-4, regardless of whether they held a prior position in the District. Individuals appointed to the classifications identified below may also be subject to a fixed term of employment and the incumbent will be separated at the expiration of that term (unless said term is extended by the identified appointing authority). Individuals appointed to the classifications identified below are not subject to a probationary period pursuant to Section III -7.3. Likewise, individuals appointed to the classifications identified below are not subject to the Layoff and Recall provisions of Section III-9.3
 - (1) Any individual appointed by the Board of Directors and employed under an employment contract, including the Executive Officer/APCO and District Counsel;
 - (2) Any individual appointed by the Executive Officer to the classification of Chief Operating Officer, who shall serve at the pleasure of the Executive Officer/APCO;
 - (3) Any individual appointed by the Executive Officer to the classification of Deputy Executive Officer after January 1, 2023, shall serve at the pleasure of the Executive Officer/APCO;
 - (4) Any individual appointed by the District Counsel to the classification of Senior Assistant Counsel, who shall serve at the pleasure of the District Counsel; and

- (5) Limited Term employees.
- (d) Notwithstanding Section 3.3(c), any existing District employee who is appointed to the Deputy Executive Officer or Senior Assistant Counsel classification after January 1, 2023, but prior to January 1, 2024, shall be entitled to return to a vacant position in the last classification they held prior to their appointment to the Deputy Executive Officer or Senior Assistant Counsel classification, and at the same salary step they held prior to their appointment to their appointment to the Deputy Executive Officer or Senior Assistant Counsel classification. Reinstatement to the vacant position shall occur upon the termination of their appointment to the Deputy Executive Officer or Senior Assistant Counsel classification, whether that occurs (1) at the end of a specified term, (2) due to their voluntary request to vacate the classification, or (3) at the discretion of the District Counsel or Executive Officer/APCO.
- (1) For a Deputy Executive Officer, if no vacant position exists in the employee's previously-held classification, the employee shall be offered alternate employment by the District. The form of alternate employment shall be at the discretion of the Executive Officer but may include a vacant position in any classification for which they meet the minimum qualifications as determined by the Executive Officer, reclassification of an existing position, or creation of a new position. Alternatively, the Executive Officer/APCO may reclassify a Deputy Executive Officer position to a lower classification. Employees under this provision will be placed at the salary step closest to the current pay for the salary prior to their appointment to the Deputy Executive Officer classification. If the top step of the salary range for the employee's new position is lower than the current pay for the salary the current pay for the prior to their appointment to the Deputy Executive Officer classification, the employee's salary will be Y-rated at the current pay for the salary step they held prior to their appointment to the Deputy Executive Officer classification, without the need for additional Board approval under Section III-6.5.
- (2) For a Senior Assistant Counsel, if no vacant Assistant Counsel position exists, the District Counsel shall reclassify the Senior Assistant Counsel position to Assistant Counsel, and reclassify an existing Assistant Counsel position to Senior Assistant Counsel. In the event of reclassification of a Senior Assistant Counsel under this paragraph, the reclassified Senior Assistant Counsel will be placed at the Assistant Counsel salary step they occupied prior to appointment to the Senior Assistant Counsel classification.
- (3) For employees who have not completed probation prior to being appointed to the Deputy Executive Officer or Senior Assistant Counsel classification, their probationary period for their previous position will continue to run after appointment to their new position. If such an employee returns to their previous classification prior to the end of that probationary period, the employee will be required to complete any remaining probation in their reinstated position after reinstatement and will have only those rights accorded probationary employees by these rules until the end of the probationary period. If such an employee returns to their previous classification after the end of the probationary period for their previous position, they will not be required to complete any further probation and will not be limited to the rights accorded probationary employees.
- (4) Employees appointed pursuant to this Section III-3.3(d) are subject to discipline up to and including suspension while in the classification of Deputy Executive Officer or Senior Assistant Counsel without appeal. However, if the District seeks to terminate an individual who had already passed probation in a District classification with appeal rights, the individual will first be removed from the

Deputy Executive Officer or Senior Assistant Counsel classification and reinstated to another classification as provided in Section III-3.3(d)(1) or III-3.3(d)(2), above. The District may then initiate disciplinary proceedings up to and including termination and the employee may appeal that termination pursuant to the grievance procedure defined in Section III-4. The discipline may be based in whole or in part on conduct which occurred in the Deputy Executive Officer or Senior Assistant Counsel classification. However, any reinstatement would be to the employee's current (civil service) classification. Discipline imposed on an employee in a Deputy Executive Officer or Senior Assistant Counsel classification may be used for purposes of progressive discipline.

3.4 OATH OF ALLEGIANCE.

Employees of the District will sign an oath of allegiance as required by the laws of the State of California.

3.5 PHYSICAL EXAMINATIONS.

A physical examination or a personal statement of good health may be required by the District after an employment offer has been made.

3.6 SEXUAL HARASSMENT AND OTHER UNACCEPTABLE CONDUCT.

In order to ensure a work environment that is free from all forms of unlawful discrimination or harassment, the following kinds of conduct, as defined by the Federal Equal Employment Opportunity Commission (EEOC), are prohibited:

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.”

The regulations of the California Fair Employment and Housing Commission also define harassment broadly to include:

- (a) Verbal harassment, e.g., epithets, derogatory comments or slurs (on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age, or sexual orientation);
- (b) Physical harassment, e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual (on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age, or sexual orientation);
- (c) Visual forms of harassment, e.g., derogatory posters, cartoons, or drawings on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age, or sexual orientation;

3.7 EMPLOYEES' TIME OFF TO VOTE.

Employees who wish to vote in the national and state elections may claim time off to vote under the provisions of the State Election Code, Section 14350:

“If a voter does not have sufficient time outside of working hours to vote at a statewide election, the voter may, without loss of pay, take off enough working time which when added to the voting time available outside of working hours will enable the voter to vote.

No more than two hours of the time taken off for voting shall be without loss of pay. The time off for voting shall be only at the beginning or end of the regular working shift, unless otherwise mutually agreed.

If the employee on the third working day prior to the day of election knows or has reason to believe that time off will be necessary to be able to vote on election day, the employee shall give the employer at least two working days' notice that time off for voting is desired, in accordance with the provision of this section."

3.8 DRUG-FREE WORKPLACE.

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on District premises or while conducting District business off-premises is prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

The District recognizes drug dependency as an illness and a major health problem. Employees needing help in dealing with such problems are encouraged to use the District's employee assistance referral program and health insurance plans, as appropriate. Conscientious efforts to seek such help will not jeopardize any employee's job, and will not be noted in any personnel record.

Employees must, as a condition of employment, abide by the terms of the above policy and report any conviction under a criminal drug statute for violations occurring on or off District premises while conducting District business. A report of the conviction must be made within five (5) days of the conviction.

3.9 SAFETY

The District subscribes to and fully supports the purpose, principles, and intent of the Occupational Safety and Health Act of 1970 and complies with all applicable Federal and State laws which relate to health and safety. The District has established a Safety Committee to assist in compliance with the Act. The Safety Committee shall be comprised of two members of District management and three members chosen by the Association, with at least one from each unit, and the members shall choose a chairperson from its members to serve a term of one year. The Personnel manager shall serve as an ex-officio member.

The Safety Committee shall make inspections of the work place as needed. They will meet once every two months to discuss safety matters, including serious accidents and accidents which result in lost time as soon after the occurrence as practical. The Committee shall provide a summary of the meeting and accident findings to the APCO. The APCO shall respond to the Safety Committee's recommendations within ten (10) working days.

Employees shall report unsafe working conditions to their immediate supervisor and may report these conditions to the Safety Committee.

3.10 WORKPLACE VIOLENCE

The District is committed to providing a safe workplace for all employees, which includes preventing workplace violence. In order to achieve this objective, the cooperation of employees and their supervisors is critical. Both employees and supervisors should be aware of early warning signs of potentially violent situations and how to respond. Threatening words or actions should be treated seriously. In the event that a violent or potentially violent situation does arise, the following steps are to be followed:

- (a) If there is an immediate threat to the personal safety of an employee in the field, the employee shall contact local law enforcement authorities as soon as possible. The employee shall thereafter contact his or her immediate supervisor and Division Director and shall completely describe the situation.

- (b) If there is an immediate threat to the personal safety of an employee in the District offices, the employee shall contact District security by dialing 5158, or if there is no answer after two rings, by dialing 0 and asking the operator to send District security to the employee's work area. The employee shall thereafter contact his or her immediate supervisor and Division Director and shall completely describe the situation.
- (c) As soon as possible after any such incident, the employee shall complete a Critical Incident Report. All such reports shall be routed to the District Legal Division and to the Personnel Section of the Administrative Division through the APCO. The Personnel Section shall maintain a Critical Incident Log of all such reports. The Legal Division shall review each such incident and shall make a formal recommendation to the APCO regarding further action to be taken.
- (d) Within one week after receiving the Legal Division's recommendation, the APCO shall prepare a memorandum setting forth the key facts of the incident and the APCO's formal determination of further action to be taken as a consequence of the incident. This memorandum shall be forwarded to the Personnel Section to be maintained as part of the Critical Incident Log and shall be distributed to all Division Directors for dissemination to District employees who might encounter a similar incident in connection with their workplace activities.

3.11 SMOKEFREE WORK SITE

In recognition of the District's leadership role in public health and air quality, and inasmuch as smoking is a leading contributory factor in many causes of death in California, the District hereby adopts a policy that promotes nonsmoking at the work site.

It is the intent of the District to provide a work atmosphere which is as free as is practicable of tobacco use and its undesired effect. This policy is applicable to all District facilities or other areas controlled by the District, whether leased or owned, including space in buildings shared with other agencies or businesses. This policy shall extend to District-owned vehicles unless specifically exempted by the APCO because the vehicle is only used by smokers.

- (a) DEFINITION: "Smoking" means inhaling, exhaling, burning, or carrying a lighted cigarette, cigar, pipe, or other lighted smoking equipment for tobacco or any other plant.
- (b) IMPLEMENTATION: Smoking is strictly prohibited in the District office and satellite offices except the following designated areas:
 - 1) On the District Office roof area
 - 2) Portals (open to atmosphere) that lead to the rear emergency exit stairwell (however, smoking in the stairwell itself shall always be prohibited)

Designated smoking areas may be redefined if the District finds that smoke from these areas interferes with the health and safety of District employees.

"Smoke breaks" will be permitted at the discretion of the supervisor and the employee, in lieu of regular breaks or rest periods.

- (c) ADMINISTRATION OF THIS POLICY: Managers and supervisors are responsible for informing all employees in their charge of the District's smoking policy. All new hires will be advised during orientation to the District.
- (d) CONFLICT RESOLUTION: Alleged violations of the policy may be reported through the existing Safety incident report process as specified in the Memorandum of Understanding. Employees violating the policy will be subject to disciplinary measures, including termination of employment.

3.12 Fraud, Misconduct, and Dishonesty in the Workplace. (Addition 1/02/09)

- (a) It is the policy of the District to prevent, investigate and correct fraud, misconduct and dishonesty in the workplace.
- (b) No employee shall commit fraud or acts of misconduct or dishonesty against the District or in connection with his or her District employment.
- (c) Fraudulent acts and acts of misconduct and dishonesty in District employment include, but are not necessarily limited to, the following:
 - Forgery or unauthorized alteration of District financial records, including checks and warrants payable to or by the District;
 - Misappropriation of District goods or assets, e.g., furniture, fixtures, equipment, and office supplies;
 - Misappropriation of District funds and securities;
 - Falsification of employee timesheets or District work reports and products;
 - Knowingly false reporting or handling of District funds for financial transactions;
 - Having a personal financial interest in any purchase, sale or contract with a vendor or contractor made by the employee in his or her capacity as a District employee;¹
 - Unpermitted personal use or receipt of District assets, goods, funds, and services;
 - Unauthorized solicitation or acceptance of, gifts, gratuities, or other consideration from contractors, vendors or consultants providing goods or services to the District;
 - Solicitation of, asking, acceptance of, or agreement to accept any gratuity, gift or other consideration from someone other than the District for performing District employment;²
 - Solicitation of, asking, acceptance of, or agreement to accept a bribe for taking action in one's capacity as a District employee in a matter that is pending or that may take place;³
 - Knowingly unpermitted disclosure of confidential or proprietary District information to non-District persons and entities;
 - Intentional or negligent, unpermitted destruction or damage of District goods or assets, e.g., furniture, fixtures, equipment, and office supplies;
 - Use of, or being under the influence of, alcohol or illegal drugs in the course of performing District duties and responsibilities; and
 - Willful failure to perform the duties and tasks of one's District employment.
- (d) Retaliation against an employee who reports reasonable suspicion of the existence or occurrence of an act of fraud, misconduct or dishonesty is prohibited.

¹ Cal. Government Code section 1090.

² Cal. Penal Code section 70.

³ Cal. Penal Code section 68.

SECTION 4 GRIEVANCE PROCEDURE

4.1 DEFINITION. (Revised 5/3/2023)

A grievance is an employee claim of (a) an alleged violation, misunderstanding, or misinterpretation of a specific section of the Memorandum of Understanding, or (b) any matter within the scope of the Meyers-Milias-Brown Act, or (c) any disciplinary action or demotion, except for separations covered by Section III-9.3 (Layoff and Recall) or discipline involving individuals appointed to the classifications identified in Section III-3.3(c). The parties recognize that disputes should be resolved expeditiously at the lowest possible administrative level. Herein is a systematic procedure for obtaining consideration of grievances.

4.2 STEPS IN THE GRIEVANCE PROCEDURE.

STEP 1. An employee who believes he or she has a grievance will first discuss the grievance with his or her immediate supervisor. The employee must report the grievance to the supervisor within ten (10) working days after the occurrence. After meeting with the employee and attempting to resolve the issue, the supervisor will discuss the decision with the employee within ten (10) working days of the submission of the grievance.

STEP 2. If the employee is not satisfied with the decision at STEP 1, the employee may submit the grievance in writing within ten (10) working days to the Division Director. The written grievance will specify the particulars of the matter including specifically citing articles. The Association will be given written notice of grievances taken to STEP 2. The Division Director or a designee will discuss the grievance with the employee, attempting to resolve the issue, and will render a decision to the employee in writing within ten (10) working days of the submission of the grievance.

STEP 3. If the employee is not satisfied with the division's decision, the employee may submit the grievance in writing within ten (10) working days to the Air Pollution Control Officer. The written grievance will specify the same particulars of the matter including specific articles. The Air Pollution Control Officer or designee will discuss the grievance with the employee, attempting to resolve the issue, and will render a decision to the employee in writing within ten (10) working days of the submission of grievance.

STEP 4. If the employee is not satisfied with the Air Pollution Control Officer's decision, the employee may within ten (10) working days request of the APCO that the grievance be heard before an impartial grievance advisor. The written grievance will specify the same particulars of the matter including specific articles. Within ten (10) working days of receipt of such request, the APCO shall notify the appropriate agency with a request that copies of all future correspondence be sent to the grievant or grievant's representative.

The grievance advisor will be selected mutually by the District and the employee. The District and the employee will select a grievance advisor from the American Arbitration Association or the California Conciliation Service, depending on the nature of the grievance. The rules and procedures of the American Arbitration Association or the California Conciliation Service, as applicable, will prevail, including its procedure for selecting an arbitrator who will serve in the capacity of grievance advisor.

The advisor will render a decision which will not be binding on either party. The grievance advisor will direct the decision to the grievance matter at hand and to the specific articles mentioned therein. Within five (5) working days of

receipt of the advisor's decision, the APCO will review the findings and inform the employee of his decision.

The costs incurred for the grievance advisor will be borne equally by both parties to the grievance.

STEP 5. If the employee is not satisfied with the APCO's reconsideration, the employee may request the decision be heard by the Personnel Committee of the Board of Directors. The employee will submit the grievance to the Personnel Committee within fifteen (15) working days of the APCO's reconsideration. The Personnel Committee will schedule the grievance hearing within thirty (30) working days and will render a final decision in the matter. The Personnel Committee will consider only the record of the hearing before the grievance advisor and any additional statements which the employee and the APCO may wish to make. Pursuant to Code of Civil Procedure Section 1094.6, any petition for judicial review of the Personnel Committee's decision shall be filed in the appropriate court not later than 90th day following the date on which such final decision is rendered.

4.3 GENERAL PROVISIONS.

- (a) The time limits specified above may be extended to a definite date by mutual agreement of the employee and level of supervision specified in the steps outlined above.
- (b) Employees will be assured freedom from reprisal for using the grievance procedure.
- (c) Grievances involving disciplinary actions will commence at STEP 2 of the grievance procedure, except discharge cases, which will commence at STEP 3.
- (d) Employees may request the assistance of a steward or another person in preparing and presenting the grievance.
- (e) Failure of the employee to submit the grievance within the time limits of any step of the procedure will constitute a withdrawal of the grievance. Failure of the District to comply with the time limits set forth in this Article shall automatically move the grievance to the next level in the Grievance Procedure.

4.4 ASSOCIATION GRIEVANCE.

The Association may file a grievance, pursuant to Section III-4.2 above, on an alleged violation, misunderstanding, or misinterpretation of Division III of this Administrative Code or of the Memorandum of Understanding.

4.5 EMPLOYEE GRIEVANCES.

Employees may file a grievance, pursuant to Section III-4.2 above, regarding any alleged violation, misunderstanding, or misinterpretation of any matter within the scope of the Meyers-Milias-Brown Act which includes, but is not limited to, the following provisions of Division III of this Administrative Code: Overtime; Temporary Disability Leave; Military Leave; Leave Without Pay; Extended Leave of Absence; Jury Duty; and Subpoena as a Witness. Grievances regarding discrimination shall be filed according to the procedures of Section III-5.

4.6 NOTIFICATION.

At the time an employee is summoned to a supervisor's office for the purpose of being advised on an imminent disciplinary action, the employee is to be informed as to the purpose of the meeting and of his/hers right to representation. Documents to be used in any disciplinary proceeding against an employee shall include only materials, copies of which have been given to the employee.

SECTION 5 CLASSIFICATION PLAN

5.1 CLASSIFICATION PLAN.

The District's Classification Plan will include the organization of positions into classes based on the assigned duties, responsibilities and qualifications necessary to successfully perform the work. Maintenance of the plan is the ongoing responsibility of the Personnel Section. The Personnel Section will audit and update the plan as necessary, in order to effectively administer the District's recruitment and selection activities, training program, compensation system, and performance evaluation program.

Recommended changes to the duties of a class shall be submitted to the APCO for approval. The APCO shall submit recommended changes to the qualifications of a class to the Board for approval.

Maintaining the Classification Plan will include the following elements:

- (a) Analyzing and documenting the scope, duties, responsibilities, and job-related qualifications of positions to be classified
- (b) Grouping positions into job classes based on the similarities of work performed and the qualifications required.
- (c) Writing descriptions for each class of positions in order to define the positions and to serve as a guide in allocating and selecting individual positions to job classes.

5.2 NEW POSITIONS AND RECLASSIFICATIONS.

Whenever a new position is proposed, or an existing position is recommended for reclassification, the Personnel Section will conduct a job analysis which will include analyzing and documenting the scope, duties, responsibilities, and job-related qualifications of the position to be reclassified.

The Personnel Section will develop a new class description if a position cannot be reasonably grouped into an existing class based on the similarities of work performed and qualifications required.

The Personnel Section shall submit the new class description to the appropriate management staff and the APCO for approval. The APCO shall submit the new or revised class description and the supporting information and analysis to the Board for approval. Class descriptions which have been approved by the Board shall be disseminated to appropriate personnel.

5.3 CLASSIFICATION STUDIES.

- (a) The Board or the APCO may require that a salary classification study be conducted to evaluate individual positions or groups of positions, classes, or class series. The District shall not conduct any salary or classification survey affecting wages, hours, or working conditions in any represented classification without meeting and conferring with the Association.
- (b) When the District initiates a classification study affecting all classifications, the District will notify the Employees' Association ten (10) days in advance of a new classification plan becoming effective.
- (c) When the District initiates a modification affecting wages, hours, or working conditions in any represented classification, the District will notify the Employees' Association within ten (10) days or as soon as practicable in advance of such modification being proposed to the Board of Directors.

- (d) None of the recommendations resulting from the study are binding on the District. The Board may choose to implement, or not implement, any recommendation. Any changes resulting from a survey shall be incorporated as amendments to the Plan.

5.4 AMENDMENTS TO THE PLAN.

The classification plan may be amended from time to time by resolution of the Board.

The allocation of funds to a classification, or the necessity for filling a position will be at the discretion of the Board through the APCO.

5.5 ALTERNATE STAFFING.

A Division Director may request that a vacant position be filled at an “entry” Level I or an experienced “journey” Level II for those classes identified as alternately staffed classes in the class specifications, prior to recruiting for a vacancy, depending on the needs of the District.

Advancement to the Level II is not automatic; a supervisor must recommend to the APCO that an incumbent be promoted to Level II after successfully completing the probationary period, and obtaining and demonstrating the required knowledge, skills, abilities and experience, and meeting pre-identified criteria for promotion to the higher class. The Personnel Manager will review the request to determine if advancement criteria are met.

A Division Director may identify certain positions in the class which contain primarily routine and repetitive tasks as “regular” Level I positions. The “regular” or “entry” status of Level I positions will be determined prior to filling a vacancy so that an employee will know of this regular status prior to accepting the position. This determination will be so stated on the job announcement and the candidate will also be advised during the interview process. When a position is identified as a regular Level I position, the employee accepting the position cannot reasonably expect to advance to Level II while in that position.

5.6 ORGANIZATION CHART

5.6 ORGANIZATION CHART (continued)

5.6 ORGANIZATION CHART (continued)

5.7 SERIES GROUPS.

Clerical Category

Legal Services Classes (Revised 3/6/96)

Legal Office Services Specialist	Lead
Legal Secretary II	Journey
Legal Secretary I	Entry

Secretarial Classes

Executive Secretary	Senior
Administrative Secretary	Journey
Secretary	Entry

Office Assistant Classes

Office Services Supervisor	Supervising
Senior Office Assistant	Senior
Data Entry Operator	Journey
Office Assistant II	Journey
Office Assistant I	Entry

Accounting Assistant Classes

Senior Accounting Assistant	Senior
Accounting Assistant II	Journey
Accounting Assistant I	Entry

Clerk of The Boards

Deputy Clerk of The Boards	Senior
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Special Classes (Revised 3/6/96)

Supv. Radio/Telephone Operator	Supervising
Radio/Telephone Operator	Senior

Technical Category

Air Quality Inspector Classes

Supv. Air Quality Inspector	Supervising
Senior Air Quality Inspector	Senior
Air Quality Inspector II	Journey
Air Quality Inspector I	Entry

Enforcement Program Specialist Classes (Revised 3/6/96)

Enforcement Program Supervisor	Supervising
Principal Enforcement Program Spec	Lead
Senior Enforcement Program Spec.	Senior
Enforcement Program Specialist II	Journey
Enforcement Program Specialist I	Entry

Air Quality Instrument Specialist Classes

Supv. Air Quality Instrument Spec.	Supervising
Senior Air Quality Instrument Spec.	Senior
Air Quality Instrument Specialist II	Journey
Air Quality Instrument Specialist I	Entry

Air Quality Technician Classes (Revised 3/6/96)

Air Quality Permit Technician II	Journey
Air Quality Permit Technician I	Entry
Air Quality Laboratory Technician II	Journey
Air Quality Laboratory Technician I	Entry
Air Quality Technician II	Journey
Air Quality Technician I	Entry

Mechanic Classes

Mechanic II	Journey
Mechanic I	Entry

Personnel Classes (Revised 3/6/96)

Personnel Analyst	Senior
Equal Opportunity Officer	Journey
Payroll Technician	Journey
Personnel Technician II	Journey
Personnel Technician I	Entry

Technical Assistant Classes

Source Test Assistant II	Journey
Source Test Assistant I	Entry

Public Information Classes

Senior Public Information Officer	Senior
Public Information Officer II	Journey
Public Information Officer I	Entry

Programmer Analyst Classes

Supervising Systems Analyst	Supervising
Systems Analyst	Senior
Programmer Analyst II	Journey
Programmer Analyst I	Entry

Special Classes (Revised 3/6/96)

Permit Coordinator	Supervising
Legislative Analyst	Journey
Building Maintenance Mechanic	Journey

5.7 SERIES GROUPS (continued).

Professional Category

Air Quality Engineer Classes (Revised 3/6/96)

Supv. Air Quality Engineer	Supervising
Principal Air Quality Engineer	Lead
Senior Air Quality Engineer	Senior
Air Quality Engineer II	Journey
Air Quality Engineer I	Entry

Environmental Planner Classes (Revised 3/6/96)

Supv. Environmental Planner	Supervising
Principal Environmental Planner	Lead
Senior Environmental Planner	Senior
Environmental Planner II	Journey
Environmental Planner I	Entry

Air Quality Meteorologist Classes

Senior Air Quality Meteorologist	Senior
Air Quality Meteorologist II	Journey
Air Quality Meteorologist I	Entry

Atmospheric Modeler Classes

Senior Atmospheric Modeler	Senior
Atmospheric Modeler	Journey

Air Quality Chemist Classes

Senior Air Quality Chemist	Senior
Air Quality Chemist II	Journey
Air Quality Chemist I	Entry

Specialist

Advanced Projects Advisor	Journey
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Single Position Classes

Toxicologist	Senior
Statistician	Senior
Research Analyst	Journey
Accountant	Journey
Library Specialist	Journey

Management Category

Air Pollution Control Officer
 District Counsel
 Clerk of the Boards
 Deputy Air Pollution Control Officer

Division Director

Director of Enforcement
 Director of Permit Services
 Director of Planning and Research
 Director of Technical Services
 Director of Administrative Services
 Director of Public Information

Manager

Air Quality Engineering Manager
 Research and Modeling Manager
 Environmental Review Manager
 Enforcement Program Manager
 Information Systems Manager
 Meteorology and Data Analysis Manager
 Air Monitoring Manager
 Laboratory Services Manager
 Personnel Manager
 Finance Manager
 Facilities Maintenance Manager
 Business Manager
 Senior Advanced Projects Advisor
 Legal
 Senior Assistant Counsel
 Assistant Counsel II
 Assistant Counsel I

SECTION 6 SALARIES

6.1 SALARIES.

Salary schedules are subject to revision from time to time by the Board. The salary schedules will be published yearly at or near the beginning of the fiscal year.

6.2 SALARY STEPS.

- (a) There are five (5) steps within the salary range for each position, with a 5% increment between the steps. The time between Entrance Step A and Step B is six (6) months of satisfactory service. The time between Step B and Step C is six (6) months of satisfactory service in Step B. The time between Step C and Step D is one (1) year of satisfactory service in Step C, and the time between Step D and Step E is one (1) year of satisfactory service in Step D.
- (b) An employee promoted to a higher position will receive the minimum salary for the higher position or at least a 5% increase above the employee's former position, whichever is higher, provided the increase is within the range of the higher position. If a promotion is awarded within thirty days of a scheduled step increase, the step increase and promotional increase will both be effective at the time of the change.
- (c) If a position is reclassified to a position having a higher salary range, the incumbent will remain in the same step of the salary range which is currently in effect.
- (d) If a position is reclassified to a position having a lower salary range, the incumbent will be Y-rated according to the provisions of Section III-6.5
- (e) If an employee is transferred, the employee will remain in the same step of the salary range effective prior to the transfer.
- (f) Any employee who has passed through the initial six month or, if extended, one year, probationary period with the District and who is promoted or transfers to another position in the District shall not be subject to any "up or out" probation. However, an employee may be terminated for cause.
- (g) If an employee is demoted for disciplinary reasons to a position having a lower salary range, the employee will remain in the same salary range step effective prior to the demotion.
- (h) If an employee is demoted because of lack of funds, the employee will be placed in the salary step which reflects the least decrease in salary. If an employee promoted to a higher class fails to pass a promotional probationary period, the employee will be returned to the former position and will revert back to the step in the salary range he/she occupied in the former position effective prior to promotion. Step increases will be awarded on the schedule appropriate to the prior position.

6.3 MERIT INCREASES. (Revised 12/21/94)

Merit increases are effective on the first day of the pay period in which the employee's anniversary date falls.

6.4 DETERMINATION OF SALARY RATES. (Revised 12/21/94)

- (a) ORIGINAL APPOINTMENTS. Unless special conditions warrant otherwise, employees will be hired at the entrance salary of the position classification. Hiring at a higher salary step will require justification from the hiring supervisor and the approval

of the APCO for Steps B and C. Recommendation by the APCO and approval of the Personnel Committee of the Board of Directors is required for hiring at Steps D and E.

- (b) **LIMITED-TERM EMPLOYMENT.** Limited-term employees of the District are paid at the rate of the classification in which the person is employed. If a former District employee is re-hired on a temporary basis, the salary rate will be the hourly rate of the range and step the individual was receiving at the time of separation. If it is necessary to hire a limited-term employee through a temporary agency, the District will pay the appropriate agency fees. **(Revised 3/6/96)**
- (c) **TEMPORARY EMPLOYMENT OVERLAP.** Temporary employment overlap is the regular hire of a person who is to fill a position before the current incumbent has terminated. The anniversary date and all other benefits will be the same as if the person were hired to fill a vacant position.

6.5 Y-RATING.

Y-Rating refers to a position which has been reclassified to a position having a lower salary range. The incumbent will retain his/her present salary until the appropriate step in the reclassified position is equal to or greater than the incumbent's current salary. A Y-Rating status must be approved by the APCO and the Board of Directors.

6.6 OVERTIME PAY/COMPENSATORY TIME.

Classifications in the Clerical and Technical Series identified in Section III-5.7 are entitled to overtime pay.

- (a) Overtime will be paid at a rate of one and one-half (1-1/2) times the normal straight time rate for work performed in excess of eight (8), nine (9), or ten (10) hours per day (depending on the person's normal schedule) or forty (40) hours per week. This provision does not apply to employees working a schedule other than those defined in Section III-8.1.
- (b) Upon approval by the employee's Division director, eligible employees may elect compensatory time at the rate of one and one-half (1-1/2) times the overtime worked in lieu of overtime pay but not accumulate more than 240 hours of compensatory time. After 240 hours of compensatory time has been accumulated, overtime pay will be the compensation for overtime work.
- (c) Employees required to work on a designated holiday shall receive overtime pay equal to two times the employees' hourly rate of pay. For the purposes of this section, a designated holiday shall be the dates on which the holiday is observed by the District (see Section III-11.12.), except that for New Year's Day, Independence Day and Christmas Day, the designated holiday shall include the actual date of the holiday and if any of these holidays fall on a Saturday or a Sunday, the Monday or Friday on which the holiday is observed by the District.

6.7 NIGHT PLUME EVALUATION TRAINING UNIT SCHEDULE.

Employees who attend the Night Plume Evaluation Training Unit special shift shall be paid an additional \$1.00 per hour for the whole shift in addition to the employees' regular straight time pay. Night Plume Evaluation Training Unit special shift will be scheduled eight (8) hour shift to begin at 12:00 P.M. or after and end no later than 12:00 A.M. (midnight)

6.8 DIFFERENTIAL PAY.

Employees not working a regularly scheduled late shift or flex time will be compensated an additional \$1.00 per hour for hours worked between 8:00 P.M. and 6:00 A.M. Differential pay is a premium payment and is, therefore, included in the computation of overtime.

6.9 SHIFT DIFFERENTIAL PAY.

A \$2.50 per hour payment shall be paid to any employee assigned regularly established shift differential assignments. For purposes of this Section, shift differential hours are 5:00 P.M. to 8:30 A.M. and all day Saturday and Sunday. Shift differential is a premium payment and is, therefore, included in the computation of overtime. The schedule for employees working a flextime or compressed schedule, as defined in Section III-8.1, shall not be considered shift differential hours.

6.10 SALARY DEDUCTIONS.

Salary deductions may be authorized from time to time by resolution of the Board of Directors.

- (a) Mandatory deductions include Federal Withholding Tax, State Withholding Tax, Medicare tax, if applicable, State Disability Insurance premium, and the employees' Public Employees' Retirement System contribution.
- (b) Voluntary deductions include the regular deduction of health insurance payments, life insurance payments, credit union payments, U.S. Savings Bonds and other voluntary program deductions which may be authorized by the employee.

6.11 PAY PERIOD AND PAY DAY. (Revised 10/18/00)

The pay period will be a two-week period beginning on Sunday and ending on Saturday. Employees will be paid biweekly no later than the Friday following the close of a pay period. If the pay day falls on a holiday, warrants will be distributed on the previous work day. Start of the pay period will be adjusted for an employee working the compressed workweek. The District shall indicate on each employee's pay check stub the following: accrued annual leave, accrued sick leave, accrued compensatory time, and accrued floating holiday time.

The District shall provide employees with the option of direct deposit of their pay checks to those banks which provide this capability.

6.12 FINAL PAYMENTS. (Revised 7/20/94)

- (a) **SALARY.** Final salary payments to any person who terminates will be paid within 72 hours of the last day worked. When an employee is discharged for cause, the final salary payment will be issued on the last day of employment.
- (b) **ACCRUED ANNUAL LEAVE.** An employee leaving the service of the District shall receive a single payment covering the amount of the accrued annual leave remaining on account.
- (c) **ACCRUED SICK LEAVE.** Employees leaving the service of the District will not be paid for any unused accumulated sick leave credit remaining on account. Accrued sick leave will be applied to service credit upon retirement under the PERS contract.
- (d) **FLOATING HOLIDAYS.** Floating holidays must be used within the fiscal year they are credited. An employee leaving the service of the District shall receive a single payment covering the amount of the accrued floating holidays remaining on account.
- (e) **COMPENSATORY TIME.** An employee leaving the service of the District shall receive a single payment covering the amount of accrued compensatory time remaining on account.

6.13 SALARY ADVANCES.

Employees may apply for a payroll advance:

- (a) The application will be accepted only after one week of a pay period has been worked.
- (b) The amount requested cannot exceed amount earned to date during the pay period.

- (c) The amount advanced must be deducted from the pay check for that pay period.
- (d) No more than two (2) such requests can be submitted annually. Exceptions may be approved by the APCO and must be announced to the Board under "Report of APCO".
- (e) Requests must be approved by the Director of Administrative Services.

6.14 ACTING APPOINTMENTS. (Revision Approved 12/04/96; Effective 12/04/96)

If an employee is appointed by the Air Pollution Control Officer to be acting in a higher paying job, the employee is to receive the salary during that job tenancy for the time period after the passage of fifteen (15) working days which the employee would receive if the appointment were permanent.

SECTION 7 EMPLOYMENT AND MERIT INCREASES

7.1 POLICY.

Employment, passing of a probationary period and merit increases are based solely on merit of the individual employee. No employee is guaranteed a continuation of employment or the receiving of future salary benefits.

7.2 ANNIVERSARY DATE.

The anniversary date for newly hired or promoted employees is the date of hire or date of promotion. The anniversary date will be used in determining when an employee receives salary increments. Annual leave credits and sick leave credits are accrued from original date of hire. For the purposes of annual and sick leave, five (5) consecutive days (or four (4) consecutive 10-hour days) worked in a pay period will constitute working a full pay period. There will be no prorating of time for annual or sick leave for less than this minimum time per pay period.

7.3 PROBATION PERIOD. (Revised 6/18/03)

The probationary period is the period of employment beginning with the anniversary date and continuing for one (1) year of full-time actual and cumulative service. Any unpaid leave time taken during this period shall extend the probationary period by the amount of actual leave taken. No acting or temporary service time shall count towards fulfillment of the probationary period. While serving in a probationary period, an employee may be terminated at any time from employment by the Executive Officer/APCO or the APCO without cause and has no right to appeal or grieve the action.

Employees who change positions prior to the successful completion of their probationary period shall be required to serve a new probationary period and will not receive credit for time already served under the former position.

The Executive Officer/APCO or the APCO may extend the probationary period for up to an additional six (6) months.

A formal performance evaluation will normally be given at least once during the probationary period, usually at 6 months. During the probationary period, an employee may have his/her merit increase denied or delayed at the discretion of the Executive Officer/APCO or the APCO and has no right to appeal or grieve the action.

7.4 PERFORMANCE EVALUATION.

Approximately two weeks before the first day of the month in which the anniversary date and the length of service makes the employee eligible for a step increase, the supervisor will complete a performance evaluation and sign a merit increase recommendation. Employees at

the top of the salary range will continue to be evaluated yearly. Performance evaluations are a continuing responsibility of each supervisor, and each supervisor will informally discuss employees' performance as often as necessary to ensure effective work performance.

7.5 (Deleted 12/21/94. See III-6.3)

SECTION 8 HOURS OF WORK

8.1 HOURS OF WORK. (Revision Approved 12/04/96; Effective 12/04/96)

A normal workweek shall consist of five (5) consecutive eight (8) hour days, Monday through Friday. The normal workday shall be scheduled over an eight and one-half (8-1/2) hour period from 8:30 am to 5:00 pm, with one-half (1/2) hour for meals. With the approval of Management, an employee's normal workweek and/or work day can be modified to allow for flextime hours or a compressed workweek. In such a case, appropriate adjustments will be made to recognize such a normal flex or compressed day/week.

An employee shall not work any time in excess of his or her approved work schedule without prior approval of the employee's supervisor, acting supervisor or other manager in the employee's chain of command.

When an employee is away from the employee's normal duty assignment for jury duty, an all-day or multi-day meeting, a conference or to take a District-authorized class, the employee shall only be paid for the hours representing the agency at, and travel time to and from, meetings or conferences, for the hours at, and travel time to and from, a class, or for the hours at jury duty and for any travel time between the location of the jury duty and the District office or the location of the employee's normal duty assignment.

The employee is expected to make up any time that would result in the employees working less than his or her normal workweek by altering the hours worked in the remaining days of the pay period. The schedule according to which any such time will be make up will be established in consultation with the employee's supervisor. With the approval of the employee's supervisor, an employee will receive overtime/compensatory time if the time consumed by the outside activity exceeds the employee's normal workday.

8.2 LUNCH PERIOD AND REST PERIOD.

- (a) Lunch period of one-half (1/2) hour is normally taken between 12:00 and 1:00 p.m.
- (b) Rest period of one-quarter (1/4) hour is normally taken in mid-morning and mid-afternoon.
- (c) Continuation of Business. An adequate number of employees may be assigned lunch and rest periods to ensure the continuation of business.

8.3 ATTENDANCE.

- (a) Supervisors will be responsible for the daily attendance record of each employee.
- (b) An employee who is tardy shall report to the employee's supervisor as promptly as possible after beginning work.
- (c) An employee must report unscheduled leave to the District within the first hour of the work day unless an emergency prevents such reporting.
 - (1) Failure to report may result in loss of pay for the period of absences from work.
 - (2) An employee who is absent without leave and without having reported his/her absence for more than one (1) working day may be considered to have resigned and may be terminated.

8.4 OVERTIME. (Revised 12/21/94)

For definitional purposes, overtime is the necessary, assigned and authorized time worked in excess of 40 hours in a seven day week or 8 hours worked in a 24 hour day. A normal work day begins at 8.30 a.m. and the normal workweek is Monday through Friday. (See Section III-8.5 for compressed workweek.)

The District will provide the services required by law with an emphasis on avoiding the necessity for overtime where possible. The District is under no obligation to assure anyone of the availability of overtime work, nor is the District obligated to treat any particular kind of assignment as overtime. Therefore, the District may adjust work schedules where possible to cover work assignments as straight time work assignments.

The District recognizes that not all work matters can be scheduled during a work shift, and consequently, legitimate overtime assignments will be compensated accordingly.

For the purposes of overtime assignments, a notice to an employee to work overtime is a notice in advance if the assignment is given more than 24 hours prior to the beginning of the work to be performed. Such assignments will be considered "scheduled" overtime. An assignment given less than 24 hours in advance will be considered an "unscheduled" assignments for call-back purposes. A call-back is the unscheduled, emergency, and authorized call-back to return to work after a regular shift has been completed.

The District will make every reasonable effort to notify employees of changes in work schedules 14 days in advance of the work to be performed.

Though work schedules for most employees are within the normal work day and normal workweek, groupings of employees may occasionally or regularly have work schedules at different times. The District reserves the right to continue to change work schedules to meet operational necessities during straight time shifts.

Travel time pay is only authorized for call-back assignments. Travel time and call-back time will be compensated at the applicable rate of pay. The time employees spend traveling to a work assignment, except for qualifying call-back assignments, is not to be paid regardless of whether the employee is traveling to a scheduled overtime or straight time assignment.

- (a) **Authorization** - Overtime is the necessary, assigned authorized time worked in excess of eight (8), nine (9), or ten (10) hours per day (depending on an individual's normal work schedule) or forty (40) hours per week. With regard to flex time or compressed work weeks, it is recognized that the standard work week may not be 40 hours. Any hours worked beyond whatever is necessary to fulfill the designated flex/compressed work week plan for an individual are designated as excess hours. These excess hours are to be paid as overtime or compensatory time at the rate of one and one-half times straight time.

For the purposes of this section, paid leave time shall be included in computing the forty hours per week when determining eligibility for overtime; provided, however, that an employee on a flex time or compressed schedule may, with supervisor's approval, modify a normal schedule in order to meet operational necessities, which modified schedule will then constitute a normal work time.

- (b) **Call-back** - Call-back is the unscheduled, authorized call back to work before or after but not connected to the normal workday. Compensation will be based on a minimum of two hours at the applicable rate of pay.
- (c) **Travel Time** - For a call-back which is not directly connected to the beginning or ending of a normal shift, the employee will receive compensation from the time the employee leaves home until the employee returns home (travel time) at the applicable rate of pay.

- (d) **Distribution of Overtime** - Overtime, other than call-back, will be distributed in the following manner, consistent with District operating requirements:
- (1) When overtime is required to complete an assignment, the person given the assignment will normally continue the work.
 - (2) When unscheduled overtime is required in a supervisor's area (or an extended coverage area) to conduct an additional assignment, employees working for a supervisor (or working in an extended coverage area) will be asked first whether they wish to volunteer for the overtime work. If two or more people volunteer for the assignment, the assignment will be made based on a rotating overtime assignment schedule starting with the most senior person in the work group. If no one volunteers for the assignment, a supervisor may select an individual through the use of a lottery system or, at the discretion of management, the supervisor may select in the order of inverse seniority. Any and all of the above methods may be used to establish an order of rotation for the purposes of distribution of overtime.
 - (3) On continuing extended, overtime assignments, coverage will be assigned on a rotating basis.
 - (4) All overtime assignments will be made with due consideration for employee hardship.
 - (5) Seniority, for the purposes of overtime assignments only, is determined by the time an employee has held the position for which the overtime assignment is required.
 - (6) The District reserves the right to approve, or disapprove, all assignments with due consideration of safe work hours and excessive work schedules.
 - (7) Limited-term employees shall not be offered the opportunity to work overtime hours without first offering the overtime hours to that supervisor's regular employees and allowing those employees to decline the overtime hours.
- (e) **Distribution of Call-back**
- (1) Call-back will be distributed in the following manner:
 - (2) When call-back is required, the person normally responsible for the assignment will be given first opportunity of call-back.
 - (3) If the person normally responsible for the assignment is unavailable for call-back, then the immediate supervisor will be responsible for the assigning of call-back to other employees in the same position.
 - (4) If the immediate supervisor is unavailable for call-back, then the alternate supervisor, manager or division director will be responsible for the assignment of callback.
 - (5) The District maintains the option to deviate from this procedure based upon immediate need.

8.5 COMPRESSED WORKWEEK. (Revision Approved 12/04/96; Effective 12/04/96)

Employees may request, subject to discretionary approvals of the immediate supervisor through the Division Director, to work a compressed workweek schedule. Compressed workweek approval shall be subject to such terms and conditions, and shall be subject to renewal annually or at such other intervals, as is deemed necessary by the Division Director to meet the operational needs of the Division. Compressed workweek approval may be

withdrawn at any time in order to meet the operational needs of the District, and employees who fail to maintain an acceptable level of performance and productivity will be withdrawn from a compressed workweek schedule.

A compressed workweek schedule will consist of either four 10-hour days, or eight 9-hour days and one 8-hour day every two weeks. Work hours on a compressed schedule will commence not earlier than 7:00 AM and not later than 9:00 AM. However, exceptions to this rule may be approved at the discretion of the Division Director. Employees who work a compressed workweek schedule will have the start of the workweek adjusted for the purpose of computing overtime.

When a scheduled District holiday falls on a compressed work day, the employee working a compressed schedule shall only receive credit for eight hours of holiday pay. The employee shall take the additional time off on that holiday as annual leave or as a floating holiday, or the employee shall make up the additional time off by altering the hours worked in the remaining days of the pay period in consultation with the employee's supervisor.

8.6 FLEXIBLE WORK SCHEDULE. (Revision Approved 12/04/96; Effective 12/04/96)

Employees may request, subject to discretionary approvals of the immediate supervisor through the Division Director, to work a flexible work schedule. Flexible workweek approval shall be subject to such terms and conditions, and shall be subject to renewal annually or at such other intervals, as is deemed necessary by the Division Director to meet the operational needs of the Division. Approval of a flexible work schedule may be withdrawn at any time in order to meet the operational needs of the District, and employees who fail to maintain an acceptable level of performance and productivity will be withdrawn from a flexible work schedule.

Employees on a flexible schedule will normally work a five day workweek, and may adjust their starting time to commence not earlier than 7:00 AM and not later than 9:00 AM, with the shift ending eight and one-half hours later. However, exceptions to this rule may be approved at the discretion of the Division Director.

A flexible work schedule will be determined by management considering the operational needs of the District.

8.7 PART-TIME AND JOB SHARING. (Revision Approved 12/04/96; Effective 12/04/96)

Employees may request a reduced workweek schedule or a job share arrangement. All requests will be reviewed by management considering the operational needs of the District, employee hardship or family responsibilities. Appropriate salary adjustments and benefit eligibility will be determined based on the hours worked. The APCO may, at his or her discretion, authorize or discontinue a part-time or job share arrangement.

8.8 TELECOMMUTING. (Revision Approved 12/04/96; Effective 12/04/96)

Telecommuting is a working arrangement in which an employee sometimes works away from the District's central office. An employee may apply to telecommute, subject to approvals of the immediate supervisor through the Division Director. Telecommuting is a privilege which the District has the right to refuse or to terminate at any time. An employee also has the right to refuse to telecommute or to withdraw from the program at any time. Approval to telecommute shall be subject to such terms and conditions, and shall be subject to renewal annually or at such other interval, as is deemed necessary by the Division Director to meet the operational needs of the division. Employees who fail to maintain an acceptable level of performance and productivity will be withdrawn from telecommute status.

Telecommuting is voluntary, and should be mutually beneficial to both the employee and the District. An employee's choice to telecommute or not shall have no adverse effects with

regard to advancement or any other aspect of the employee's standing. An employee approved to telecommute will be required to read and sign the Telecommuting Agreement.

All pay, compensation, and normal employee benefits shall be identical whether an employee telecommutes or works at the central office. There will be no diminution from the norm in either an employee's work products or hours when the employee telecommutes.

The telecommuting employee will not provide primary care to others during at-home working hours. Telecommuters must be available to come to the office if requested to do so.

The employee and the employee's supervisor will establish terms of availability or access to the employee while away from the office. In all cases, telecommuters shall make provisions that provide sufficient communication with the office and the public to meet District Goals. The number of days per week on which an employee may be authorized to telecommute shall be at the discretion of the employee's Division Director.

Supervisors who telecommute shall make provisions for adequate supervision of staff while the supervisor is away from the office.

In addition to regularly scheduled telecommuting arrangements, other employees may apply to telecommute on an episodic basis for limited time periods.

Telecommuters are required to provide whatever equipment is necessary to do their job as well at their home in the same manner as if they were in the central office. The employee is responsible for the purchase and maintenance of all equipment (both hardware and software).

The District will provide training to both telecommuting employees and their supervisors. The District will also sponsor focus groups for the telecommuters and their supervisors on an as-needed basis.

SECTION 9 SEPARATIONS

9.1 RESIGNATION.

An employee submitting a resignation is requested to give at least two weeks notice which allows for the orderly transferring of work assignments and for recruiting of replacement employees.

9.2 DISMISSAL. (Revised 5/3/2023)

- (a) The Appointing Authority (APCO or District Counsel) may, for good and sufficient reason, take any or all necessary disciplinary actions including discharge to ensure the continuity and integrity of the District's functions and work place.
- (b) A non-probationary employee whose employment is terminated because of unsatisfactory service, misconduct, or for other just causes shall be given written notice stating the reasons for dismissal, and may be given two (2) weeks' notice before the date on which the employee's services will be terminated. However, (1) Employees terminated for misconduct such as drinking or being intoxicated on the job, fighting, theft, creating a severe safety hazard, gross negligence, or other acts of serious misconduct, (2) Probationary Employees, and (3) "At Will" employees in the classifications identified in Section III-3.3(c) may be dismissed without prior notice.
- (c) Individuals serving in at-will positions pursuant to Section III-3.3(c) serve at the will of the appointing authority and may be separated for any reason or for no reason, with or without prior notice, and with no right to appeal or grieve any disciplinary action. In addition, appointments to positions in the classifications identified in Section III-3.3(c) may be for a fixed term of employment and the incumbent will be separated at the

expiration of that term (unless the employee has return rights to a prior position pursuant to Section III-3.3(d) or said term is extended by the identified appointing authority). Except as expressly provided in Section III-3.3(d), individuals separated from a position in the classifications identified in Section III-3.3(c) shall have no right to return to any other District position, regardless of seniority or tenure.

9.3. LAY-OFF AND RECALL.

When a reduction in work force becomes necessary for any reason such as lack of funds or lack of work, the following steps in the layoff and recall procedure will be followed:

- (a) Layoffs within a classification will be in reverse order of District employment seniority. (For the purpose of this Section, District employment seniority is the seniority gained based on overall employment with the District).
- (b) An employee (A) who is to be laid off may displace an employee (B) within a similar or lower paying classification provided:
 - (1) Employee (A) has held a position in the classification in question or if employee (A) has not held a position in the classification, holds a position in one of the identifiable job clusters class series and,
 - (2) Employee (A) has greater District employment seniority than employee (B) and,
 - (3) Employee (A) has the skills and meets the qualifications of the classification in question and,
 - (4) The operating requirements of the District are maintained.
- (c) Employees who are laid off or displace others in lieu of layoff will be placed on a recall list for eighteen (18) months during which service time in the former classification will be preserved but not accrued.
- (d) Employees will be recalled to their former classification in reverse order of layoff provided they respond to the notice of a classification opening by notifying the District of their intent to return within the 5 days of receipt of such a notice and return to work within fifteen (15) calendar days of the receipt of such notice.
- (e) If a policy of layoff by reverse seniority is held to be contrary to the principles of equal opportunity employment or affirmative action by virtue of adjudication by a court of competent jurisdiction or by legislative determination, then this Section shall be void, and the parties hereto shall meet and confer regarding a new and legally acceptable policy at the earliest practicable time.
- (f) To the extent possible, the District will attempt to give an employee 30 days written notice prior to the effective layoff date.
- (g) The District will furnish a list of employees to be laid off to recognized employee organization(s) at the same time employee(s) is/are given the written notice(s).
- (h) An employee's name shall be removed from the recall list only when the employee refuses an offer to be returned to the employee's former position.
- (i) A change in job title shall not affect an employee's recall rights.

9.4 SUSPENSION.

- (a) Suspensions from work without pay may be imposed for disciplinary reasons for a period not to exceed thirty (30) days.
- (b) The authority for suspension rests with the APCO.

9.5 RETIREMENT.

Retirement is the voluntary separation of an employee from service of the District after the employee has earned a Service Retirement Allowance under the State of California Public Employees' Retirement System.

SECTION 10 FRINGE BENEFITS

10.1 HEALTH INSURANCE.

This District shall provide health insurance coverage through the Public Employees Medical and Hospital Care Program for employees and their eligible dependents. Health insurance coverage continues for retired employees

10.2 DENTAL INSURANCE.

The District shall provide dental insurance coverage through Delta Dental Plan of California for employees. Optional coverage is available for eligible dependents and for Domestic Partners where an employee has filed a confidential Declaration of Domestic Partnership with the Personnel Section. Dental insurance coverage continues for retired employees.

10.3 VISION CARE. (Revised 9/6/95)

Vision care is provided by Vision Service Plan. Vision coverage for employees is mandatory. Optional coverage is available for eligible dependents and for Domestic Partners where an employee has filed a confidential Declaration of Domestic Partnership with the Personnel Section. Vision care coverage for dependents must be elected at the time of enrollment. Benefits include examinations, lenses and frames at specified service intervals. Vision care coverage continues for employees who retire on or after July 1, 1995.

10.4 LIFE INSURANCE.

The District provides life insurance coverage for employees. The life insurance amount is based on annual salary. Optional Additional Contributory Life and Dependent Life Insurance is also available to employees. Life insurance coverage continues for retired employees.

10.5 LONG TERM DISABILITY INSURANCE.

The District shall provide Long Term Disability Insurance which partially replaces lost income on or off the job, for employees who become disabled and meet the eligibility requirements.

10.6 INSURANCE CONTINUATION.

An employee who is ill or injured and is eligible for either Workers' Compensation or State Disability Insurance, and on medical leave may continue group insurance coverage. The District will continue to pay its portion of the coverage.

10.7 HEALTH AND DENTAL COVERAGE AFTER RETIREMENT.

Health care coverage after retirement will be governed by the provisions of the Public Employees' Medical and Hospital Care Act. Dental care coverage after retirement will be governed by the Delta Dental Plan of California contract.

10.8 PREMIUM REQUIREMENTS. (Revised 10/18/00)

Commencing on July 1, 2000 and every fiscal year thereafter, unless otherwise modified by the Board of Directors, the District shall provide up to a maximum of \$627.00 per month for each management employee and \$576.00 per month for each confidential employee for payment of premiums for Health, Dental, Vision and additional Life insurance coverage, as

set forth in Sections III-10.1 through 4 provided that each employee must elect individual dental coverage.

10.9 STATE DISABILITY INSURANCE.

Each employee is covered by State Disability Insurance. Premiums are paid by the employee. The District's sick leave payments are integrated with any payments received by the employee from State Disability Insurance. The District shall provide state disability insurance for non-industrial illness or injury. The cost of SDI is deducted from the employee's pay. State Disability Insurance is integrated with the employee's leave time. Employees shall not be entitled to receive more than one hundred percent (100%) of pay when SDI and leave time are combined. The administration of the State Disability Insurance program is solely the responsibility of the State of California. The District is not responsible for benefit leaves, the duration of benefits, or the eligibility of District employees for benefits.

10.10 WORKERS' COMPENSATION.

Employees injured on the job and accepted for Workers' Compensation will not be required to use sick leave for the period from the 1st through the 90th calendar day. This period will begin the day following the date of injury or the date Workers' Compensation approved the absence from work, whichever date begins the absence from work. The period will apply only once per injury. The date of injury will be paid as a day worked for pay purposes.

10.11 PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

(a) Pick-Up of Employee Contributions

(1) The District shall make employee contributions on behalf of employees, and such contribution shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States. Such contributions are being made by the District in lieu of employee contributions.

(2) Employee contributions made under Paragraph A of this Article shall be paid from the same source of funds as used in paying the wages to affected employees.

(3) Employee contributions made by the employer under Paragraph A of this Article shall be treated for all purposes other than taxation in the same manner and to the same extent as employee contributions made prior to the effective date of this Agreement.

(4) The employee does not have the option to receive the District-contributed amounts paid directly instead of having them paid to the retirement system.

(b) Wage Adjustment

Notwithstanding any provision on the contrary, the wages of employees shall be reduced by the amount of employee contributions made by the District pursuant to the provisions hereof.

(c) Limitations to Operability

This Subsection 10.11 shall be operative only as long as the District pick-up of employee retirement contributions continues to be excludable from gross income of the employee under the provisions of the Internal Revenue Code.

10.12 CREDIT UNION.

Employees may become members in the San Francisco City Employees' Credit Union.

10.13 EMPLOYEE ASSISTANCE PROGRAM.

The District shall offer an employee assistance program to employees and members of their household through Personal Performance Consultants. The Employee Assistance program provides professional, confidential counseling service at no cost to the employee.

10.14 TRANSIT SUBSIDY / CARPOOL SUBSIDY. (Revised 9/6/95)

Consistent with the District's efforts to promote the use of public transportation and to reduce the number of single-occupant automobiles during commute hours, full-time District employees are eligible for a transit or a carpool subsidy. Use of the passes, or tickets, is confined to the employee during commute hours.

The District will provide transit ticket or passes, up to a maximum value per month or, at the option of the employee, the District will allow a per-day amount up to a maximum per-month per-carpool amount, for the reimbursement to the vehicle owner of commute carpooling expenses and per-day amount to District employees commuting in a carpool (carpool is three or more persons, at least two of which must be District employees).

Procurement of the transit passes is the obligation of the individual employee. No funding will be advanced by the District. Transit tickets or passes for a given month will be made available to eligible District employees at the District's office on a designated day prior to the beginning of that month.

Carpool reimbursement will be made on a monthly basis. No funding will be advanced by the District. In order to receive the carpool subsidy, the employee must certify to the Director of Administrative Services, no later than the 10th day of each month, the number of days carpooled the previous month and the names of the persons who participated in the carpool.

10.15 DEFERRED COMPENSATION.

The District shall offer employees the opportunity to participate in a Section 457 deferred compensation plan. The plan allows employees to invest a portion of salary which is tax deferred until such time as the employee withdraws the funds.

10.16 JOB-RELATED EDUCATIONAL PURSUITS. (Revised 12/21/94)

(a) EDUCATIONAL LEAVE - Division Directors may, at their complete discretion, permit employees to attend job related educational pursuits during business hours to a maximum of ten (10) hours per week provided normal workloads can be accomplished and provided the time is made up as soon as practicable.

(b) JOB RELATED EDUCATIONAL PURSUITS **(Revised 9/6/95)**

(1) For the purposes of this section "job related educational pursuits" is defined as education which either maintains or improves an employee's job skills as they relate to an employee's current position.

To receive reimbursement, an employee must be enrolled at an accredited college or university in an undergraduate or graduate degree program, or in a certificate program; courses taken must contribute to progress towards the degree or certificate.

To qualify for reimbursement under this Section 10.16 participation in certificate programs is subject to prior approval by the District's Personnel Manager. Certificate programs in which an employee's participation will normally be approvable shall include, but not be limited to, environmental management certificate programs offered by the University of California or other colleges and universities, and coursework leading to a professional license which relates to the work of the District (such as a P.E. license).

- (2) The District shall yearly apportion an amount to allow for reimbursements per employee for those employees who attend and successfully complete job related educational courses or seminars. Such reimbursement will be paid upon proof of completion of any approved course. Employees wishing to take educational or other professional courses must obtain prior approval from the District's Personnel Manager before taking the course in order to be reimbursed.
 - (3) Upon proof of completion of a course (grade "C" or better, "pass", "credit", or other indication of satisfactory completion of the course) the District will reimburse the employee for the course cost and related materials (books, required supplies, lab fees, etc.) up to the prescribed limit.
- (c) **SKILLS ENHANCEMENT PURSUITS**
- (1) For the purposes of this section "skills enhancement educational pursuits" is defined to include educational courses and other skills enhancement courses that may or may not be related to an employee's current position, but reasonably relate to the District's work in general and will enhance an employee's skills and may allow for further advancement or promotion at the District.
 - (2) The District shall yearly apportion an amount to allow for reimbursements per employee for those employees who attend and successfully complete skills enhancement courses. Such reimbursement will be paid upon proof of completion in any approved course. Employees wishing to take skills enhancement courses must obtain prior approval from the District's Personnel Manager before taking the course in order to be reimbursed.
 - (3) Upon proof of completion of a course (grade "C" or better, "pass", "credit", or other indication of satisfactory completion of the course) the District will reimburse the employee for the course cost and related materials (books, required supplies, lab fees, etc.) up to the prescribed limit.

10.17 DEPENDENT CARE ASSISTANCE PLAN AND MEDICAL CARE REIMBURSEMENT ACCOUNT PLANS. (Revised 10/1/03)

The District's Dependent Care Assistance Plan allows employees to set aside pre-tax dollars to pay for eligible expenses for dependent care. The Medical Care Reimbursement Account plan allows employees to set aside pre-tax dollars to pay for eligible medical expenses that are not covered by medical, dental, and vision insurance benefits.

10.18 SOCIAL SECURITY REPLACEMENT BENEFITS.

- (a) The District's Board of Directors has adopted and implemented a package of benefits designed to replace to the fullest extent possible those benefits formerly provided under the employer-employee jointly funded federal program commonly known as Social Security. These replacement benefits include the following:
 - (1) Special retirement and disability benefits under PERS. (See Resolution No. 1289, December 17, 1980.)
 - (2) Life insurance coverage for employees is as specified in the contracts. The contracts are available in the Personnel Office.
 - (3) A portion of long term disability coverage at the level of 66 2/3% of monthly salary to a maximum benefit of \$4,000. **(Revised 3/6/96)**
 - (4) Qualified pension plan contribution of \$62.50 per month credited to each full-time regular employee's account. (See Resolution No. 1345, August 5, 1981.)
- (b) It is the intention of the Board of Directors that the cost of these benefits in subsequent years be less than and in no event exceed the amount which would have been required

as the employer contribution to Social Security. It is further the intention of the Board that contributions to the qualified pension plan be reduced if necessary to accomplish the cost-limit objective.

- (c) The Board specifically reserves the right, subject to meet and confer to adjust and alter the benefits described above so as to achieve a result which most effectively meets the needs of employees in an equitable manner without adding costs to the District.

10.20 GUARANTEED RIDE HOME (GRH). (Revised 7/20/94)

The District shall provide a Guaranteed Ride Home (GRH) to all employees who contribute to the District's Employer Based Trip Reduction (EBTR) goals.

A Guaranteed Ride Home is one of the following:

- (a) Reimbursement for use of the fare for mass transit between the District and the employee's home.
- (b) If the employee's commute does not reasonably accommodate mass transit, the employee may use a pool vehicle from the employee's Division vehicle pool, if one is available. "Reasonably Accommodate" means that use of mass transit will require no more than one transfer between transit vehicles (SF Muni to BART does not count as a transfer), and that the employee expects to leave the office before 7:00 PM or 1 hour after sundown (whichever is later). The vehicle will be returned to the pool coordinator on the employee's next working day.
- (c) If the employee's commute does not reasonably accommodate mass transit, and if there are no available vehicles in the employee's Division vehicle pool, the employee may use a pool vehicle from the District vehicle pool, if one is available. The vehicle will be returned to the Facilities Manager on the employee's next working day.

In order to contribute to the District's EBTR goals, an employee must commit to routine use of an alternative means of commuting to the District by submitting a certification ("GRH Certificate") to the District Transit coordinator. The GRH Certificate must indicate whether or not the employee's commute reasonably accommodates the use of transit. Routine use means use of one or more of the following commute methods as the principal means of transportation for both in-bound and out-bound commute trips at least ten times per month:

- (d) Carpool or rideshare, where the vehicle contains three or more occupants.
- (e) Mass transit.
- (f) Emission-free transportation (walking, jogging, bicycling).

An employee may use a Guaranteed Ride Home for any of the following reasons:

- (g) The employee has a family emergency that requires the employee to leave work early.
- (h) The employee is required to work unscheduled overtime.
- (i) The employee is unable to complete the trip home due to a breakdown of the employee's normal mode of transport.
- (j) The employee has received an on-the-job injury that prevents the employee from reasonably using the normal method of transportation.
- (k) The employee's carpool has left early or late due to one of the above circumstances.

The procedure for using a Guaranteed Ride Home is as follows:

- (l) For transit reimbursement, the employee shall request reimbursement on his/her first working day following use of a Guaranteed Ride Home.

- (m) For use of a pool vehicle, the employee shall contact the Division Pool Coordinator to determine whether or not a Division Pool Vehicle is available; if not, the employee shall contact the Facilities Manager to determine whether or not a District pool vehicle is available.

The pool coordinator or Facility Manager shall verify that the Employee has submitted a GRH Certificate to the Transit coordinator; if so, a vehicle will be provided to the employee if one is available.

The employee shall make sure that the vehicle will not be locked up when needed.

The employee shall return the vehicle and the keys on his/her next working day.

- (n) On the his/her first working day following use of a Guaranteed Ride Home, the employee shall submit to the Transit Coordinator a memorandum describing the form(s) of transit taken, the fare(s) paid, and the qualifying reason for the Ride Home.

SECTION 11 LEAVE AND HOLIDAYS

11.1 ANNUAL LEAVE.

- (a) An employee will earn annual leave credits at the rate of 3.69 hours per pay period (approximately one day per month) for the first three years of employment. Annual leave will accrue but cannot be taken until the successful completion of six months' service. If an employee's annual leave accrual rate changes during a pay period, the new rate will be credited from the first day of that period. **(Revised 12/21/94)**
- (b) An employee with more than three and up to five years of employment will earn annual leave at the rate of 4.64 hours per pay period (approximately 1-1/4 days per month).
- (c) An employee with more than five and up to ten years of employment will earn annual leave at the rate of 5.52 hours per day period (approximately 1-1/2 days per month).
- (d) An employee with ten years or more of employment will earn annual leave at the rate of 6.48 hours per pay period (approximately 1-3/4 days per month).
- (e) An employee with more than twenty years and up to thirty years of employment will earn annual leave at the rate of 7.69 hours per pay period (approximately 2 days per month). **(Revision Approved 6/19/96; Effective 7/01/96)**
- (f) An employee with thirty or more years of employment will earn annual leave at the rate of 9.23 hours per pay period (approximately 2-1/2 days per month).
- (g) Annual leave will be normally scheduled in advance by the employee's immediate supervisor, in consideration of the operating requirements of the section and the division. However, in an emergency situation, annual leave will be authorized so long as the employee's immediate supervisor is notified in advance.
- (h) The maximum accumulation of annual leave is forty (40) working days as of the end of the calendar year. Use of annual leave of more than twenty (20) days must be scheduled and approved by the Air Pollution Control Officer.
- (i) For the purposes of determining the rate of annual leave, accumulated service within the District will be used less any time for leave of absence in excess of two pay periods.
- (j) If a pay day falls during an employee's vacation, the employee may receive a partial pay warrant for the pay period. The employee may pick up the warrant three (3) days prior to beginning vacation, provided two weeks' notice is given to the payroll clerk.

11.2 SICK LEAVE.

- (a) Coverage - Sick leave is granted leave to cover authorized absence by an employee unable to work for any of the following reasons:
 - (1) Personal injury or illness, pregnancy, childbirth, or pregnancy-related disability.
 - (2) Exposure to contagious disease requiring quarantine.
 - (3) When the employee is required to attend to a member of the immediate family for reason stated in (1) above, to a maximum of ten (10) days per year.
(Revised 9/6/95)
 - (4) For the purpose of this section, immediate family will include: mother, father, spouse, domestic partner, children, brother, sister, grandparents and grandchildren of the employee, relatives by marriage including mother-, father-, brother-, sister-, son-, and daughter-in-law, and the following domestic partner loved ones: mother, father, brother, sister, son and daughter. **(Revision Approved 12/04/96; Effective 12/04/96)**
 - (5) Appointments for dental, eye, and other medical examinations.
- (b) Allowance - Employees will earn sick leave at the rate of 3.69 hours per pay period. There is no limit to the amount of sick leave which may be accumulated. Employees are eligible to use sick leave as it is earned.
- (c) Coordination with State Disability Insurance - Sick leave will be integrated with State Disability Insurance as soon as eligibility for such benefits is established.
- (d) Job-Related Injury - Employees injured on the job and accepted for Workers' Compensation will not be required to use sick leave for the period from the 1st through the 90th calendar day. This period will begin the day following the date of injury or the date Workers' Compensation approved the absence from work, whichever date begins the absence from work. The period will apply only once per injury. The date of injury will be paid as a day worked for pay purposes.
- (e) Holiday During a Sick Leave Period - If a holiday occurs during a continuous period of authorized sick leave, the holiday will not be counted as a day of sick leave.
- (f) Blood Donations - Employees may take up to two (2) hours to donate blood to the District's account or to a specific person's account to a maximum of twice a year without loss of sick leave credits. Such leave must be approved in advance and consistent with District operating requirements.

11.3. BEREAVEMENT LEAVE.

- (a) When a death occurs in the immediate family of an employee, the employee may take three consecutive days off, counting the day of the funeral, without loss of pay.
- (b) If the employee is the family member required to make the family arrangements for the funeral and burial (or equivalent ceremony), the employee may take up to five (5) days off without loss of pay to make such arrangements. Such time shall include all time for travel.
- (c) For the purpose of this Article, immediate family is defined the same as in Section III-11.2(a)(4).

11.4 TEMPORARY DISABILITY LEAVE. (Revised 12/21/94)

An employee who becomes temporarily disabled for valid medical reasons including illness, injury, or other medical reasons (other than pregnancy), is entitled to a temporary disability

leave for any period of actual disability for up to a total of six (6) months. Leave in excess of six (6) months may be granted under a leave of absence (see Section 11.8 below).

Before taking unpaid leave, the employee must use all available sick leave except for 80 hours that may be retained or used at the employee's discretion. An employee has the option to use his/her accrued annual leave and floating holiday leave during the disability period. State Disability Insurance benefits received by the employee will be converted to sick leave hours and credited to the employee's sick leave accrual balance. Sick leave and annual leave compensation will be coordinated with State Disability Insurance benefits.

Temporary disability leave grants the employee rights to return to the same position the employee held prior to the leave, or to a comparable position in the same job classification and at the same pay grade.

An employee on temporary disability leave continues to receive benefits described in Section 10, except that an employee on temporary disability leave without pay for 80 hours or more during a fiscal year will not accrue annual or sick leave, receive transit subsidy, or receive educational reimbursement, unless the course was approved prior to the commencement of the leave. However, an employee will continue to accrue annual and sick leave if on temporary disability leave due to an injury sustained while on the job, provided that the period of the leave is covered by an approved Worker's Compensation claim. Employee and employer contributions to PERS are not paid during unpaid portions of temporary disability leave. Temporary disability leave is not considered a break in service.

To enable an employee who is temporarily disabled to return to work as soon as possible, the employee may request a transfer to a less hazardous or strenuous position for the duration of the disability. The APCO will grant such a request if it can be reasonably accommodated. The request for a transfer must be based on the advice of the employee's health care provider.

Temporary disability leave, unlike pregnancy disability leave, runs concurrently with leave taken under the Family Care and Medical Leave provision of Section 11.7 below.

An employee who plans to take a disability leave must give reasonable notice of the date the leave will commence and the estimated duration of the leave. The employee shall provide a medical certification from the employee's health care provider to the Personnel Section within one week after the commencement of any temporary disability leave, and shall provide a supplemental medical certification at least once every four weeks thereafter. In the case of a severe or extended illness, the APCO may waive the requirement to provide supplemental medical certifications.

11.5 MILITARY LEAVE. (Revised 1/6/10)

Military leave is governed by the Military and Veterans Code of the State of California and the federal Uniformed Services Employment and Reemployment Rights Act.

11.6 LEAVE WITHOUT PAY. (Revised 12/21/94)

Regular full-time or part-time and probationary employees may be granted a leave without pay for non-medical reasons. Such leave will be granted at the discretion of the APCO.

Leave may be granted for any period of time up to thirty (30) calendar days and may be extended for one (1) to ten (10) additional working days. A working day is any day that the District office is open for business. A return to work of one full day is considered as ending a leave period. Additional time after this day will be requested as a new and separate leave.

An employee on leave without pay continues to receive benefits described in Section 10, except that an employee on leave without pay for more than 80 hours during a fiscal year will not accrue annual or sick leave for the period of leave without pay in excess of 80 hours, and will not receive transit subsidy, or receive educational reimbursement, unless the course was approved prior to the commencement of the leave. Employee and employer contributions to

PERS are not paid during leave without pay. A leave without pay is not considered as a break in service, and the employee is assured return to the same position, or to a comparable position in the same job classification and at the same pay grade.

11.7 FAMILY CARE AND MEDICAL LEAVE. (Revised 1/6/10)

Reasons for Taking Family Care and Medical Leave

Eligible employees can take Family Care and Medical Leave for any of the following reasons:

1. Birth of an employee's child.
2. Placement of a child with an employee for adoption or foster care.
3. Due to the employee's own serious health condition.
4. To care for a spouse, domestic partner, child or parent with a serious health condition.
5. Due to a qualifying exigency arising out of the fact an employee's spouse, domestic partner, child or parent is on active military duty or has been notified of an impending order to active duty ("Qualifying exigency leave").
6. To care for a current member of the Armed Forces, National Guard or Reserves who has a serious injury or illness if the employee is the spouse, domestic partner, child, parent or next of kin of the servicemember ("Military caregiver leave").

Amount of Leave

Eligible full-time employees are entitled to up to 12 workweeks (480 hours) of family care and medical leave in a 12 month period when the leave is taken for reasons 1 through 5 above. The 12 month period begins on the first date family care and medical leave is taken.

Eligible full-time employees are entitled to up to 26 workweeks (1040 hours) of military caregiver leave within a single 12 month period. Unlike other types of family medical leave, military caregiver leave is a one time entitlement only; it does not renew annually.

An eligible employee may combine military caregiver leave with traditional family medical leave during a single 12 month period; however, the employee is limited to taking a maximum of 26 weeks of leave in such circumstances.

Intermittent or Reduced Schedule Leave

When necessary, family care and medical leave may be taken intermittently or the employee may be authorized to work on a reduced schedule. The District may require the employee to provide certification supporting the need for intermittent or reduced schedule leave. Employees are required to make a reasonable effort to schedule intermittent leave so as not to disrupt the District's operations.

When an employee is taking intermittent leave or working a reduced schedule, the employee may be transferred to an alternate position, with equivalent pay and benefits, that accommodates the periods of leave better than the employee's regular position.

Earned benefits shall be reduced for an employee with a reduced work schedule, if the reduction is one which is normally made for part-time employees.

Eligibility

An employee is eligible for family care and medical leave if he or she has been employed by the District for at least 12 months and has performed work for at least 1250 hours during the 12 months preceding the leave period.

An employee who works part-time is eligible for family care and medical leave if he or she has been employed for at least 12 months. For eligibility purposes, the hours of work performed for by a part-time employee will be calculated on a pro-rata or proportional basis.

Leave entitlement is equal to the sum of work hours and paid leave, including paid or unpaid pregnancy disability leave, during the twelve week period immediately preceding the first request for family care and medical leave, to a maximum of 480 hours.

Use of Accruals

Family care and medical leave is unpaid

An employee who is taking family care and medical leave to care for an eligible family member, for the birth or placement of a child, or for a qualifying exigency must use all accrued annual leave and floating holidays, except for 80 hours that may be retained or used at the employee's discretion. An employee may also use sick leave in an amount not less than the sick leave that would accrue during six months of the employee's current rate of entitlement when leave is taken to care for an ill family member.

An employee who is taking leave due to the employee's own serious health condition must use all available sick leave, except for 80 hours that may be retained or used at the employee's discretion. The employee is not required, but may choose to, use accrued annual leave and floating holidays during the leave.

Use of paid leave accruals during otherwise unpaid family care and medical leave does not increase the amount of leave available to an employee.

Notice

If possible, the employee must provide the District with at least 30 days' notice before the leave begins. If this is not possible, the employee must provide as much notice as is practicable.

To the extent that the employee's absence is the result of planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as to avoid undue disruption of the District's operations.

Certification

An employee will be required to submit a certification to the division director supporting the need for family care and medical leave. The content of the certification is dependent upon the type of leave being taken as described below.

- (a) For employee's own serious health condition: The certificate shall state (1) the date on which the serious health condition began; (2) the probable duration of the condition; and (3) a statement that due to the serious health condition the employee is unable to perform one or more of the essential functions of his or her position. If intermittent or reduced schedule leave is sought, the certificate must also indicate the medical necessity for the intermittent or reduced schedule leave and its expected duration.
- (b) For family member's serious health condition: The certificate shall state (1) the date on which the serious health condition began; (2) the probable duration of the condition; (3) the amount of time needed to care for the family member; and (4) a statement that the family member's condition warrants the participation of the employee to provide care. If intermittent or reduced schedule leave is sought, the certificate must also indicate that such leave is necessary for the care of the family member and the expected duration of the intermittent or reduced schedule leave.
- (c) For qualifying exigency leave: The certificate shall state (1) the name of the covered military member; (2) the employee's relationship to the military member; (3) a statement describing the reason for requesting qualifying exigency leave and any related supporting documentation; (4) the date on which the leave will commence; and (5) the probable duration of the leave. If intermittent or reduced schedule leave is sought, the certificate must also indicate the anticipated frequency and duration of such

leave. The employee may also be required to provide a copy of the military member's active duty orders.

(d) For military caregiver leave:

1. An employee may be required to provide a certificate containing the following information: (1) the name of the servicemember; (2) the relationship of the employee to the servicemember; (3) whether the servicemember is a current member of the Armed Forces, National Guard or Reserves; (4) whether the servicemember is assigned to a military medical facility and the name of such facility; (5) whether the servicemember is on the temporary disability retired list; (6) a description of the care to be provided to the servicemember; and (7) an estimate of the duration of the leave.
2. An employee may also be required to provide a certificate from an authorized health care provider setting forth the following: (1) whether the servicemember's injury or illness was incurred in the line of duty on active duty; (2) the date on which the injury or illness began and its probable duration; (3) whether the injury or illness renders the servicemember unfit to perform his or her duties; (4) whether the servicemember is receiving medical treatment, recuperation or therapy; (5) information sufficient to establish that the servicemember is in need of care; and (6) the estimated duration of the need for care. If intermittent or reduced schedule leave is sought, the certificate must also indicate that such leave is necessary for the care of the family member and the expected duration of the intermittent or reduced schedule leave. Health care providers authorized to provide this certificate include a U.S. Department of Defense (DOD) health care provider, a U.S. Department of Veterans Affairs health care provider, a DOD TRICARE network health care provider, or a DOD non-network TRICARE health care provider.
3. In lieu of certification forms containing the information set forth above, the District will accept Invitational Travel Orders (ITOs) or Invitational Travel Authorizations (ITAs) issued to a family member of a servicemember.

All certificates will be maintained in a confidential file in the Personnel Section.

Benefits

Family care and medical leave will not be considered a break in service. An employee will continue to receive benefits, except that an employee on unpaid family care and medical leave for 80 hours or more during a fiscal year will not accrue annual and sick leave, receive transit, subsidy, or receive education reimbursement, unless the course was approved prior to the commencement of the leave. Employee and employer contributions to PERS are not paid during unpaid portions of family care and medical leave.

Reinstatement

Employees returning from family care and medical leave will be reinstated in the same position, or to a comparable position in the same job classification and at the same pay grade.

An employee who takes leave for his or her own serious health condition may be required to produce a fitness for duty certification prior to returning to work.

Limitations on leave taken after the birth or placement of a child

Entitlement to this leave expires at the end of the 12-month period beginning on the date of the birth or placement of the child.

If both parents are employed by the District, the aggregate number of hours to which they both are entitled is the larger of their individual entitlements.

Important Definitions

Child:

For purposes of leave taken for birth or placement of a child or to care for a family member with a serious health condition, “child” means a biological, adopted, foster child, stepchild, legal ward, or a child for whom the employee is acting as a parent. The child must be under 18 years old or over 18 and incapable of self-care due to a physical or mental disability.

For purposes of military caregiver or qualifying exigency leave, “child” is a biological, adopted, foster child, stepchild, legal ward, or a child for whom the employee is acting as a parent who is of any age.

Next of Kin: For purposes of military caregiver leave, “next of kin” means the nearest blood relative other than the servicemember’s spouse, domestic partner, parent or child, in the following order: blood relatives who have been granted legal custody of the servicemember by court decree, siblings, grandparents, aunts and uncles, and first cousins, unless the servicemember has designated in writing another person as his or her nearest blood relative.

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice or residential health care facility, or continuing treatment or supervision by a health care provider.

Interaction with Pregnancy Disability Leave

Pregnancy disability leave, as described in Section 11.9, may be taken in addition to family care and medical leave, and is not subtracted from the family care and medical leave entitlement. However, any other form of leave (including sick leave and temporary disability leave) which is taken for the purposes of allowed under this Section 11.7, whether paid or unpaid, will be subtracted from the family care and medical leave entitlement. There is no need for the employee or the child to have a serious health condition, nor is it required that an employee continue to be disabled by her pregnancy, childbirth or any related medical condition before taking family care and medical leave in the year following the birth or adoption of a child.

In addition to the leave allowed under this Section 11.7, an employee may be entitled to additional leave time pursuant to Section 11.4 above due to the employee’s disability. The APCO may also grant additional leave without pay pursuant to Section 11.6 above or a leave of absence pursuant to Section 11.8 below.

11.8 LEAVE OF ABSENCE. (Revised 12/21/94)

- (a) Leave of absence may be granted for non-medical reasons or to continue a medical leave for a maximum of six (6) months by the APCO. A consecutive leave of absence may be granted but in no case for a total of more than twelve (12) months for any employee.

No annual or sick leave credits are earned during leaves of absence. An employee on a medical leave of absence continues to receive benefits described in Section 10, except that an employee on leave of absence shall not receive transit subsidy, or receive educational reimbursement, unless the course was approved prior to the commencement of the leave. Employee and employer contributions to PERS are not paid during unpaid leaves of absence. An employee on a leave of absence for non-medical reasons receives none of the benefits described in Section 10. A leave of absence for non-medical reasons is considered a break in service, and the position vacated by this leave may be open for recruitment of a regular employee.

- (b) Return after unexpired leave. Granting a leave of absence will permit the return of the employee to District employment before the expiration of the leave of absence under the following conditions.

- (1) The employee will have preference for re-employment in the same classification or at another lower classification for which the person is qualified, provided the position is vacant.
- (2) Leave of absence does not confer any absolute right to return to position or employment.
- (3) Employee time in-grade for salary increase will be preserved, at the same level.
- (4) Accrued pension rights and pension time will be preserved.

11.9 PREGNANCY DISABILITY LEAVE. (Revised 12/21/94)

An employee is eligible to take pregnancy disability leave for any period of actual disability caused by pregnancy, childbirth or any related medical conditions for up to 88 working days per pregnancy. Leave in excess of 88 working days may be granted for up to an additional two months as temporary disability leave under Section 11.4 above, under family care and medical leave under Section 11.7 above, as leave without pay under Section 11.6 above, or as a leave of absence under Section 11.8 above. A working day is any day that the District Office is open for business. The leave can be taken before or after birth, or intermittently for any period of time an employee is unable to work because of the pregnancy or pregnancy-related condition.

An employee has the option to use her accrued annual leave, sick leave and floating holiday leave during the disability period. Sick leave and annual leave compensation will be coordinated with State Disability Insurance benefits. State Disability Insurance benefits received by the employee will be converted to sick leave hours and credited to the employee's sick leave accrual balance.

Pregnancy disability leave grants the employee the right to return to the same position the employee held prior to the leave. An employee on pregnancy disability leave continues to receive benefits described in Section 10, except that an employee on pregnancy disability leave without pay will not receive transit subsidy or receive educational reimbursement, unless the course was approved prior to commencement of the leave. Employee and employer contributions to PERS are not paid during unpaid portions of pregnancy disability leave. Pregnancy disability leave is not considered a break in service.

An employee who is temporarily disabled because of pregnancy or a pregnancy-related condition may request a transfer to a less hazardous or strenuous position for the duration of the disability. The APCO will grant such a request if it can be reasonably accommodated. The request for a transfer must be based on the advice of the employee's health care provider.

Pregnancy disability leave is in addition to leave granted under the family care and medical leave provision of Section 11.7 above. At the end of an employee's period of pregnancy disability leave, the employee may request to take family care and medical leave, if the child has been born by this date.

An employee who plans to take a pregnancy disability leave must give reasonable notice of the date the leave will commence and the estimated duration of the leave. To continue this leave beyond the first six weeks after birth, the employee shall provide a medical certification of the disability from the employee's health care provider to the Personnel Section by the end of the seventh week after birth, and shall provide a supplemental medical certification at least once every four weeks thereafter unless the APCO waives the requirement to provide such supplemental medical certifications.

11.10 GRANTING A LEAVE FROM WORK. (Renumbered 12/21/94)

No leave provision mentioned above is granted automatically, but must be applied for and approved before the provisions for such leave are applicable. The APCO may reject a request for such leave for justifiable reason.

11.11 JURY DUTY. (Renumbered 12/21/94)

Any employee of the District summoned to serve on a jury shall be entitled to regular pay provided the employee deposits the fees for service with the District Director of Administrative Services (except any mileage reimbursement).

11.12 SUBPOENA AS A WITNESS. (Renumbered 12/21/94)

Any employee of the District subpoenaed as a witness shall be entitled to regular pay provided the employee deposits the fees for services with the District's Director of Administrative Services.

11.13 HOLIDAYS. (Revised 10/02)

(a) The following days will be paid holidays for all employees:

New Year's Day	(First day of January)
King's Birthday	(Third Monday of January)
Lincoln's Birthday	(Twelfth day of February)
Washington's Birthday	(Third Monday of February)
Memorial Day	(Last Monday of May)
Chavez' Birthday	(Thirty-first day of March)
Independence Day	(Fourth day of July)
Labor Day	(First Monday of September)
Columbus Day	(Second Monday of October)
Veterans Day	(Eleventh day of November)
Thanksgiving Day	(Fourth Thursday of November)
Day After Thanksgiving	(Fourth Friday of November)
Christmas Day	(Twenty-fifth day of December)

(b) Every day appointed by the President of the United States or Governor of California as a holiday.

(c) Holidays falling on Sunday will be celebrated on the following Monday. Holidays falling on Saturday will be celebrated on the preceding Friday, except, if the Governor proclaims the following Monday to be the holiday.

(d) Commencing on October 2002, and every fiscal year thereafter, unless otherwise modified by the Board of Directors, the District shall grant each management employee 72 hours of floating holiday and each confidential employee 36 hours of floating holiday. Except, any management or confidential employee who is hired after July 1st of the current fiscal year shall receive a prorated portion of the total floating holiday hours based upon the remaining months for that fiscal year. For purposes of prorating, any management or confidential employee whose hire date is between the 1st and the 15th of the month shall receive his/her prorated portion for that month. For purposes of prorating, any management or confidential employee whose hire date is between the 16th and the last day of the month shall not receive any prorated portion for that month.

Management and confidential employees who were employed on or before July 1st of the fiscal year shall be credited with the total floating holiday hours on July 1st of the current fiscal year shall receive the total prorated portion of floating holiday hours on their date of hire for that fiscal year.

Employees must request to use floating holiday no less than five (5) days in advance. A floating holiday can be taken only with the approval of the employee's supervisor.

(e) If an employee normally is not scheduled to work on a day which is a paid holiday for other District employees, that employee is entitled to 8 hours of paid holiday leave on the day on which that employee is normally scheduled to work which immediately precedes or follows the paid holiday.

- (f) Employees working a compressed workweek whose normal workweek includes a paid holiday for other employees are only entitled to 8 hours of paid leave for that holiday.

11.14 BENEVOLENT LEAVE FUND (Revised 10/5/11)

The Benevolent Leave Fund is established for the use and donation by District employees. Any District employee (hereinafter referred to as “employee”) may donate annual leave, sick leave, compensatory time, or floating holiday, with the limitation noted in subsection A immediately below, to the benevolent leave fund for the benefit of employees who are catastrophically ill or injured for one hundred (100) consecutive working hours or longer. In order to donate leave, the following conditions apply:

- (a) Only accrued annual or sick leave, compensatory time, or floating holiday leave may be donated to the fund. Any employee may donate up to 40 hours of sick leave to the fund per fiscal year. Floating holiday leave that is donated will only be valid during the fiscal year in which it is accrued. Thus, if in a given fiscal year, an employee donates floating holiday leave and the leave is not used during that fiscal year, the donated leave will expire on the last day (June 30) of that fiscal year.
- (b) To donate accrued leave to the fund, an employee must be eligible to accrue or use annual leave credit and cannot currently be using leave from the Benevolent Leave Fund.
- (c) To donate sick leave, an employee must have a sick leave balance of at least 200 hours.
- (d) Donated leave may be designated for a specific employee, or may be donated without designation. Floating holiday leave shall be used first. Other benevolent leave that is designated to a specific employee must be used in the sequence it was donated. If leave that is donated to a specific employee is not used within 120 days, such leave will be added to the general benevolent leave fund.
- (e) Leave may be donated to the fund regardless of whether there is a qualified recipient.
- (f) Leave may not be sold, bartered or traded to another employee under any circumstances.
- (g) Once leave has been donated to the fund, that leave cannot be reclaimed by the employee making the donation unless and until that employee later becomes an eligible fund recipient.

In order to be a fund recipient, the following conditions apply:

- (h) The recipient must be catastrophically ill or injured, on an approved leave for medical purposes and must have on file with the Human Resources Office a medical verification from the employee’s personal physician that demonstrates that the recipient is in fact catastrophically ill or injured and unable to work for at least one hundred (100) consecutive working hours or longer.
- (i) Upon written request from the Association Board of Directors, the Human Resources Officer shall provide, to the Association the amount of leave in the fund.
- (j) The recipient must have exhausted all forms of paid leave prior to using any benevolent leave. However, it is understood the employee will accrue all appropriate leaves during the time the Benevolent Leave Fund is in use and shall not be required to use such accrued leave during such time.
- (k) The recipient may not receive benevolent leave from the fund in an amount which exceeds 100% of that employee’s normally scheduled hours for any pay period.
- (l) Written requests to use leave from the fund shall be submitted to the Human Resources Officer.

- (m) The Human Resources Officer or designee shall provide a written response approving or denying the employee's request, or requesting more information within 5 working days. If the request is denied, the Human Resources Officer or designee shall state the reasons for denial in the written response.
- (n) If a request to use leave from the fund is denied, the refusal may be appealed to the APCO. The APCO's decision shall be provided, in writing, to the employee within ten (10) calendar days from the date an appeal is submitted.

Catastrophic illness of injury is defined as a serious illness, injury, impairment, or physical or mental condition that is present for a minimum of one hundred (100) consecutive working hours or longer.

SECTION 12 PERSONNEL TRANSACTIONS AND RECORDS

12.1 HIRING AND INITIAL ORIENTATION.

The Personnel Section will ensure that each new employee has completed all necessary forms and is given an orientation regarding the District's classification plan, salary and benefit information, and the District's basic structure and organization.

12.2 PERSONNEL AND MEDICAL FILES.

The Personnel Section maintains a personnel file on each employee containing application form or resume, references, and other pertinent forms, correspondence and materials. Necessary personal and job-related information about each employee is retained in an official personnel file in the Personnel Section. Each file contains basic identifying information, completed employment application, as well as other hiring-related documents; salary information; fringe benefit and beneficiary information; leave and attendance records; performance evaluation, disciplinary documents; and other job-related information deemed essential by management. All file contents are confidential.

Employees have the right to inspect their personnel files upon request at a mutually agreed-upon time and place.

Internal access to a personnel file is limited to supervisors and managers who are considering an employee for a promotion, transfer or other personnel action, and to other management staff who have a legitimate, verifiable need to know specific information about an employee.

Except as specified in Section III-12.3 below, no personnel information is to be disclosed to any party outside the District unless the current or former employee provides the District with a signed authorization to release information. The District reserves the right to verify basic personnel information without notifying the individual, and to cooperate with law enforcement, public safety, or medical officials who demonstrate a legitimate need to know specific information.

Medical information is retained in a separate file. This information is confidential and may be reviewed only by the employee to whom the information pertains; the employee's physician or attorney, when the employee provides a signed consent form; and, if designated, the employee's representative.

To insure that personnel files are up-to-date at all times, employees are responsible for notifying the Personnel Section of changes to any information.

12.3 EMPLOYMENT RECORD VERIFICATION.

The Personnel Section will confirm dates of employment, position, salary and reason for separation for outside employers who request information regarding former District employees.

12.4 CLASSIFICATION SYSTEM.

The Personnel Section will ensure that each position in the District is properly classified and that the system is maintained.

12.5 REQUESTS FOR NEW EMPLOYEES. (Revised 12/21/94)

- (a) In order to fill a vacancy for a regular employee, full-time or part-time, the supervisor or section manager will request that the Personnel Section initiate a Request For New Employee form. The form will be signed by the supervisor making the request and the Division Director, then routed to the Director of Administrative Services to determine availability of funds. If funds are available, the request form will be routed to the Deputy APCO, when applicable, and the APCO for approval.
- (b) When a limited-term employee or student worker, full-time or part-time, is needed due to an increase in workload and/or absence of a regular employee, the supervisor or section head must submit a written justification to the Division Director, the Deputy APCO, when applicable, and the APCO for approval. The Personnel Section will initiate a Request for New Employee form upon receipt of the approved justification. The Request For New Employee form will then be signed by the requesting supervisor and Division Director, then routed to the Director of Administrative Services to determine availability of funds. If funds are available, the request form will be routed to the Deputy APCO, when applicable, and the APCO for approval.
- (c) Upon receipt of the approved Request form, the Personnel Section will initiate recruitment for the position(s).

12.6 PERSONNEL ACTION FORMS.

Personnel actions including new hire, promotion, transfer, merit increase, or any other change in employment status must be approved by the immediate supervisor, the Division Director, and where appropriate, the Deputy APCO and the APCO before such action become effective. The Personnel Section will initiate the appropriate form and will inform the Division and the employee concerned of the approval of the action to be taken.

SECTION 13 METHOD OF FILLING VACANCIES

13.1 RECRUITMENT AND SELECTION OF EMPLOYEES. (Revision Approved 9/18/02; Effective 9/18/02)

(a) Recruitment / Selection Procedures

The Human Resources Department, in consultation with the designated hiring manager, shall be responsible for the recruitment of applicants, as well as the planning, designing, constructing, and administering of the selection process. Selection processes shall be job related and developed in accordance with the federal Equal Employment Opportunity Commission's Uniform Guidelines on Employee Selection Procedures and related professional standards.

(b) Recruitment Bulletins & Notices

- 1. Written notices concerning vacancies, transfer opportunities, selections for special assignments and related promotional opportunities shall be posted on the

District's website and at work locations of employees who may be affected not later than 10 working days prior to the closing date for the filing of appropriate applications.

2. The Human Resources Department shall determine the need for the use of newspaper advertisements and/or the distribution of bulletins for public notice on a case-by-case basis.

(c) Interest Cards

1. The Human Resources Department shall maintain a file of "interest cards" on which interested persons may indicate that they wish to be notified if and when the application filing period for a particular classification is open. Interest cards shall be kept on file for one year.
2. Application materials shall be mailed to all persons who have an "interest card" for the proper classification on file in the Human Resources Department prior to the open date of filing. It is the responsibility of the "applicant" to maintain the currency of the information provided on interest cards.
3. The failure of any person to receive notice of a vacancy shall not invalidate any procedure.

(d) Filing of Applications

1. Applications for employment will only be accepted if received in the Human Resources Department offices during normal business hours, prior to the close of the filing period. The filing period shall be announced by notice given in accordance with section 13, above, specifying the date by which applications must be received or postmarked. Filing periods may be extended by approval of the Human Resources Officer.
2. Late applications may be accepted by the Human Resources Officer for verifiable cases involving illness, prolonged hospitalization, a serious accident and, in the case of a verifiable mis-delivery or error by the U.S. Postal Service or the District's Mail Unit, when it can be documented that the reasons for failing to file a timely application are beyond the candidate's control, or in instances in which an error was made detrimentally affecting the applicant.

(e) Reasons for Rejecting an Applicant or Candidate for Employment

The following is a comprehensive, but not limiting, listing of reasons for which applicants or candidates for employment may be rejected:

Unsatisfactory health conditions.

Advocacy of overthrow of the Government of the United States or the State of California by force, violence, or other unlawful means.

Making a false statement or omitting a statement as to any material fact on an application form.

Practicing any deception or fraud in connection with an examination, or to secure employment.

Dismissal from a previous employment for cause.

Discharge other than honorable from the armed forces of the United States.

A record of unsatisfactory service with the District.

Failure to meet approved standards covering any other basis for rejection of unfit applicants and candidates other than failure to meet requirements established for the examination relating to training, experience, licenses, and certificates.

Failure to report for duty after an assignment has been offered and accepted.

Failure to demonstrate eligibility to work legally in the United States.

Failure, after due notice, to report promptly for review of any of the above reasons for rejection. Such notice shall state that the failure to report is the basis for rejection.

Criminal convictions including Motor Vehicle Violations when driving is integral to performance of the assigned duties (the period for which a candidate may be barred varies, based on the offense for which the candidate was convicted).

(f) Initial Application Screening

The Human Resources Analyst shall conduct an initial screening of all of the applications and supplemental materials received by the closing deadline. Applications shall be screened to determine if the listed education, training, and experiences meet the minimum qualifications criteria specified for the class. The Analyst may make use of one or more Subject Matter Experts (SME) to assist in qualifying the applications.

(g) Additional Selection Procedures

1. When the Human Resources Analyst determines that a substantial number of applications have been received, applications may be further screened by an assessment panel using training and experience standards more specific than just the minimum qualifications for the job.

Training and experience evaluation (T&E) assessment panels shall include at least two members. The scoring of the T&E shall be made on a Rating Sheet designed specifically for evaluating the training and experience of applicants and only those applicants having the most directly related experience as determined by the evaluation will continue in the selection process.

2. Combinations of written, performance and/or oral examinations may be used to further assess the candidate's qualifications.
3. A candidate who obtains a score below the pass point in any one part or in any combination of parts of an examination shall be eliminated from further competition in that examination process.

(h) Oral Boards

1. For classes of positions deemed by the Human Resources Department to require an oral examination, the oral examination board shall include at least two members. Unless specifically directed to evaluate candidates' technical knowledge and skills, the oral examination board shall confine itself to evaluating general fitness for employment in the class. When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in the specified occupational area.
2. In no case will an oral examination board be provided with confidential references on employees of the district who are competing in promotional examinations. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral examination board.

3. Questions relating to race, color, national origin, ancestry, age, marital status, sex, sexual orientation, religious creed, political affiliation, medical condition or, physical or mental disability, shall not be asked during an examination interview or interview for appointment.

(i) Eligibility Lists

1. After the examination process is completed, candidates shall be ranked on an eligible list according to their scores. Scores will be based on the combination of the scores from each part of the examination process after the appropriate weights are applied.
2. Scores shall be rounded up (.5 and above) to the nearest whole number.

(j) Final Selection (Hiring) Interview Process

1. When fewer than four applicants are determined to be qualified as a result of the application screening process or subsequent examination procedures, all the qualified candidates may be referred directly to the hiring department for consideration in a selection interview or other selection procedure. The hiring manager may make a selection or request that a new recruitment be initiated. This provision is intended to allow the hiring manager the ability to consider a minimum of four qualified eligibles prior to making a selection.
2. For any single vacancy, the Human Resources Officer shall refer the top four names (or more if there are ties in ranking with the fourth name) on the eligible list to the hiring department. After receiving the referral of names from the eligible list, the hiring department may select any of the referred eligibles.

(k) Offers of Employment

After interviewing all the referred eligibles, the department shall notify the Human Resources Officer of its intention to make an offer of employment. The Human Resources Department is responsible for making offers of employment.

(l) Step Upon Hire

Initial appointments will normally be made at the first step of the range. Advanced step placement, up to Step "C", may be made when a lower step appointment does not provide the person selected with a minimum 5% increase over their existing salary or when there are other extenuating circumstances. approval is obtained from the CEO upon recommendation from the Hiring Manager.

Promotional employees will be placed on the step of the new range that affords a minimum 5% increase over their current salary.

(m) Leave to Participate in Examinations

Employees may participate in examinations and other employment procedures scheduled during working hours without loss of pay, provided the employee notifies their supervisor two days prior to the date of the examination.

(n) Restrictions On Repeating an Examination

Applicants who have competed in an examination process may not repeat the examination for the same classification or repeat tests or test parts which are comprised of essentially the same questions or problems for six months. On the request of the applicant, when the examination process remains the same, the applicant may use his or her score on the previous examination in the current recruitment.

(o) Appeals of Recruitment / Selection Procedures

1. Appeals of an examination part must be received in writing in the Human Resources Department within three (3) working days of the occurrence of the event that is the subject of the appeal.
2. Appeals of an examination part shall descriptively state the specific allegation (inappropriate act, event or omission) on which the appeal is made, how the stated act, event or omission adversely affected the appellant, and the appellant's desired remedy. Failure to adequately describe the basis for the appeal may be grounds for denial of the appeal.
3. The Human Resources Officer shall review the basis for the appeal and shall promptly respond. If the event the Human Resources Officer is unable to respond to an appeal prior to conducting a subsequent examination part, s/he may authorize the candidate to continue in the examination process pending a final decision on the appeal. If the candidate is authorized to provisionally continue in the examination process, any testing part that the candidate participates in will not be scored until the appeal is completed.
4. If the appeal is denied, a written request for a second level review must be filed in the Human Resource Department within three (3) working days of the notice of denial. The Director of Administration will review the decision and shall issue a decision within five (5) working days of receipt of the request for a second level review.
5. If the second level review is denied by the Director of Administration, a final appeal may be made to the CEO. The CEO may choose to respond or let the matter rest.

This section is intended to ensure that alleged improprieties in the conduct of examinations be addressed as quickly as possible. A rating or score by an oral board may not be appealed.

13.2 ORDER OF FILING VACANCIES

1. Vacancies for Confidential and Management classes shall be filled in the following order:
 - a. Approved transfer (same classification).
 - b. Reinstatement from layoff.
 - c. Return from medical leave.
 - d. Return from non-medical leave.
 - e. Promotion, new hire or temporary assignment.

13.3 EXEMPTIONS (Added 5/3/2023)

- (a) Appointments to positions in the following classifications shall be exempt from the recruitment process in Sections 13.1 and 13.2:
 - (1) Executive Officer/Air Pollution Control Officer;
 - (2) District Counsel;
 - (3) Chief Operating Officer;
 - (4) Deputy Executive Officer;
 - (5) Senior Assistant Counsel.
- (b) Appointments to the classifications listed in subsection (a), above, need not include a competitive recruitment process and may be appointed directly by the appointing

authority listed in in Section III-3.3(c), subject to budgetary approval. Appointments to these classifications may be made at any salary step, notwithstanding any limitations in this Code, including Sections III-6.2 or III-6.4.



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

PROPOSED

Bay Area Air Quality Management District

**Board of Directors
Rules of Procedure**

**For Consideration by the Board of Directors
at its meeting on November 15, 2023**

TABLE OF CONTENTS

	Page
SECTION 1. AUTHORITY FOR AND PURPOSE OF RULES	1
1.1 State Law.	1
1.2 Purpose.	1
1.3 Applicability.	1
1.4 Discrimination-Free Environment.	1
SECTION 2. MEETINGS AND ACTIONS, GENERALLY	1
2.1 Meetings to Be Public.....	1
2.2 Record of Proceedings.....	1
2.3 Air Pollution Control Officer (“APCO”).....	2
2.4 General Counsel.....	2
2.5 Rosenberg’s Rules of Order.....	2
2.6 Written Correspondence.	2
2.7 Suspension of Rules.....	2
2.8 Amendment of Rules.	2
SECTION 3. TYPES OF MEETINGS.....	2
3.1 Regular Meetings.....	2
3.2 Special Meetings.....	2
3.3 Emergency Meetings.	3
3.4 Adjourned Meetings.	3
3.5 Closed Sessions.	3
3.6 Disclosure of Information from Closed Session.....	3
3.7 Cancellations.....	4
SECTION 4. AGENDAS AND ORDER OF BUSINESS	4
4.1 Agenda.....	4
4.2 Agenda posting, agenda packets.....	4
4.3 Order of Business.	4
4.4 Change to the Order of Business.	5
4.5 Consent Agenda.....	5
4.6 Discussion of Items Not on the Agenda Prohibited.....	5
4.7 Exceptions for Considering Items Not on the Agenda.	5
SECTION 5. CONDUCT OF MEETINGS.....	6

TABLE OF CONTENTS (CONTINUED)

	Page
5.1 Call to Order.....	6
5.2 Preservation of Order.....	6
5.3 Points of Order.....	6
5.4 Procedure for Board Consideration of Agenda Items.....	6
5.5. Hearings When Board sits as a Quasi-Adjudicatory Body.....	7
SECTION 6. VOTING PROCEDURE.....	8
6.1 Voting Procedure.....	8
6.2. Announce Vote.....	8
6.3 Reconsideration.....	8
6.4 Conflict of Interest.....	8
SECTION 7. PUBLIC PARTICIPATION.....	8
7.1 Conditions of Attendance.....	8
7.2 Public Comment at Meetings.....	9
(a) Public Comment Requirements.....	9
(b) Manner of Addressing the District Board.....	9
(c) Public Comment Rules.....	9
(1) Time Limits.....	9
(2) Time Limits for Those Using a Translator.....	9
(3) Public’s Right to Criticize.....	9
7.3 Removal of Disruptive Individuals.....	10
(a) Threat of Force.....	10
(b) Disruptive Conduct.....	10
7.4 Disruptive Discriminatory or Harassing Remarks.....	10
7.5 Disruptions by Groups of People.....	11
SECTION EIGHT. BOARD OF DIRECTORS CODE OF CONDUCT.....	11
8.1 Code of Conduct Generally.....	11
8.2 Conduct at Meetings of the Board of Directors.....	11
8.3 Violations of the Code of Conduct.....	12
(a) Censure.....	12
(b) Express Disapproval.....	12
(c) Removal of Officer.....	12

TABLE OF CONTENTS (CONTINUED)

	Page
(d) Removal from Committee.....	12
(e) Inform Appointing Authority.....	12

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

BOARD OF DIRECTORS RULES OF PROCEDURE

SECTION 1. AUTHORITY FOR AND PURPOSE OF RULES

1.1 State Law.

The Board of Directors serves as the governing body of the Bay Area Air Quality Management District (“Air District”). (Health & Safety Code §§ 13840, 40220.) These rules govern the procedures for meetings of the Board of Directors.

1.2 Purpose.

These Rules of Procedure are intended to ensure that the Board of Directors can attend to business efficiently, fairly, with full participation of the Directors, while ensuring that members of the public are provided with an equal opportunity to observe and make public comments at Board meetings.

1.3 Applicability.

These Rules of Procedure govern meetings and conduct of the Board of Directors, and of committees of the Board of Directors to the extent the Rules are, by their nature, applicable to those committees. To the extent that any provision of the Air District Administrative Code or provision of state law conflicts with these Rules of Procedure, the Administrative Code or state law shall govern.

1.4 Discrimination-Free Environment.

As set forth more fully in the Air District’s Non-Discrimination Policy, the Air District is committed to maintaining a professional work environment, including at meetings of the Board of Directors and its Committees, that is free from discrimination and harassment, including but not limited to discrimination and harassment based on a protected category. The Non-Discrimination policy is designed to encourage professional and respectful behavior and to prevent discriminatory and harassing conduct in the workplace.

SECTION 2. MEETINGS AND ACTIONS, GENERALLY

2.1 Meetings to Be Public.

All meetings of the Board of Directors shall be open to the public, except that the Board may meet in closed session as permitted under the Ralph M. Brown Act (“Brown Act”). (Govt. Code §§ 54950 et seq.)

2.2 Record of Proceedings.

The Clerk of the Boards shall attend all meetings and keep a written account (“minutes”) of acts of the Board of Directors at all public portions of the meetings of the Board, and those minutes

shall be permanently retained pursuant to the Air District's Records Management and Retention Policy. The Clerk shall include the names of the Directors present in the minutes. The names of the Directors who arrive after the roll call, and the times of their arrivals, shall be noted in the minutes at the stage of the proceedings during which they arrived.

2.3 Air Pollution Control Officer ("APCO").

The APCO, or their designee, shall attend all meetings of the Board of Directors.

2.4 General Counsel.

The General Counsel for the Air District, or their designee, shall attend all meetings of the Board of Directors unless excused and shall, upon request of the presiding officer, give an opinion, either written or oral, on questions of law.

2.5 Rosenberg's Rules of Order.

In the absence of a rule herein to govern a point or procedure, and in absence of any controlling provision in the Air District Administrative Code or other legal authority, Rosenberg's Rules of Order shall be used as a guide.

2.6 Written Correspondence.

The Clerk of the Boards shall furnish to the Board of Directors and to the APCO a synopsis of communications received for consideration by the Board up to twenty-four (24) hours prior to the time scheduled for a Board meeting.

2.7 Suspension of Rules.

The Board of Directors may, by affirmative vote of a majority of the Directors present at a meeting, suspend any provision of these rules not governed by state law or the Air District Administrative Code.

2.8 Amendment of Rules.

The Board of Directors may amend these rules by resolution adopted by a majority vote of the Board.

SECTION 3. TYPES OF MEETINGS.

3.1 Regular Meetings.

Regular meetings of the Board of Directors are held as specified in the Air District Administrative Code.

3.2 Special Meetings.

A special meeting is a meeting held at a time or place that is different from the regular time or place of regular meetings. The Chairperson, in consultation with the APCO, or the Board of

Directors by a majority vote, may call for a special meeting. The notice and agenda for a special meeting shall specify the day, the hour, and the location of the special meeting and shall include an agenda of the items to be considered. Notice shall be provided to any local newspaper and radio or television station that has requested in writing to receive notice and shall be posted on the Air District website. No special meeting shall be held unless it complies with the twenty-four (24) hour minimum notice requirements set forth in the Brown Act. (Govt. Code § 54956.)

3.3 Emergency Meetings.

The Board of Directors may hold an emergency meeting if a majority of the members of the Board find that a work stoppage, crippling activity, or other activity severely impairs public health, safety, or both. In doing so, the Air District must comply with the notice and minutes requirements provided in Government Code section 54956.5.

3.4 Adjourned Meetings.

When the Board of Directors wishes to continue a regular or special meeting to a later date, the Board may, by majority vote, adjourn the meeting and continue it to a definite later time. The subsequent meeting is an “adjourned meeting.” Any meeting of the Board of Directors may be adjourned to a later date and time. The Clerk of the Boards shall provide notice of an adjourned meeting in the same manner required for a special meeting. A copy of the notice of adjournment shall be posted on or near the door of the place where the meeting was held within 2 hours of adjournment. If the adjourned meeting occurs more than five days after the meeting that was continued, a new agenda for the adjourned meeting shall be posted 72 hours in advance of the adjourned meeting. When a regular meeting is adjourned, the adjourned meeting is conducted in the same way as a regular meeting. (Govt. Code § 54955.)

3.5 Closed Sessions.

The Board of Directors may meet in closed session only as permitted by the Brown Act. Closed sessions shall normally be scheduled at the end of the Board of Directors meetings, although the Board may hold closed sessions at other times during meetings as appropriate. Before entering into the closed session, the Board of Directors shall take public comment on the closed session agenda item(s). After the closed session, the Board shall report any action taken in closed session and the vote of each member on that action as required by Government Code section 54957.1.

3.6 Disclosure of Information from Closed Session.

Members of the Board of Directors and all other persons attending a closed session may not disclose confidential information acquired in a closed session to a person not authorized to receive it unless the Board of Directors votes to disclose that information. “Confidential information” means a communication made in a closed session that is specifically related to the basis for the Board of Directors to meet lawfully in closed session. (Govt. Code § 54963.)

3.7 Cancellations

The Chairperson, in consultation with the APCO, may cancel a meeting. The Clerk of the Boards shall post notice of the cancellation at the Air District's headquarters and on the Air District's website.

SECTION 4. AGENDAS AND ORDER OF BUSINESS

4.1 Agenda.

The Clerk of the Boards shall prepare the agenda for a meeting of the Board of Directors as directed by the APCO in consultation with the Chairperson. The Clerk of the Boards shall prepare the agenda for a meeting of a Board of Directors committee meeting as directed by the APCO in consultation with the Chairperson of the committee. The agenda shall list all items to be considered at the meeting, in the order stated in section 4.3, below. The agenda shall contain a brief general discussion of each item of business to be transacted or discussed at the meeting. Each agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation to participate in the public meeting. (Govt. Code §§ 54954, 54954.2.)

4.2 Agenda posting, agenda packets.

The agenda and any supporting documents shall be provided to members of the Board of Directors, posted at the Air District's headquarters, and posted on the Air District's website, at least 72 hours before a regular meeting and at least 24 hours before a special meeting, and shall be provided to anyone who has requested, in writing, to receive copies of the agenda.

In the case of a teleconference meeting pursuant to Government Code section 54953, agendas shall also be posted at all teleconference locations at least 72 hours before a regular meeting and at least 24 hours before a special meeting.

Any public documents provided to the Directors less than 72 hours before the meeting shall be placed on the Air District's website, if feasible, and be made available for review at the District Administrative Office. (Govt. Code §§ 54954.1, 54956, 54957.5.)

4.3 Order of Business.

To facilitate the orderly conduct of the business of the Air District Board of Directors, unless otherwise determined by the APCO and Chairperson, the meeting shall be conducted as follows:

1. CALL TO ORDER and ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. COMMENDATIONS AND PRESENTATIONS
4. CONSENT AGENDA

5. PUBLIC HEARINGS
6. ACTION ITEMS
7. INFORMATIONAL ITEMS
8. PUBLIC COMMENT ON NON-AGENDA ITEMS
9. BOARD MEMBER COMMENTS
10. CLOSED SESSION
11. ADJOURNMENT

4.4 Change to the Order of Business.

The presiding officer, or the Board of Directors upon a majority vote, may change the order of business as listed on the agenda for a meeting to facilitate the conduct of the meeting.

4.5 Consent Agenda.

Items of a routine or non-controversial nature may be placed on the Consent Agenda. The Board of Directors shall take public comment on the consent agenda items. All items may be approved by one blanket motion. Any Director may request that any item be withdrawn from the Consent Agenda for separate consideration.

4.6 Discussion of Items Not on the Agenda Prohibited.

Except as provided in section 4.7, the Board of Directors may not discuss, deliberate, or take action on any item not appearing on the agenda. A Director or staff member may briefly respond to statements made or questions posed by members of the public during public comment. A Director or staff member may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. A Director may provide a reference to the APCO or other resources for information, request that the APCO report back to the Board of Directors at a subsequent meeting concerning any matter, or request that a matter be placed on a future agenda for discussion. (Govt. Code § 54954.2(a)(3).)

4.7 Exceptions for Considering Items Not on the Agenda.

The Board of Directors may discuss or take action on an item not on the agenda only under the following circumstances, and only after publicly identifying the item and the basis for taking action:

1. Upon a determination by a majority vote of the Board of Directors that an emergency exists. For purposes of this section, an emergency is defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the Board of Directors.

2. Upon a determination by a two-thirds vote of the Board of Directors present at the meeting, or, if less than two-thirds of the Directors are present, a unanimous vote of those Directors present, that there is a need to take immediate action and that the need for action came to the attention of the Air District after the agenda was posted.
3. The item was posted for a prior meeting of the Board of Directors occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(Govt. Code § 54954.2 (b).)

SECTION 5. CONDUCT OF MEETINGS.

5.1 Call to Order.

The Chairperson shall preside over meetings of the Board of Directors and shall commence each meeting by calling the meeting to order. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of both officers, the Clerk of the Boards shall call the meeting to order. The Directors present shall then, by majority vote of those present, appoint a temporary presiding officer. Upon arrival of the Chairperson or Vice-Chairperson, the temporary presiding officer shall relinquish the chair immediately.

5.2 Preservation of Order.

The presiding officer shall preserve order and decorum and shall confine the debate to the question under discussion. The presiding officer, in the interest of efficiently completing the business of the Board of Directors, may limit the time allotted to Directors to speak and debate, provided that each Director has an equal opportunity to speak on the issue.

5.3 Points of Order.

Directors may raise points of order and questions of privilege, including points of information or clarification. The presiding officer shall determine all points of order, subject to the right of any Director to appeal to the Board of Directors.

5.4 Procedure for Board Consideration of Agenda Items.

The presiding officer shall lead the Board of Directors in consideration of each agenda item according to the following procedure. The presiding officer may adjust the procedure to facilitate efficient consideration of the item.

1. The presiding officer shall call the item.
2. The APCO, the APCO's designee, and/or an invited expert shall provide a report on the item.

3. The presiding officer shall provide an opportunity for Directors to ask questions of staff or an invited expert.
4. The presiding officer shall provide an opportunity for members of the public to provide comments.
5. If the item is an action item, the presiding officer shall entertain a motion and a second on the item.
6. The presiding officer shall provide an opportunity for discussion and deliberation by the Board of Directors and, if the item is an action item, a vote on the pending motion.

5.5. Hearings When Board sits as a Quasi-Adjudicatory Body.

If the Board of Directors is acting in a quasi-adjudicatory capacity, the hearing shall be conducted in the following manner:

1. The Directors disclose any ex parte communications.
2. Staff report.
3. Directors ask questions of staff.
4. The presiding officer then opens the public portion of the hearing.
5. Presentation by appellant/applicant (10 minutes).
6. Directors question appellant, applicant and/or staff.
7. Public comment.
8. Rebuttal by staff (5 minutes).
9. Rebuttal by appellant/applicant (5 minutes)
10. Final Board questions of appellant/applicant.
11. Final Board questions of staff.
12. Presiding officer closes the public portion of hearing.
13. Board discusses, deliberates, makes findings, and takes final action by motion.

At any hearing before the Board sitting as the Board of Appeal, the Board may require that parties and their representatives and witnesses testify under oath.

SECTION 6. VOTING PROCEDURE.

6.1 Voting Procedure.

When meetings are held using teleconferencing, the Clerk shall call for a roll call vote on each action. When meetings occur without teleconferencing, a vote may be taken by roll call vote or other method, provided that each Director casts a vote or indicates their abstention, and the Clerk of the Boards or presiding officer can state the number of votes for and opposed and the number of abstentions. A Director must vote for or against or abstain on each item. If a Director is recused from voting on a matter due to a conflict of interest, the Director must comply with section 6.4, below.

(Govt. Code § 54953(b)(2).)

6.2. Announce Vote.

The presiding officer or Clerk of the Boards shall publicly report any action taken and the vote or abstention on that action of each member present for the action. (Govt. Code § 54953.)

6.3 Reconsideration.

Any Director who voted with the majority on an action may move for reconsideration of that action at the same meeting. After a motion for reconsideration has been acted upon, no other motion for reconsideration of that action shall be made without unanimous consent of the Board of Directors.

6.4 Conflict of Interest.

All Directors are subject to the provisions of Government Code section 1090 *et seq.*, the Political Reform Act (Government Code section 87100 *et seq.*), and applicable regulations regarding conflicts of interest. Any Director prevented from voting on a matter because of a conflict of interest or a declared financial interest shall identify the conflict, leave the dais, refrain from discussion, debate and voting on that matter.

SECTION 7. PUBLIC PARTICIPATION.

7.1 Conditions of Attendance.

(a) The Air District may not require a member of the public to provide their name or other information or to complete a questionnaire as a condition for attending or speaking at a Board of Directors or Board committee meeting. Any attendance list, questionnaire, or other document circulated at a meeting must state clearly that signing or completing the document is optional.

(b) No attendee of a Board of Directors meeting, at any meeting site or virtually, shall engage in conduct that disrupts the orderly conduct of the meeting, including but not limited to using loud or threatening language, whistling, clapping, stamping feet, or speaking over or interrupting the recognized speaker.

(Govt. Code §§ 54953.3; 54954.3(b)(1).)

7.2 Public Comment at Meetings.

(a) Public Comment Requirements.

Each agenda for a regular meeting shall provide for public comment on any matter within the subject matter jurisdiction of the Air District. At every regular and special meeting, the agenda shall provide an opportunity for members of the public to directly address the Board of Directors on each item on the agenda, before or during the Board's consideration of the item.

(b) Manner of Addressing the District Board.

A member of the public wishing to address the Board of Directors shall wait to be recognized by the presiding officer. Once recognized, the person shall direct their remarks to the Chairperson and not to any individual Board member, employee, or other person.

(c) Public Comment Rules.

(1) Time Limits

The presiding officer or the Board of Directors, upon majority vote, may reasonably limit the total amount of time allocated for public comment on particular items and may limit the time for each individual speaker. Members of the public who wish to speak on an item on the agenda for a meeting, or who wish to speak on non-agenda matters, shall be allowed two minutes each to address the Board on that item, unless a different time limit is established by the Chairperson for that item.

(2) Time Limits for Those Using a Translator

If a member of the public uses a translator when making public comment, the Board of Directors shall allow that person at least twice the amount of time otherwise allowed for public comment on that item.

(3) Public's Right to Criticize.

The Board of Directors shall not prohibit public criticism of the policies, procedures, programs, or services of the Air District, or of the acts or omissions of the Board.

(Govt. Code § 54954.3.)

7.3 Removal of Disruptive Individuals.

(a) Threat of Force

The presiding officer may order an individual to be removed from a Board of Directors meeting when the individual is engaging in behavior that constitutes use of force or a "true threat of force," meaning a threat that has sufficient indicia of intent and seriousness that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(b) Disruptive Conduct

(1) The presiding officer may order an individual to be removed from a Board of Directors meeting when the individual is engaging in behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting, which may include but is not limited to failing to comply with these Rules of Procedure.

(2) Continued use of loud, threatening, profane, or abusive language or discriminatory or harassing remarks after a warning from the presiding officer impedes the orderly conduct of the meeting because it interferes with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from Air District business, chilling public participation, interfering with the ability of those present to listen and understand the business and proceedings of the Air District, and may constitute or contribute to employment discrimination. "Discriminatory or harassing remarks" is speech, the content of which may be legally protected, at a Board of Directors meeting that disparages an individual or group based on a protected class or violates the Air District's Non-Discrimination Policy.

(3) Prior to ordering the removal of the individual for disruptive conduct, the presiding officer shall warn the individual that their behavior is disrupting the meeting and shall follow the procedures in Section 7.4 below if applicable.

7.4 Disruptive Discriminatory or Harassing Remarks.

When a person makes discriminatory or harassing remarks, as defined in Section 7.3(b)(2), that disrupts, disturbs, impedes, or renders infeasible the orderly conduct of a meeting, the presiding officer shall take the following actions:

(a) The presiding officer shall stop the speaker and read the relevant portions of the Air District's Non-Discrimination Policy. The presiding officer shall state that the Air District does not condone comments in violation of the Air District's Policy and that the speaker's language is unwanted and unwelcome and impedes the orderly conduct of the meeting by interfering with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from Air District business, chilling public participation, interfering with the ability of those present to listen and understand the business and proceedings of the Air District, and may constitute or contribute to employment discrimination.

(b) The presiding officer shall state that any Air District employee present may be excused from attendance at the meeting during the speaker's remarks.

(c) The presiding officer shall hold the speaker's time and the speaker may resume speaking after the presiding officer's admonishment, unless the speaker's comments continue to disrupt, disturb, or impede the orderly conduct of the meeting. If the speaker continues to disrupt, disturb, or impede the orderly conduct of the meeting, the presiding officer may prohibit the speaker from further commenting or may order the speaker to be removed from the meeting.

(d) After the end of the speaker's comments, any Director may make a brief response to such comments, if desired.

(Govt. Code § 54957.95.)

7.5 Disruptions by Groups of People.

If a meeting is willfully disrupted by a group of people so as to render the orderly conduct of the meeting unfeasible, the presiding officer shall first attempt to maintain order. If unsuccessful, the presiding officer may call a recess, adjourn the meeting to another date, or order the removal of the people disrupting the meeting. If order is not restored by removing the people disrupting the meeting, the presiding officer may order the meeting room cleared and continue holding the meeting. Representatives of the media, except those participating in the disturbance, shall be allowed to continue attending the meeting. (Govt. Code § 54957.9.)

SECTION EIGHT. BOARD OF DIRECTORS CODE OF CONDUCT.

8.1 Code of Conduct Generally.

Members of the Board of Directors shall accord the utmost courtesy to each other, to Air District employees, and to the public appearing before them, and they shall always refrain from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities. Directors shall comply with the requirements of Administrative Code section 2.9 and not engage in interference in administrative affairs.

8.2 Conduct at Meetings of the Board of Directors

Members of the Board of Directors shall practice and promote civility and decorum in discussions and debate. Directors shall honor and support the role of the presiding officer in maintaining order and equity and the presiding officer's efforts to focus discussion on current agenda items. Each Director shall be given an equal opportunity to speak on each item of business at Board meetings. The presiding officer shall not influence, interfere with, or otherwise guide discussion in such a way as to prejudice the proceedings.

Upon taking an action, the will of the majority of the Board of Directors shall prevail. Each Director shall be responsible for and obligated to respect and uphold the action regardless of their individual opinion on the subject matter. A Director may express a personal view, so long as the Director makes clear that their view is not the position of the Board of Directors.

8.3 Violations of the Code of Conduct

If the Board of Directors determines that a Director has violated the Air District Administrative Code, these Rules of Procedure, or any other policy approved by the Board of Directors, the Board, may, in addition to any remedy permitted under state law, take any or all of the following actions.

- (a) Censure

The Board of Directors may adopt a resolution that censures the Director.

- (b) Express Disapproval

The Board of Directors may adopt a resolution that does not censure the Director, but still expresses the Board's disapproval of the Director's conduct or acknowledges that the Director violated the Administrative Code, Rule, or policy.

(c) Removal of Officer

If the Director serves as an officer, the Board of Directors may, as provided in the Air District Administrative Code section 2.8, upon a two-thirds vote, remove the Director from their officer position.

(d) Removal from Committee

The Board of Directors may direct the Chairperson to remove the Director from any or all committees upon which the Director serves.

(e) Inform Appointing Authority

The Board of Directors may direct the Chairperson to inform the Director's appointing authority of the Board's action relating to the Director.

Bay Area Air Quality Management District
Remote Teleconferencing Meeting Policy

This Remote Teleconferencing Meeting Policy is established by the Board of Directors of the Bay Area Air Quality Management District to provide meeting flexibility for members and the public while also reducing transportation related emissions and greenhouse gases.

This Policy affirms the rules by which Air District Remote Teleconferencing locations can be used by Standing Committees to ensure they fulfill Ralph M. Brown Act requirements and conform to requirements adopted by the Board of Directors.

Any member of the Board of Directors who wishes to host a remote teleconferencing location for a Standing Committee meeting must comply with the following requirements:

1. Board members and their staff are required to receive mandatory training at least once per year with the Air District Executive Office prior to hosting a remote teleconferencing meeting.
2. Board members are required to designate at least two staff members as on-site points of contact for each meeting with the ability to connect on Wi-Fi, access the Zoom platform, re-establish a connection via speakerphone if Wi-Fi goes out, and to provide technical assistance to attendees.
3. At least 72 hours prior to the start of the meeting, Board members or their staff are required to:
 - a. Post the Committee meeting agenda in a publicly accessible location that is open to the public 24 hours a day in accordance with Brown Act requirements; and
 - b. Email a photo of the posted agenda to the Manager of the Executive Office.
4. If the posting of the agenda at a remote teleconferencing location did not meet the 72-hour notice requirement, Board members may not participate in the meeting from that location, but the location must still be open to the public in accordance with all other provisions of this Policy.
5. Each remote meeting location must be open to the public throughout the entirety of the Committee meeting and must comply with all ADA accessibility requirements. It is strongly recommended that remote teleconferencing locations be opened to the public 30 minutes before the scheduled start of the meeting but, at a minimum, the location must be opened no less than 10 minutes before the scheduled start of the meeting.
6. Board members must submit requests to host a remote teleconferencing location by email to the Manager of the Executive Office, with a copy to the Executive Officer/APCO, a minimum of 8 days prior to the meeting.
7. To cancel a request to host a remote teleconferencing location, Board members must notify the Manager of the Executive Office by email, with a copy to the Executive Officer/APCO, a minimum of 8 days prior to the meeting to ensure that the location is

removed from the agenda before it is circulated and made available to the public. If the cancellation is not timely and the published agenda includes the location, the location must be open to the public in accordance with all other provisions of this Policy, even if the Board member who originally requested the location will not be present at that location.

8. Committee Chairs and Vice Chairs are required to attend the Committee meeting in-person at the Beale Street location. In the event that neither a Chair nor Vice Chair is able to attend a meeting at the Beale Street location but is attending remotely, the Committee Chair may designate another member of the Committee who is present at the Beale Street location to serve as Presiding Officer for the meeting. In the event that nobody is present at the Beale Street location but a quorum of the Committee is present at other locations, the meeting shall be chaired remotely.
9. The only location that can be used for Standing Committee meetings in San Francisco is the Air District's Beale Street location.
10. Security shall be provided at remote teleconferencing locations in a manner consistent with existing security policies at those locations. In the event that special circumstances may arise requiring additional security, Board members requesting to host remote teleconferencing locations and/or staff at those locations will confer with the Chair and Vice Chair of the Committee and Air District staff about any special arrangements that may be required to facilitate an effective meeting.
11. Board members must sign a written agreement committing to complying with all requirements established by the Board of Directors in this Remote Teleconferencing Meeting Policy.

This policy may be reviewed by the Finance and Administration Committee periodically including the addition of procedures to address violations of the policy. The Committee may make recommendations to the Board of Directors to update or revise this policy as necessary to ensure the work of the Air District continues and statutory deadlines are met.

BAY AREA AIR QUALITY MANAGEMENT

**MEETING COMPENSATION AND EXPENSE REIMBURSEMENT POLICY
FOR MEMBERS OF THE BOARD OF DIRECTORS, COMMUNITY ADVISORY
COUNCIL, ADVISORY COUNCIL, AND HEARING BOARD**

This Meeting Compensation and Expense Reimbursement Policy (“Policy”) is established by the Board of Directors of the Bay Area Air Quality Management District (“Air District”) to provide a single, common policy to govern compensation and expense reimbursement for members of the Air District’s legislative bodies. This Policy will promote consistency and ease of use by the members of these bodies and by Air District staff who administer compensation and expense reimbursement for these bodies.

This Policy governs compensation and expense reimbursement for members of the Air District’s Board of Directors, Community Advisory Council (“CAC”), Advisory Council, and Hearing Board. As used herein, “Member” refers generically to all members of any of these legislative bodies. Where it is necessary to refer to the members of a body specifically, they are referred to as “Board of Directors member,” “CAC member,” “Advisory Council member,” and “Hearing Board member”, respectively.

The first section of this Policy addresses the types of meetings for which Members are entitled to claim compensation and expenses. It also provides the procedures by which Members must obtain prior authorization to attend such meetings, for meetings where such authorization is required. Given the difference among the legislative bodies governed by this Policy, the policies and procedures regarding approved meeting attendance vary somewhat among the four bodies.

The second section of this Policy addresses the types of actual and necessary expenses for which Members are entitled to reimbursement in connection with approved meeting attendance. These policies and procedures are the same for all Members of all four legislative bodies.

**Section One: Authorized Meetings for Which Members Can
Claim Compensation and Expenses**

Pursuant to the Air District’s Administrative Code and relevant provisions of California law, it is the policy of the Bay Area Air Quality Management that Members of the Air District’s Board of Directors, Community Advisory Council, Advisory Council, and Hearing Board are entitled to receive compensation for meeting attendance at the rates set forth in the Administrative Code. Compensation for meeting attendance is intended to compensate Members for the time they spend preparing for, traveling to, and attending meetings on behalf of the Air District. Providing compensation for Members’ time spent on this work recognizes the value of the important work that Members perform on behalf of the public in furthering the Air District’s mission.

DRAFT Meeting Compensation & Expense Reimbursement Policy – November 2023

The Air District’s policies for the types of meetings for which Members are eligible for compensation are set forth below for each of the four legislative bodies governed by this Policy.

1.1 Board of Directors

1.1.1 Board and Committee Meetings

Members of the Board of Directors are entitled to compensation and expense reimbursement for attendance at all meetings of the Board of Directors and of the Board’s standing and ad hoc committees, without any need for prior approval. As provided in Section 2.9(c) of the Administrative Code, in order for members to be eligible for compensation for meetings of the Board and Board committees, they must arrive for the meeting no later than 30 minutes after the scheduled beginning of the meeting and must be present for at least three quarters ($\frac{3}{4}$) of the total meeting time, including closed session time.

1.1.2 CARB Representative Attendance at CARB Meetings

As provided for under Health & Safety Code section 39512.5, a member of the Board of Directors who is appointed to serve on the California Air Resources Board pursuant to Health & Safety Code section 39510(d)(2) is entitled to expense reimbursement for attending official meetings of the California Air Resources Board (including meetings of its committees, advisory groups, and other bodies that constitute “state bodies” under California Government Code section 11121 of which they are a member); and if the member is an elected public official, they are also authorized by the Board of Directors to receive one hundred dollars (\$100) for each day, or portion thereof, spent attending such meetings, not to exceed one thousand dollars (\$1,000) in any month.

1.1.3 Other Meetings

For meetings other than Board, Board committee and California Air Resources Board meetings authorized under Sections 1.1.1 and 1.1.2 above, in order to be entitled to compensation and expense reimbursement, a Board member’s attendance at the meeting must be (i) recommended by the APCO and (ii) authorized by the Board of Directors. For all in-state meetings, the Chairperson is delegated the power to authorize Board member attendance on behalf of the Board of Directors. For all out-of-state meetings, including international travel to meetings in other countries, the full Board of Directors must vote to authorize Board member travel. Board members must obtain authorization prior to travel, except in the case of an unexpected or urgent need to travel, in which case a Board Member may obtain the approval of the Chair, in writing, before any travel expenditures are incurred. Such approval must be reported to and ratified by the Board of Directors at the Board’s next meeting.

The Board of Directors (or Chairperson on the Board’s behalf) may authorize attendance by Board members only for meetings that are related to the Air District’s mission and where attendance by the Board member will further that mission. The types of meeting attendance that may be authorized under this Policy include (but are not limited to):

DRAFT Meeting Compensation & Expense Reimbursement Policy – November 2023

- Attending meetings with local representatives in Sacramento or Washington DC 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.
- Attending the annual COP Climate Conference 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.)

For out-of-state and international travel to attend conferences, conventions, legislative advocacy trips and other compensable and reimbursable meetings covered by this Policy, the Chairperson shall nominate Board members to attend such events for approval by the Board of Directors. In making such nominations, the Chairperson shall solicit the interest of Board Members and consult with the Executive Officer/Air Pollution Control Officer (“APCO”) and any other relevant Air District staff to ensure compliance with this Policy.

The Chairperson and Vice-Chairperson 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 Board Members may be selected for travel, or who shall represent Air District in the stead of the Chairperson and Vice-Chairperson, the Chairperson shall consider, at a minimum, all the following:

- The history of attendance and participation by Board members at regular Air District Board and Committee meetings.
- The length of service on the Board by a Board member.
- The prior opportunities to travel and represent Air District by Board members.
- The relevance or appropriateness of Board members’ committee assignments to the nature and purpose for the travel.
- Opportunities for the professional growth or development of new Board members.
- The relevance and purpose of a meeting or agenda to the home jurisdiction of Board members.
- Equitable considerations that would elevate or include the voices of marginalized members of the Bay Area.

Additionally, the Chairperson shall have the authority to recommend non-Board-members for inclusion in Air-District-related travel. In making such a recommendation, the Chairperson shall demonstrate how and why the recommendation fulfills the mission of Air District and is consistent with the goals of the Board of Directors and the agency.

Any Board member authorized to travel on behalf of Air District pursuant to this section shall provide a brief written report on their travel on the Travel Report Back Form. The

Chairperson of the Board may also request that Board members who represent the Air District at meetings, conferences, or other events provide an oral report on their participation and experience to the Board of Directors.

1.1.4 Active Transportation Travel

As provided for in Section 2.9(d) of the Administrative Code, Board of Directors members are entitled to compensation for active transportation travel to and from authorized meetings. Payments under this provision for active transportation travel is compensation, not a reimbursement for travel expenses.

1.1.5 Annual Limit on Compensation

Under California law and Section 2.9(c) of the Administrative Code, Board members are subject to a limit of \$6,000 per year in total combined compensation for meeting attendance of all types under this Section 1.1 (excluding any payments to the Air District's representative to the California Air Resources Board under Section 1.1.2).

1.2 Community Advisory Council

1.2.1 CAC Meetings

CAC members are eligible to 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)¹ 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 ten (10) hours.

1.2.2 Co-Chair Meetings, Ad-Hoc and Standing 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 seventy-five dollars (\$75) per hour² to attend Co-Chairs meetings. The

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

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

DRAFT Meeting Compensation & Expense Reimbursement Policy – November 2023

maximum number of hours per month to attend Co-Chair meetings is four (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 exceed six (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 \$37.50.

1.2.3 Other CAC Member Activities

Every fiscal year, each CAC member can apply for up to one thousand dollars (\$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 is 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 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 roll over to the next fiscal year. This funding is only available to the CAC during the first nine (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.

1.2.4 Other Meetings on Behalf of the Air District

CAC members are eligible for compensation and expense reimbursement for attending other conferences, conventions, and similar meetings if (i) the meeting is directly related to the mission of the Air District and consistent with the purpose of the CAC; (ii) the CAC Member is attending as a representative of the Air District; and (iii) the CAC member has received

DRAFT Meeting Compensation & Expense Reimbursement Policy – November 2023

preapproval pursuant to this Section 1.2.4. For in-state meetings, the designated CAC Co-Chair, in agreement with the APCO, may authorize CAC member attendance on behalf of the Air District. For all out-of-state meetings, including international travel to meetings in other countries, the Community, Equity, Health and Justice Committee must authorize CAC member travel. CAC members must obtain authorization prior to travel, except in the case of an unexpected or urgent need to travel, in which case a CAC member may obtain the approval of the designated CAC Co-Chair and the APCO, in writing, before any travel-related expenditures are incurred. Such approval must be reported to and ratified by the Community, Equity, Health and Justice Committee at that Committee's next meeting.

Meeting attendance may be authorized under this Section 1.2.4 only for meetings that are related to the Air District's mission and consistent with the purpose of the CAC and where attendance of the CAC member will further that mission.

For out-of-state and international travel to attend conferences, conventions, and other compensable and reimbursable meetings covered by this this Section 1.2.4, the CAC Chair/Co-Chairs shall nominate CAC members to attend such events for approval by the Community Equity, Health, and Justice Committee. In making such nominations, the CAC Chair/Co-Chairs shall solicit the interest of CAC Members and consult with the Executive Officer 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 attendance, 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.

Any CAC Member authorized to attend a meeting(s) on behalf of the Air District pursuant to this section shall provide the CAC with a brief, written report on their travel on the Travel Report Back Form. Any Co-Chair may also request that a CAC member who represents the Air District at a meeting, conference, or other event provide an oral report on their participation and experience to the full CAC at the bi-monthly meeting following the CAC member's return.

1.3 Advisory Council

1.3.1 Advisory Council Meetings

Members of the Advisory Council are entitled to compensation and expense reimbursement for attendance at all Advisory Council meetings.

1.3.2 Other Meetings

Members of the Advisory Council are entitled to compensation and expense reimbursement for attendance as a representative of the Council at technical conferences and similar meetings directly related to the work of the Council if and only if authorized in advance by the Board of Directors. Any Advisory Council member authorized to attend such a meeting as a representative of the Council pursuant to this section shall provide a brief, written report of the meeting to the Board of Directors and Advisory Council on the Travel Report Back Form. The Chairpersons of the Board of Directors and Advisory Council may also request that a Council member who attends such a meeting as a representative of the Advisory Council provide an oral report on their participation and experience to the Board of Directors or Advisory Council, respectively.

1.4 Hearing Board

1.4.1 Hearing Board Hearings and Meetings

Hearing Board members are entitled to compensation and expense reimbursement for attendance at hearings and other meetings of the Hearing Board.

1.4.2 Other Meetings

Hearing Board members are entitled to compensation and expense reimbursement for attendance at meetings of the Board of Directors or Advisory Council as a representative of the Hearing Board when their attendance is requested by the Board of Directors or Advisory Council.

Section Two: Procedures for Claiming Reimbursement for Actual and Necessary Expenses Incurred in Connection with Meeting Attendance

It is the policy of the Bay Area Air Quality Management that Members of the Air District’s Board of Directors, Community Advisory Council, Advisory Council, and Hearing Board are entitled to receive reimbursement for actual and necessary expenditures incurred in connection with the performance of their official duties for the Air District, as provided for in the Air District Administrative Code and by state law. The guiding principle of this policy is that travel and other expenditures incurred by Members while working on behalf of the Air District and its boards and councils must be in the public interest. Pursuant to California Government Code section 53232.2, this Expense Reimbursement Policy establishes guidelines for expenditures authorized as business travel expenditures and other business expenditures and incurred by Members in the course of their duties.

2.1 General Procedures and Responsibilities

Members are entitled to reimbursement for actual and necessary travel and other expenses under this Policy only for justified business travel in connection with attending meetings authorized under Section I above.

Members will be entitled to reimbursement for all actual 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 2.9 below. Actual receipts are almost always required except where otherwise stated in this Policy.

When a Member combines business and personal travel on a business trip, the Member will be responsible for the additional charges related to the personal travel. Only the 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 another individual traveling with the 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 that is subsequently refunded to the Member by a third party must be repaid to the Air District within 30 calendar days of receipt of the refund.

Only the APCO can override and approve specific cost items that would otherwise be ineligible for reimbursement under this Policy, and only when it is in the best interests of the Air District to do so. Any reimbursement of an expenditure that requires the waiver of any provision of this Policy by the APCO must be reported for informational purposes to the authority responsible for approving the Member’s meeting attendance pursuant to Section I of this Policy.

Expense reimbursement documents will be audited from time to time and are public records subject to disclosure under the California Public Records Act.

2.2 Air Travel

Members flying on Air District business for which they will seek reimbursement 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 possible cost that 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 Member purchases a first- or business-class ticket, they will be eligible for reimbursement for the amount of 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 reimbursable, nor are upgrades to first or business class. If a Member purchases a first- or business-class ticket, they will be eligible for reimbursement for the lowest available “economy plus” fare only.

Members are entitled to reimbursement for regular baggage fees charged pursuant to applicable airline policy. Excess baggage charges will be reimbursed only when the Member is traveling with heavy or bulky materials or equipment necessary for the Air District business for which the travel is being undertaken.

2.3 Hotel Accommodations

When making hotel reservations, Members must use the approved Per Diem Rates for lodging published on the General Services Administration (GSA) website (www.gsa.gov) for the location of the stay plus 25%, to determine the maximum hotel accommodation expenditure that Air District will reimburse per night, plus any applicable taxes.

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 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 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 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.

2.4 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. 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, Air District will reimburse for a "Standard Class" size vehicle or alternative fuel vehicle, except when there are justifiable circumstances, such as group requirements, that make a larger vehicle necessary. Alternative fuel vehicles should be used when available, 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 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.

2.5 Event Registration Fees

If a Member obtains authorization as provided in Section One to attend a conference, convention, seminar, or similar event for which a registration fee is required, the Member is eligible for reimbursement of such registration fee(s).

2.6 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 or the Member's personal residence.

Multiple-Day Travel: For multiple-day travel, meals will be reimbursed at the lesser of:

DRAFT Meeting Compensation & Expense Reimbursement Policy – November 2023

- 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) for the location of the stay plus 25%. Note that separate rates are provided for Breakfast, Lunch and Dinner. For travel days where a 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 Air District, then no separate reimbursement is allowed for that meal. A Member who pays the bill for a meal attended by more than one 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 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.

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, including but not limited to meals unrelated to the Member's Air District business, movies, shows, etc., are not reimbursable expenditures.

2.7 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 APCO. 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.

2.8 Miscellaneous Travel Expenses

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

In-Flight Communications: In-flight phones and Wi-Fi 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 (e.g., a printout from the BART website showing the total fare for the trip taken). Members should apply prudent business judgment in determining the means of transportation to use.

Personal/Private Vehicle Usage: Members' use of a personal/private vehicle is reimbursable at the mileage rate established by the IRS, which can be found at 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. 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.

2.9 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 Air District travel
- First class airfare
- Interest incurred on credit cards

DRAFT Meeting Compensation & Expense Reimbursement Policy – November 2023

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.)

2.10 Forms

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

2.11 Receipts for Expenses

Members must submit vouchers or receipts for all necessary and incidental expenses over \$10.00 such as parking charges and fuel costs. Vouchers or receipts need not be presented for meal expenses and hotel accommodations.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RECORDS MANAGEMENT AND ACCESS POLICY

This Records Management and Access Policy establishes the procedures for how the Bay Area Air Quality Management District (“Air District”) will manage its records to ensure that records are identified, maintained and safeguarded pursuant to the Air District’s Records Retention Schedule, and are appropriately destroyed after their retention period has expired in accordance with all applicable legal requirements; and to ensure that records are made available to members of the public in an efficient, responsive and transparent manner. This policy is adopted in conformance with the requirements of Government Code sections 60200-60204, the Local Government Records Management Guidelines prepared by the Secretary of State pursuant to Government Code section 12168.7, and the California Public Records Act, Government Code sections 7920.000 *et seq.*

I. Records Management and Access Policy

It is the policy of the Air District to maintain and safeguard all records relating to the Air District’s work for appropriate periods of time to ensure that they are available for use by Air District staff and others involved in Air District business and are available for inspection by members of the public. It is the policy of the Air District to maintain and safeguard all such records in accordance with the Records Retention Schedule adopted by the Board of Directors.

To promote efficient and cost-effective recordkeeping, it is the policy of the Air District to reduce the number of records in active file areas, eliminate unnecessary retention of duplicate or obsolete documents, and provide for timely transfer of inactive files in compliance with applicable legal requirements and the provisions of this Policy. It is the policy of the Air District to keep records in electronic formats to the extent practicable and consistent with applicable legal requirements.

In addition, in keeping with the Air District’s commitment to full public transparency in all aspects of its work, it is the policy of the Air District that all records not exempt from disclosure by law shall be open for public inspection with the least possible delay and expense to the requesting party. Furthermore, unless otherwise prohibited by law or by specific provisions of this Policy, the District may authorize the disclosure of otherwise exempt records whenever the District determines that such disclosure would benefit the public interest.

The Air Pollution Control Officer (“APCO”) is authorized and directed by the Board of Directors to implement this Records Management and Access Policy and to ensure that all Air District staff comply with it.

II. Definitions

The following definitions shall apply to terms used in this Policy.

- A. “Official Record” means any document or other record defined as an official document or record in applicable statutes or in Air District business practices.
- B. “Public Record” means any writing containing information relating to the conduct of the Air District’s business prepared, owned, used, or retained by the Air District, regardless of physical form or characteristics.
- C. “Record” has the same definition as “writing” in Government Code section 7920.545 and means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.
- D. “Retention Period” means the length of time a record must be retained as specified in the current Record Retention Schedule as adopted by the Board of Directors pursuant to Government Code Section 60201.
- E. “Unusual Circumstances” means, to the extent reasonably necessary to the proper processing of a particular Public Records Act request, any of the following:
 - a. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
 - b. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
 - c. The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
 - d. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

III. Use of Electronic Recordkeeping

The Air District shall maintain records in electronic format to the extent feasible and reasonable. The Air District shall create, store and maintain all electronic official records, as defined in Section II.A. above, on a system that meets the requirements of Government Code Sections 12168.7 and 60203 and any standards adopted or recommended by the

California Secretary of State for such systems pursuant to Government Code Section 12168.7.

IV. Retention and Destruction of Records

A. Records Retention Schedule.

The Board of Directors has adopted a Records Retention Schedule pursuant to Government Code Section 60201 that classifies Air District records by category and establishes a Retention Period for each category. The Board of Directors shall review the Records Retention Schedule at least once every five (5) years, and at other appropriate times when a change in law or change in circumstances may impact the maintenance or disposal of Air District records, and shall revise the Records Retention Schedule whenever necessary.

B. Maintenance of Records.

The Air District shall maintain and preserve all Air District records according to the current version of the Records Retention Schedule adopted by the Board of Directors. Records shall be maintained in electronic format to the extent practical as provided for in Section III above.

C. Destruction of Records After End of Retention Period.

The Air District shall destroy records as soon as practicable after the end of the Retention Period specified in the Records Retention Schedule, unless:

- (1) There is a continuing need for the record, including but not limited to needs such as pending litigation, a Public Records Act request, or a special project; or
- (2) The record falls within one of the categories listed in Government Code Section 60201, subdivision (d).

When a record is destroyed pursuant to this Section IV.C., the Air District shall destroy all originals, photocopies, and copies stored in an electronic format. If the record contains confidential information, the Air District shall destroy it by shredding physical records, wiping electronically stored information, or other secure manner that ensures no confidential information will be preserved.

D. Preservation of Records Required to Be Maintained For Litigation.

In instances where the Air District is required to maintain records because of pending litigation or other similar reasons, the Office of the General Counsel will issue a Litigation Hold requiring all Air District staff to maintain certain documents or categories of documents that may be relevant to the litigation or otherwise required to be maintained. The Office of the General Counsel shall notify all Air District staff, Board members, contractors and others who may have documents covered by such a Litigation Hold and direct those persons not to destroy records covered by the

Litigation Hold, as well as any other relevant circumstances. Notwithstanding any other provision of this Policy, the Air District and its Board Members, employees, contractors, and agents shall not destroy any records if they are subject to a Litigation Hold issued by the Office of the General Counsel.

E. Destruction of Duplicated Records.

Pursuant to Government Code Section 60203, the Air District may destroy any record at any time provided that the record is not expressly required by law to be filed and preserved in the format or medium in which it exists, and that a duplicate record is maintained that satisfies the following requirements:

- (1) The record is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document.
- (2) The device used to reproduce the record is one that accurately reproduces the record in all details (including any metadata) and does not permit additions, deletions, or changes to the record being reproduced.
- (3) The duplicate record is maintained in a conveniently accessible file and provision is made for preserving, examining, and using the file.

V. Public Access to Air District Records

A. Submission of Public Records Act Requests.

Requests for Air District public records do not need to be in any particular form. However, for efficiency of processing, requestors are encouraged to submit requests through the Air District's public records portal at [Request Public Records \(baaqmd.gov\)](https://baaqmd.gov/request-public-records). Requests may also be submitted to Public Records Coordinator, Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA, 94105, publicrecords@baaqmd.gov.

B. Information Required in Public Records Act Requests.

Requests for Air District public records must be focused and specific and must reasonably describe an identifiable record or records with sufficient specificity to enable the Air District to determine what record or records are being sought. To ensure that requests provide sufficient specificity to enable the Air District to identify the record or records being sought, requestors are encouraged to provide as much information as possible regarding the information and/or documents they are seeking, including (as applicable) the name, address and plant number of the subject of the request, the date range for which records are being sought, and the types of records sought (e.g., complaints, violation notices, permit application files, etc.).

C. Providing Assistance to Requestors Seeking Air District Records.

The Air District's Public Records Coordinator shall assist requestors to the extent necessary to help the requestor make a focused and effective request that reasonably describes an identifiable record or records. To provide such assistance, the Public Records Coordinator shall make all reasonable efforts to assist the requestor to identify records and information that are responsive to the request or to the purpose of the request (if stated); shall describe the information technology and physical location in which the records exist; and shall provide suggestions for overcoming any practical basis for denying access to the records or information sought.

D. Responding to Public Records Act Requests

The Air District shall respond to all requests for records as expeditiously as possible, and in all cases within the timeframes required by the Public Records Act, as follows:

- a. Initial Response. No later than ten (10) calendar days following receipt of the request, the Public Records Coordinator shall notify the requestor whether the request seeks disclosable public records in the Air District's possession. If the request seeks disclosable public records in the Air District's possession, the notification shall state the estimated date and time when the records will be made available in accordance with Section V.D.c. below. If the request is received after 5:00 pm Pacific time or on a weekend or holiday, the Public Records Coordinator shall treat it as being received on the next business day. If the 10-day deadline falls on a weekend or holiday, the notification shall be provided no later than the next business day.
- b. Extension of Deadline for Initial Response. In unusual circumstances as defined in Section II.E. above, the Public Records Coordinator may extend the 10-day deadline for providing an initial response by written notice to the requestor stating the reasons for the extension and the date by which the initial response shall be provided, which shall be no longer than fourteen (14) days after the original 10-day deadline.
- c. Full Response. The Air District shall provide all disclosable public records requested as soon as the records can reasonably be collected, reviewed, and made ready for disclosure. In determining the timeframe for providing a response, the Air District shall balance the need to publicly disclose information in a timely manner with the need for the Air District to serve all other aspects of its statutorily mandated mission to create a healthy breathing environment for every Bay Area resident while protecting and improving public health, air quality, and the global climate. If the volume of records is significant, or would require a substantial diversion of staff time or resources from other important Air District business, responsive records shall be produced on a rolling basis, with partial productions occurring periodically from time to time until the response is completed. The Air District shall

endeavor to respond by the estimated date and time provided in the initial response pursuant to section V.D.a. above. However, if it becomes apparently that the Air District will not reasonable be able to respond by that initial estimate, the Public Records Coordinator shall notify the requestor as soon as possible that the records will not be ready by that estimated date and time and shall provide a revised estimate.

- d. **Providing Access to Requested Records.** The Air District shall respond to requests for disclosable public records by making the records available for inspection, or, to the extent practicable, by providing copies of the records. In lieu of providing copies or making the records available for inspection, the Air District may post the records on its website and direct the requestor to the location on the website where the records are posted (unless the requestor requests a copy of the records due to an inability to access or reproduce the records from the website, in which case the Public Records Coordinator shall promptly provide the requestor with a copy of the records).
- e. **Withholding or Redaction of Records Exempt From Disclosure.** The Air District shall withhold or redact information that is exempted or protected from disclosure under the Public Records Act, including but not limited to investigation files regarding ongoing investigations into suspected air quality violations, attorney work product and attorney-client privileged communications, deliberative process privileged materials and communications, confidential personnel records, personal identifying information regarding persons who submit air quality complaints, trade secrets and other confidential proprietary information as provided under Section VI below, and other records or information for which the public interest served by non-disclosure clearly outweighs the public interest served by disclosure. The Air District will segregate exempt information from any non-exempt information and will provide redacted records disclosing the non-exempt information, to the extent the non-exempt information is reasonably segregable from the exempt information.
- f. **Written Response if Records Are Withheld.** If the Air District's response to a Public Records Act request includes a determination that the request is denied, in whole or in part, the Air District shall provide the response in writing; shall justify the withholding of any record by demonstrating that the record in question is expressly exempt from disclosure under provisions of the Public Records Act or that the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record; and shall state the name and title or position of each person responsible for the denial.

E. Fees for Public Records Act Requests.

Air District shall make public records available free of charge, except that it may charge the requestor for the direct costs of making copies of records when copies are requested and the costs of any data compilation, extraction or programming required to produce the records (but not costs of searching for, reviewing or redacting the records). The Air District may waive any such fees for good cause.

F. Compliance with Legal Process.

The Air District will produce records as required by law in response to subpoenas, discovery requests, judicial orders, or other legal process duly served or propounded on the Air District. Legal Process shall be served on the Clerk of the Boards as provided for under Section 8.3 of the Administrative Code.

VI. Protection of Trade Secret Information Contained in Air District Records

A. Protection of Trade Secret Information.

The Air District will not disclose trade secret information exempted from disclosure under Section 7924.510 of the Public Records Act or other provision of law as provided in this Section VI. The Air District will not withhold such information unless the submitter of the information complies with the provisions set forth herein.

B. Designating Trade Secret Information.

Any entity submitting information to the Air District that it contends constitutes trade secret information exempt from disclosure under this Section VI must do all of the following:

- a. Provide two copies of all documents submitted that include claimed trade secret information, including (i) an unredacted version for use by Air District staff, and (ii) a redacted public copy with the claimed trade secret information redacted. The unredacted and redacted versions must be clearly marked “Trade Secret Copy” and “Public Copy,” respectively. The public copy will be subject to public disclosure and review without further notification pursuant to Section VI.E. below and should not contain any unredacted information that the submitter contends is trade secret information.
- b. Provide a detailed written justification for why the information claimed to be trade secret constitutes a trade secret exempt from disclosure under the Public Records Act. The detailed justification must reference each item of information claimed to be trade secret by reference to the page number on which the item appears, and by line or section number or other identifier to the extent there is more than one item on a page. The justification may not claim trade secret protection of any air pollution emission or monitoring data or other information specifically defined as non-exempt under Government Code section 7924.510.

- c. Provide the name and email address of a designated contact person for any correspondence in the event the Air District receives a request for the claimed trade secret information, and promptly notify the Air District if the designated contact person changes.
- d. Provide a statement by a person legally authorized to make such a statement on behalf of the submitter that the submitter agrees to indemnify the Air District for any legal claims, penalties, damages or other liability based on the Air District's withholding of the information claimed as trade secret.

C. Review of Trade Secret Claims Upon Submission.

The Air District may, but is not required to, review the submitter's justification for why the claimed trade secret information is exempt from disclosure under the Public Records Act. If the Air District determines that the information provided is insufficient to support a claim of trade secret, it may request that the submitter provide further information to support the claim. If the Air District determines that the information claimed to be trade secret does not qualify for any exemption from disclosure under the Public Records Act, it shall inform the submitter of that determination and shall not treat the information as trade secret under this Policy.

D. Protection of Trade Secret Information.

The Air District will not voluntarily disclose information for which the submitter has claimed trade secret protection in accordance with this Section VI. The Air District will disclose such information in response to a Public Records Request only in accordance with subsection VI.E. below.

E. Responding to Requests for Records For Which A Trade Secret Claim Has Been Asserted.

If the Air District receives a Public Records Request seeking a document containing claimed trade secret information submitted pursuant to section VI.B. above, the Air District will respond according to the following provisions:

- a. The Public Records Coordinator will provide the public copy to the requestor and inform the requestor in writing of the submitter's stated justification for why the redacted information constitutes a trade secret exempt from disclosure under the Public Records Act. The Public Records Coordinator will inform the requestor that they should notify the Public Records Coordinator if the requestor disagrees with the stated justification and believes the Air District should release some or all of the redacted information.
- b. If the requestor responds that they believe the Air District should release some or all of the redacted information, the Public Records Coordinator shall inform the General Counsel's office.

Draft Records Management and Access Policy – November 2023

- c. Upon notification by the Public Records Coordinator, the General Counsel's office shall review the redacted information sought by the requestor and the submitter's stated justification for why that information constitutes a trade secret exempt from disclosure under the Public Records Act.
- d. If the General Counsel's office determines that the redacted information sought constitutes a trade secret exempt from disclosure under the Public Records Act, it will inform the requestor of that determination, with explanation of basis of the determination.
- e. If the General Counsel's office determines that the redacted information is not exempt from disclosure under the Public Records Act, it will provide notice of that determination by email to the submitter's contact person identified pursuant to Subparagraph VI.B.c. above. The email notification shall state that if the submitter does not initiate legal proceedings to prevent release and serve a summons on the Air District within thirty (30) calendar days from the date of the email notification, the Air District will disclose the redacted information sought by the requestor.
- f. If submitter has not initiated legal proceedings and served a summons on the Air District within thirty (30) calendar days from the date of the Air District's email notification provided pursuant to subsection VI.E.e. above, the Air District will release the requested records without redaction of the non-exempt information sought. The Air District shall not disclose any disputed information if prohibited by an order issued by the court in any such legal proceedings.

F. Compliance With Legal Process.

Nothing in this Policy shall relieve the Air District from any legal obligations to comply with subpoenas, discovery requests, court orders, or other process in any judicial or administrative proceeding.

G. Disclosure to Other Governmental Agencies Pursuant to Confidentiality Agreement.

Notwithstanding the limitations in Section VI.D., the Air District may disclose information and records designated as trade secret to other governmental agencies that agree to treat the disclosed material as confidential in accordance with the provisions of Government Code section 7921.505(c)(5).

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105

Record Retention Schedule

This schedule is a catalog of all record types employed by the Bay Area Air Quality Management District (Air District) in carrying out the work of the agency. Pursuant to California Government Code section 60201, this schedule and any revisions to the schedule must be adopted by the Air District Board of Directors. This schedule is a component of the Air District's records management program, to be implemented in conjunction with the Air District's Record Management and Access Policy. Guidelines for the records management program are set forth in the Air District Administrative Code, Division I, Operating Policies and Procedures, Section 11. The purpose of this records management program is to maintain records in a manner that furthers the public purposes of the Air District while ensuring prompt and accurate retrieval of records and compliance with all legal requirements.

Retention of Records

For each record type, the schedule establishes a retention period. The record types are sorted by retention period. Certain records will be kept permanently because of their continuing importance to the Air District and the public. For records not kept permanently, the schedule establishes a retention period. The retention period is the period of time that the Air District will keep a record after its "use period" is over. For most records, use occurs at a point in time, with the retention period beginning after this brief active use period. Most of the records in this schedule are of this type.

For certain records, the use period extends over a significant period of time. Examples include building blueprints, equipment manuals, contract documents, and grant documents. For these records, the schedule indicates the triggering event for the running of the retention period.

The substance of a record, rather than the format or medium in which it is held, determines the appropriate category for the record. Thus, paper records, emails, and electronic data alike acquire the retention period of the applicable substantive category.

A record needs to be retained under the schedule only if either (i) there is a law that requires the record to be retained or (ii) the record is necessary or convenient to the discharge of the Air District's duties and it was made or retained for the purpose of preserving its informational content for future reference. As specified in the provision at the end of the schedule for "non-retained records," records do not need to be retained if they do not contain information of significant or lasting value (provided there is no law that requires them to be retained. Such non-retained records including but not limited to transmittal letters, acknowledgements, drafts, rough notes, calculations, courtesy letters, publications not produced by the Air District in the course of business, duplicate copies, tape recordings (unless designated the official record), virtual meeting chats, and copies of other government agency reports.

In addition, only one copy of a record needs to be retained under this schedule, unless otherwise required by law. The Air District may destroy any record at any time if a duplicate

record is maintained that satisfies the requirements of Government Code Section 60203, provided that the record is not expressly required by law to be filed and preserved in the format or medium in which it exists.

Destruction of Records

Records should be destroyed as soon as practicable after the end of the specified retention period, unless:

- (1) There is a continuing need for the record, including but not limited to needs such as pending litigation, a Public Records Act request, or a special project; or
- (2) The record falls within one of the categories listed in Government Code Section 60201, subdivision (d).

When a record is retained for longer than the specified retention period because of a continuing need for the record, the record should be destroyed when it is no longer needed. When a record is retained for longer than the specified retention period because it falls into one of the categories listed in Government Code Section 60201, subdivision (d), it should be destroyed if circumstances change such that the record no longer qualifies for any of those categories.

Non-retained records, which as noted above are records created or received during the course of business that do not merit retention because they do not contain information of significant or lasting value, including but not limited to transmittal letters, acknowledgements, drafts, rough notes, calculations, courtesy letters, publications not produced by the Air District in the course of business, duplicate copies, tape recordings (unless designated the official record), virtual meeting chats, and copies of other government agency reports, should be destroyed as soon as their use period is over, provided that they are not required by law to be maintained.

When a record is destroyed pursuant to this schedule, the Air District shall destroy all originals, photocopies, and copies stored in an electronic format. If the record contains confidential information, the Air District shall destroy it by shredding physical records, wiping electronically stored information, or other secure manner that ensures no confidential information will be preserved.

Notwithstanding any other provision of this policy, the Air District shall not destroy any records if they are subject to a Litigation Hold issued by the Office of the General Counsel.

Record type	Including these specific records:	Retention period
General		
General correspondence	General interoffice memoranda, general correspondence	3 years
Policies, procedures and workbooks	Policy documents, including enforcement policies and procedures, BACT/TBACT workbook, permit handbook, and source test protocols and plans	Revised + 7 years
Requests from public	Public records requests and responses	3 years
Boards and Executive		
Board audio and video records	Audio and video records of Advisory Council, Board of Directors, and committee meetings; Hearing Board hearings	1 year
Board files	Oaths of office, expense reports for Advisory Council, Board, Hearing Board, Board member correspondence, Board member travel authorizations and Board expense claims	End of term + 7 years
Board records	Board, Board committees, Hearing Board, Advisory Council and Advisory Council committees: agenda packages, minutes, reports, resolutions, and rosters	Permanent
Executive files	Chronological correspondence files, conflict of interest forms, lobbyist employer/lobbyist registration	7 years
Hearing Board docket	All case related files	Final compliance date + 7 years
Legislative and bill files	Bill file (documents, analyses, correspondence), Legislative Committee records	3 years
Administrative		
Bonds, insurance and warrants records	Bonds, property and liability insurance policies and documentation, warrants	Permanent
Building records	Building blueprints, building equipment information, building maintenance information, construction drawings & information, drawings – space plans, maintenance working records.	Life of building + 7 years
Cal OSHA reports	Cal OSHA reports and citations	7 years

Record type	Including these specific records:	Retention period
Contracts	Contract files and any related task orders or purchase orders, and any related bids, RFPs, RFQs or accepted proposals, contractor timesheets, contractor logs	Contract final expiration + 7 years
Fleet vehicle records	Vehicle maintenance expenses, vehicle mileage reports, vehicle request forms, vehicle registration fees, travel trip slips	Life of vehicle + 3 years
Mailroom records	Certified mail log, certified mail receipts – fee invoices, fee billing invoices, fee billing problem resolution files, returned mail (fee invoices and validations)	3 years
Physical security reports	Security guard activity reports	3 years
Rejected bids	RFPs/RFQs/evaluations/unaccepted proposals and bids	Fiscal year of bid + 3 years
Stockroom records	Stockroom requisitions	1 year
Tort and workers compensation claims	Tort claim liability files, worker’s compensation files	Until closed + 7 years
Emission Monitoring, Source Testing, and Ambient Monitoring		
Emission monitoring records	Continuous emission monitoring (CEMS) monthly reports, CEM indicated excesses – source test evaluation forms, CEM approvals pursuant to Regulation 1, Section 522	Life of facility + 7 years
Laboratory samples and air quality monitoring data	PM 2.5 filters and PM 10 filters collected from sampling equipment, ambient air monitoring data – strip charts, air monitoring station log books, asbestos samples submitted for analysis, instrument log books, laboratory notebooks, results, methods of analysis, photo-micrographics, standard operating procedures	7 years
Meteorological and air monitoring data	Ambient air monitoring data – data logger data, forecasts, meteorological monitoring data, ground level monitoring data; ground level monitoring audit reports	Permanent
Meteorological reports	Meteorological reports	1 year

Record type	Including these specific records:	Retention period
QA/QC and calibration records	Lab, source test, and air monitoring equipment calibration records and QA/QC records, quality assurance manual	7 years
Source test results and raw data	Source test results and raw data from both the District and outside contractors, field accuracy test results, raw data, and reports, contractor-conducted source test notifications (ref: Volume IV, V, MOP)	Life of facility + 7 years
Technical equipment records	Manuals and maintenance records, 10% quality assurance analysis reports, additional records required by NVLAP accreditation program, audit records, blind sample analysis reports, inter-laboratory analysis reports, maintenance and calibration reports, proficiency test, quality control charts and data	Life of equipment + 3 years
Enforcement		
Activity authorization	Open burns, exemption petitions, tank pulls/excavations, PERP, landfill reports	7 years
Activity authorization	Asbestos dust mitigation plans, asbestos removal, naturally occurring asbestos reports	Permanent
Complaints	All complaint information including wood smoke and smoking vehicle complaints	7 years
Compliance records	Compliance advisories and compliance reports required by regulation (Regs. 8-5, 8-10, 8-17, 8-18, 8-40, 9-10)	7 years
Flare records	Flare minimization – approved plans (Reg. 12-12), flaring notifications and reports (Reg. 12-12), plan review documents (Reg. 12-12), flare monitoring reports (Reg. 12-11)	7 years
Inspection records	Inspection reports, internal correspondence on inspections	7 years
Title V reports	Title V semi-annual and annual reports, Title V 10-day and 30-day deviation reports	7 years
Violation records	Notice of Violation files and Notice to Comply files, including all supporting documentation	Lesser of 25 years or life of facility + 7 years

Financial

Accounts payable - general	General accounts payable invoices, general checks-cancelled or voided, Board of Directors travel and meeting expenses, credit card payments and records, travel expense reimbursement requests, fixed assets invoices	7 years
Accounts payable check register, reports	Accounts payable check register, accounts payable general ledger post report, accounts payable journal voucher report	3 years
Accounts payable - grants	Grant accounts payable files	End of project + 10 years (longer if required by grantor)
Accounts receivable - general	Bank check deposits/permit check deposits, supporting documents for check deposits, credit card reports and supporting documents	5 years
Accounts receivable - other	Wire transfers/NSF checks, other accounts receivable reports/registers	3 years
Budget - adopted	Annual adopted budget	Permanent
Budget - other	Draft budget, proposed budget and supporting documents, budget transfers and adjustments	3 years
Deposit records - general	General monthly bank statements, general bank reconciliations	7 years
Deposit records - grants	Grant bank statements and related records	End of project + 10 years (longer if required by grantor)
Fixed asset files	Acquisition/disposal/sale/surplus records for personal property; lease/rent schedule and supporting documents for leased property; inventory and schedule of infrastructure and buildings for real property	Asset disposal/lease expiration/life of building + 7 years
I-Bond (Goods Movement) documents	Grant financial files and supporting documents	35 years
Refunds/unclaimed property	Refund and unclaimed property files	3 years
Tax documents	1099, W9 and other related documents; Board of Equalization sales tax reports	7 years (longer if related to grant and required by grantor)

Year-end financial statements and related reports	Annual audited financial statements and related reports, journal entries and supporting documents, certificate of participation records/bonds	Permanent
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Human Resources

Employee accident and injury records	Accident files, employee injury (first aid) files	7 years
Employee benefit records	Tuition reimbursement, COBRA documentation, Section 125 documentation	7 years
Employee HR records	Disciplinary action log, employee workforce data, grievances & arbitrations, negotiations, complaint summary logs	Permanent
Employee recruitment records	Classification studies, class specifications, recruitment files, wage and salary data, acquisition records	7 years
Equal employment opportunity plan	Equal employment opportunity plan	Until replaced
Insurance benefits records	Insurance contracts, life insurance documentation, health insurance documentation	Life of policy + 3 years
Payroll records	Payroll registers, tickler files, timecards, vacation requests, family/medical leave requests	7 years
Payroll records	Payroll direct deposit records, CALPERS reports, Form 941 quarterly reports, payroll history YTD totals report, year end clearing/closing reports	Permanent
Personnel files	Personal and professional files of Air District employees, including disciplinary support files and discrimination complaint files	Last day of employment + 4 years
Personnel files	Application files for applicants for employment at the Air District	Date of hiring decision + 4 years
Tax records	457 deferred comp documents, W2, W2 reports, transmittal of W2	7 years
Training records	Training program files, employee training completion records	Permanent

Incentives

Grant files	Program audit documents, program eligibility guideline documents; grant application, review and decision documents; grant program financial records; grantee monitoring documents; internal activity and tracking documents; project audit documents	End of project + 5 years
I-Bond grant records	I-Bond grant files	35 years
Reports to CARB/EPA	Grant reports to CARB/EPA	7 years
Vehicle Buy Back program	Vehicle Buy Back program - copies of vehicle eligibility documents provided to District for review	3 years

Information Systems

IT system backups	System backups	Until replaced
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Legal

Legal records	Comments on legislative, administrative and hearing board matters	7 years
Legal records	Litigation-pleadings and orders, settlement agreements, opinions and advice files, rule interpretations/opinions, civil enforcement case records	Permanent

Permitting

Data update forms	Responses to facility data update questionnaires	Data entry + 3 years
EPA grants	EPA 105 grant documents	Final report + 3 years
Permit application records	Authority to Construct documents, Permit to Operate documents, banking documents, registration documents, application forms, permit exemptions	Life of facility or emission reduction credit + 7 years
Permit advisories	Advisories regarding permitting	7 years
Plant (facility) files	Permit documents, ownership/facility status records, emission-related documentation, regulatory plan submittals, source data forms	Life of facility + 7 years
Reports to CARB/EPA	Engineering reports to CARB/EPA	7 years
Toxics Hotspots records	Toxics emissions inventory reports, risk assessments	Life of facility + 7 years

Planning

Air quality plans	State and federal air quality plans and supporting documentation, including emission inventory and modeling records, environmental and socioeconomic review documents, and any associated plan-related reports to ARB or EPA	Permanent
CEQA records	CEQA comments as responsible agency or commenting agency	7 years
Emission inventory records	Final emission inventory reports and supporting material for greenhouse gases, criteria pollutants, and toxic air contaminants; emission inventory annual reports submitted to ARB CEIDARS database	Permanent

Public Relations and Outreach

Annual reports	Annual reports	Permanent
Community meeting records	Community outreach community meeting files and resource team records	7 years
Mailing lists	Mailing lists	Until replaced
News media records	News releases and clips	Permanent
Outreach documents	Brochures	Until replaced
Publications	Newsletters and other publications	7 years
Requests from public	Requests for general information, requests for publications, requests for speakers	3 years

Rulemaking

Rules and regulations	All versions of rules and regulations that were adopted or made available to the public; rule development files and any associated economic or environmental analyses	Permanent
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Non-Retained Records

Non-retained records

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Not retained; subject to destruction when use period is over

DRAFT

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105

Record Retention Schedule

This schedule is a catalog of all record types employed by the Bay Area Air Quality Management District (Air District) in carrying out the work of the agency. Pursuant to California Government Code section 60201, this schedule and any revisions to the schedule must be adopted by the Air District Board of Directors. This schedule is a component of the Air District's records management program, to be implemented in conjunction with the Air District's Record Management and Access Policy. The purpose of the records management program is to maintain records in a manner that furthers the public purposes of the Air District while ensuring prompt and accurate retrieval of records and compliance with all legal requirements.

Retention of Records

For each record type, the schedule establishes a retention period. The record types are sorted by retention period. Certain records will be kept permanently because of their continuing importance to the Air District and the public. For records not kept permanently, the schedule establishes a retention period. The retention period is the period of time that the Air District will keep a record after its "use period" is over. For most records, use occurs at a point in time, with the retention period beginning after this brief active use period. Most of the records in this schedule are of this type.

For certain records, the use period extends over a significant period of time. Examples include building blueprints, equipment manuals, contract documents, and grant documents. For these records, the schedule indicates the triggering event for the running of the retention period.

The substance of a record, rather than the format or medium in which it is held, determines the appropriate category for the record. Thus, paper records, emails, and electronic data alike acquire the retention period of the applicable substantive category.

A record needs to be retained under the schedule only if either (i) there is a law that requires the record to be retained or (ii) the record is necessary or convenient to the discharge of the Air District's duties and it was made or retained for the purpose of preserving its informational content for future reference. As specified in the provision at the end of the schedule for "non-retained records," records do not need to be retained if they do not contain information of significant or lasting value (provided there is no law that requires them to be retained). Such non-retained records including but not limited to transmittal letters, acknowledgements, drafts, rough notes, calculations, courtesy letters, publications not produced by the Air District in the course of business, duplicate copies, tape recordings (unless designated the official record), virtual meeting chats, and copies of other government agency reports.

In addition, only one copy of a record needs to be retained under this schedule, unless otherwise required by law. The Air District may destroy any record at any time if a duplicate record is maintained that satisfies the requirements of Government Code Section 60203,

provided that the record is not expressly required by law to be filed and preserved in the format or medium in which it exists.

Destruction of Records

Records should be destroyed as soon as practicable after the end of the specified retention period, unless:

- (1) There is a continuing need for the record, including but not limited to needs such as pending litigation, a Public Records Act request, or a special project; or
- (2) The record falls within one of the categories listed in Government Code Section 60201, subdivision (d).

When a record is retained for longer than the specified retention period because of a continuing need for the record, the record should be destroyed when it is no longer needed. When a record is retained for longer than the specified retention period because it falls into one of the categories listed in Government Code Section 60201, subdivision (d), it should be destroyed if circumstances change such that the record no longer qualifies for any of those categories.

Non-retained records, which as noted above are records created or received during the course of business that do not merit retention because they do not contain information of significant or lasting value, including but not limited to transmittal letters, acknowledgements, drafts, rough notes, calculations, courtesy letters, publications not produced by the Air District in the course of business, duplicate copies, tape recordings (unless designated the official record), virtual meeting chats, and copies of other government agency reports, should be destroyed as soon as their use period is over, provided that they are not required by law to be maintained.

When a record is destroyed pursuant to this schedule, the Air District shall destroy all originals, photocopies, and copies stored in an electronic format. If the record contains confidential information, the Air District shall destroy it by shredding physical records, wiping electronically stored information, or other secure manner that ensures no confidential information will be preserved.

Notwithstanding any other provision of this policy, the Air District shall not destroy any records if they are subject to a Litigation Hold issued by the Office of the General Counsel.

Record type	Including these specific records:	Retention period
General		
General correspondence	General interoffice memoranda, general correspondence	3 years
Policies, procedures and workbooks	Policy documents, including enforcement policies and procedures, BACT/TBACT workbook, permit handbook, and source test protocols and plans	Revised + 7 years
Requests from public	Public records requests and responses	3 years
Boards and Executive		
Board audio and video records	Audio and video records of Advisory Council, Board of Directors, and committee meetings; Hearing Board hearings	1 year
Board files	Oaths of office, expense reports for Advisory Council, Board, Hearing Board, Board member correspondence, Board member travel authorizations and Board expense claims	End of term + 7 years
Board records	Board, Board committees, Hearing Board, Advisory Council and Advisory Council committees: agenda packages, minutes, reports, resolutions, and rosters	Permanent
Executive files	Chronological correspondence files, conflict of interest forms, lobbyist employer/lobbyist registration	7 years
Hearing Board docket	All case related files	Final compliance date + 7 years
Legislative and bill files	Bill file (documents, analyses, correspondence), Legislative Committee records	3 years
Administrative		
Bonds, insurance and warrants records	Bonds, property and liability insurance policies and documentation, warrants	Permanent
Building records	Building blueprints, building equipment information, building maintenance information, construction drawings & information, drawings – space plans, maintenance working records.	Life of building + 7 years
Cal OSHA reports	Cal OSHA reports and citations	7 years

Record type	Including these specific records:	Retention period
Contracts	Contract files and any related task orders or purchase orders, and any related bids, RFPs, RFQs or accepted proposals, contractor timesheets, contractor logs	Contract final expiration + 7 years
Fleet vehicle records	Vehicle maintenance expenses, vehicle mileage reports, vehicle request forms, vehicle registration fees, travel trip slips	Life of vehicle + 3 years
Mailroom records	Certified mail log, certified mail receipts – fee invoices, fee billing invoices, fee billing problem resolution files, returned mail (fee invoices and validations)	3 years
Physical security reports	Security guard activity reports	3 years
Rejected bids	RFPs/RFQs/evaluations/unaccepted proposals and bids	Fiscal year of bid + 3 years
Stockroom records	Stockroom requisitions	1 year
Tort and workers compensation claims	Tort claim liability files, worker’s compensation files	Until closed + 7 years
Emission Monitoring, Source Testing, and Ambient Monitoring		
Emission monitoring records	Continuous emission monitoring (CEMS) monthly reports, CEM indicated excesses – source test evaluation forms, CEM approvals pursuant to Regulation 1, Section 522	Life of facility + 7 years
Laboratory samples and air quality monitoring data	PM 2.5 filters and PM 10 filters collected from sampling equipment, ambient air monitoring data – strip charts, air monitoring station log books, asbestos samples submitted for analysis, instrument log books, laboratory notebooks, results, methods of analysis, photo-micrographics, standard operating procedures	7 years
Meteorological and air monitoring data	Ambient air monitoring data – data logger data, forecasts, meteorological monitoring data, ground level monitoring data; ground level monitoring audit reports	Permanent
Meteorological reports	Meteorological reports	1 year

Record type	Including these specific records:	Retention period
QA/QC and calibration records	Lab, source test, and air monitoring equipment calibration records and QA/QC records, quality assurance manual	7 years
Source test results and raw data	Source test results and raw data from both the District and outside contractors, field accuracy test results, raw data, and reports, contractor-conducted source test notifications (ref: Volume IV, V, MOP)	Life of facility + 7 years
Technical equipment records	Manuals and maintenance records, 10% quality assurance analysis reports, additional records required by NVLAP accreditation program, audit records, blind sample analysis reports, inter-laboratory analysis reports, maintenance and calibration reports, proficiency test, quality control charts and data	Life of equipment + 3 years
Enforcement		
Activity authorization	Open burns, exemption petitions, tank pulls/excavations, PERP, landfill reports	7 years
Activity authorization	Asbestos dust mitigation plans, asbestos removal, naturally occurring asbestos reports	Permanent
Complaints	All complaint information including wood smoke and smoking vehicle complaints	7 years
Compliance records	Compliance advisories and compliance reports required by regulation (Regs. 8-5, 8-10, 8-17, 8-18, 8-40, 9-10)	7 years
Flare records	Flare minimization – approved plans (Reg. 12-12), flaring notifications and reports (Reg. 12-12), plan review documents (Reg. 12-12), flare monitoring reports (Reg. 12-11)	7 years
Inspection records	Inspection reports, internal correspondence on inspections	7 years
Title V reports	Title V semi-annual and annual reports, Title V 10-day and 30-day deviation reports	7 years
Violation records	Notice of Violation files and Notice to Comply files, including all supporting documentation	Lesser of 25 years or life of facility + 7 years

Financial

Accounts payable - general	General accounts payable invoices, general checks-cancelled or voided, Board of Directors travel and meeting expenses, credit card payments and records, travel expense reimbursement requests, fixed assets invoices	7 years
Accounts payable check register, reports	Accounts payable check register, accounts payable general ledger post report, accounts payable journal voucher report	3 years
Accounts payable - grants	Grant accounts payable files	End of project + 10 years (longer if required by grantor)
Accounts receivable - general	Bank check deposits/permit check deposits, supporting documents for check deposits, credit card reports and supporting documents	5 years
Accounts receivable - other	Wire transfers/NSF checks, other accounts receivable reports/registers	3 years
Budget - adopted	Annual adopted budget	Permanent
Budget - other	Draft budget, proposed budget and supporting documents, budget transfers and adjustments	3 years
Deposit records - general	General monthly bank statements, general bank reconciliations	7 years
Deposit records - grants	Grant bank statements and related records	End of project + 10 years (longer if required by grantor)
Fixed asset files	Acquisition/disposal/sale/surplus records for personal property; lease/rent schedule and supporting documents for leased property; inventory and schedule of infrastructure and buildings for real property	Asset disposal/lease expiration/life of building + 7 years
I-Bond (Goods Movement) documents	Grant financial files and supporting documents	35 years
Refunds/unclaimed property	Refund and unclaimed property files	3 years
Tax documents	1099, W9 and other related documents; Board of Equalization sales tax reports	7 years (longer if related to grant and required by grantor)

Year-end financial statements and related reports	Annual audited financial statements and related reports, journal entries and supporting documents, certificate of participation records/bonds	Permanent
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Human Resources

Employee accident and injury records	Accident files, employee injury (first aid) files	7 years
Employee benefit records	Tuition reimbursement, COBRA documentation, Section 125 documentation	7 years
Employee HR records	Disciplinary action log, employee workforce data, grievances & arbitrations, negotiations, complaint summary logs	Permanent
Employee recruitment records	Classification studies, class specifications, recruitment files, wage and salary data, acquisition records	7 years
Equal employment opportunity plan	Equal employment opportunity plan	Until replaced
Insurance benefits records	Insurance contracts, life insurance documentation, health insurance documentation	Life of policy + 3 years
Payroll records	Payroll registers, tickler files, timecards, vacation requests, family/medical leave requests	7 years
Payroll records	Payroll direct deposit records, CALPERS reports, Form 941 quarterly reports, payroll history YTD totals report, year end clearing/closing reports	Permanent
Personnel files	Personal and professional files of Air District employees, including disciplinary support files and discrimination complaint files	Last day of employment + 4 years
Personnel files	Application files for applicants for employment at the Air District	Date of hiring decision + 4 years
Tax records	457 deferred comp documents, W2, W2 reports, transmittal of W2	7 years
Training records	Training program files, employee training completion records	Permanent

Incentives

Grant files	Program audit documents, program eligibility guideline documents; grant application, review and decision documents; grant program financial records; grantee monitoring documents; internal activity and tracking documents; project audit documents	End of project + 5 years
I-Bond grant records	I-Bond grant files	35 years
Reports to CARB/EPA	Grant reports to CARB/EPA	7 years
Vehicle Buy Back program	Vehicle Buy Back program - copies of vehicle eligibility documents provided to District for review	3 years

Information Systems

IT system backups	System backups	Until replaced
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Legal

Legal records	Comments on legislative, administrative and hearing board matters	7 years
Legal records	Litigation-pleadings and orders, settlement agreements, opinions and advice files, rule interpretations/opinions, civil enforcement case records	Permanent

Permitting

Data update forms	Responses to facility data update questionnaires	Data entry + 3 years
EPA grants	EPA 105 grant documents	Final report + 3 years
Permit application records	Authority to Construct documents, Permit to Operate documents, banking documents, registration documents, application forms, permit exemptions	Life of facility or emission reduction credit + 7 years
Permit advisories	Advisories regarding permitting	7 years
Plant (facility) files	Permit documents, ownership/facility status records, emission-related documentation, regulatory plan submittals, source data forms	Life of facility + 7 years
Reports to CARB/EPA	Engineering reports to CARB/EPA	7 years
Toxics Hotspots records	Toxics emissions inventory reports, risk assessments	Life of facility + 7 years

Planning

Air quality plans	State and federal air quality plans and supporting documentation, including emission inventory and modeling records, environmental and socioeconomic review documents, and any associated plan-related reports to ARB or EPA	Permanent
CEQA records	CEQA comments as responsible agency or commenting agency	7 years
Emission inventory records	Final emission inventory reports and supporting material for greenhouse gases, criteria pollutants, and toxic air contaminants; emission inventory annual reports submitted to ARB CEIDARS database	Permanent

Public Relations and Outreach

Annual reports	Annual reports	Permanent
Community meeting records	Community outreach community meeting files and resource team records	7 years
Mailing lists	Mailing lists	Until replaced
News media records	News releases and clips	Permanent
Outreach documents	Brochures	Until replaced
Publications	Newsletters and other publications	7 years
Requests from public	Requests for general information, requests for publications, requests for speakers	3 years

Rulemaking

Rules and regulations	All versions of rules and regulations that were adopted or made available to the public; rule development files and any associated economic or environmental analyses	Permanent
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Non-Retained Records

Non-retained records

Records created or received during the course of business that do not merit retention because they do not contain information of significant or lasting value, including but not limited to transmittal letters, acknowledgements, drafts, rough notes, calculations, courtesy letters, publications not produced by the Air District in the course of business, duplicate copies, tape recordings (unless designated the official record), virtual meeting chats, and copies of other government agency reports, provided that such records are not required by law to be maintained.

Not retained; subject to destruction when use period is over

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**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
PROCUREMENT POLICY**

This Procurement Policy (Policy) is established by the Board of Directors of the Bay Area Air Quality Management District (Air District) pursuant to Section 9.4 of the Air District’s Administrative Code to establish procedures for competitive bidding, awarding, administering, and executing contracts for goods and services, leases, and other similar contractual agreements (collectively referred to herein as “contracts”). This Policy is a continuation of the Purchasing Procedures provisions set forth in Division II, Section 4, of the Air District’s former Administrative Code, which was superseded by the current Administrative Code effective January 1, 2024, with certain revisions and additions to reflect updated procurement provisions incorporated into the current Administrative Code.

1. Air District Purchasing Agent

The Executive Officer/Air Pollution Control Officer (APCO) shall be ex-officio Purchasing Agent for the Air District. The APCO shall negotiate to obtain the best price obtainable on all goods and services required by the Air District.

2. Contract Limitations

As specified in Section 9.4 of the Administrative Code, the APCO or designee may execute, on behalf of the Air District, contracts in an amount that does not exceed two hundred thousand dollars (\$200,000). Contracts (including amendments to contracts) in excess of two hundred thousand dollars (\$200,000) must be approved by the Board of Directors as specified in Sections 9.4(b) and 9.4(c) of the Administrative Code. For purposes of applying the \$200,000 Board of Directors approval threshold, the value of a contract shall be determined by adding the amount of the procurement to the sum of all previous procurements from the same vendor in excess of \$30,000 (under a single purchase order) for the preceding 36-month period. If the \$200,000 threshold has been reached, any procurement from the same vendor over \$30,000 must be approved by the Board of Directors. Procurements that do not exceed \$30,000 may be approved by the APCO. Procurements may not be split into multiple purchase orders under \$30,000 to circumvent this approval requirement.

Contracts (including amendments to contracts) in excess of one hundred thousand dollars (\$100,000) must be reported to the Board of Directors as specified in Sections 9.4(b) and 9.4(c) of the Administrative Code. For purposes of applying the \$100,000 Board of Directors reporting threshold, the value of a contract shall be determined by adding the amount of the procurement to the sum of all previous procurements from the same vendor in excess of \$30,000 (under a single purchase order) for the preceding 36-month period. If the \$100,000 threshold has been reached, the APCO shall report any procurement from the same vendor over \$30,000 to the

Board of Directors. Procurements may not be split into multiple purchase orders under \$30,000 to circumvent this reporting requirement.

Notwithstanding any of the requirements referenced above, the APCO may renew contracts for which the total contract amount exceeds two hundred thousand dollars (\$200,000) for the following categories of goods and services without approval by the Board of Directors, provided that the initial procurement was authorized under the then-applicable provisions of the Administrative Code, including the use of appropriate required competitive processes:

- 1) Utilities
- 2) Software Licenses
- 3) Software as a Service
- 4) OEM Equipment Warranties
- 5) OEM Equipment Maintenance/Service
- 6) Legal Services
- 7) Equipment Leases
- 8) Bay Area Headquarters Authority common area and shared services agreements
- 9) Employee Benefits (CalPERS, Life Insurance, FSA, etc.)
- 10) Fuel (e.g., WEX card)

For all such contracts, recurring payments under these contracts shall be presented in the quarterly Financial Report provided to the Board of Directors. In addition, all such contracts are subject to the Board of Directors reporting requirements for contracts exceeding one hundred thousand dollars (\$100,000) as specified in 9.4(b) and 9.4(c) of the Administrative Code. The provisions of this paragraph apply to qualifying renewals of existing contracts only. Approval by the Board of Directors is required for all new contracts if the goods or services are initially anticipated to be greater than \$200,000, as calculated pursuant to the procedures set forth above.

The APCO may execute contracts in emergency circumstances as specified in Section 9.4(d) of the Administrative Code.

3. Contracts With Minority Business Enterprises, Women’s Business Enterprises, and Local Firms

It is the policy of the Air District to encourage minority-, veteran-, and women-owned businesses to bid on contracts with the Air District to the extent allowable by law. Wherever possible, the Air District shall procure goods and services through member counties or businesses within the Air District’s nine-county geographic jurisdiction.

4. Contracts For Goods and Services

(a) Procurement Policy

- (1) The formality and complexity of the bidding process for the procurement of goods or services is determined by the cost of the items under the procurement. Procurements may not be split into multiple purchase orders in order to circumvent the requirements of this Policy. The Air District shall utilize multiple firms so that there is no favoritism or perception of favoritism.

The following methods of procurement may be used as appropriate under the circumstances, subject to any other requirements of this Policy:

- (A) Formal Bid – A bid obtained under sealed bid procedures and which is publicly opened and read.
- (B) Informal Bid – A written bid solicited from a vendor when the cost of the equipment or services/supplies is so low as to not justify the costs of the formal bidding procedures.
- (C) Telephone Bid – Telephone bids may be utilized by the Business Manager/designee when, in the judgment of the APCO or Director of Administrative Services, the best interest of the Air District may be served due to the need for immediate delivery or for other valid reasons.
- (D) Monopoly/Single Source Bid – An award may be made without a formal bid when the item to be purchased can be obtained from only one source and the item/service is one which does not lend itself to substitution. Said bids must be confirmed in writing.
- (E) Prior Bid/Last Price – An award may be made on the basis of a prior bid or on the basis of a last price, if the conditions of a previous purchase are the same.
- (F) Letter Quotation – Letter quotation is an informal, written offer made to the Air District by a vendor.
- (2) Formal bidding shall be used by the Air District when economies of scale can be achieved or when there are equal or competitive products and also when discounts are applicable. Except as provided in Section 4(c)(4) below, all procurements of seventy thousand dollars (\$70,000) or more require a formal bid.
- (3) Where federal money will fund all or part of the goods/services that will be purchased, the proposals, bids or other documents prepared shall include the following information: 1) the percentage of the total cost of

the goods or services that will be financed with federal funds; 2) the dollar amount of federal funds for the goods or services; and 3) the percentage and dollar amount of the total cost of the goods or services that will be financed by non-governmental sources (per Public Notification Requirement Appropriation Laws).

- (4) Bid specifications must include all criteria to be considered by the Air District in selecting a successful bidder. In all cases where written specifications are prepared and submitted for public bidding, wherever a trade name is specified, the specifications shall contain the phrase “or equivalent” and bidders shall be allowed to bid upon an equivalent in quality and performance.
- (5) The Air District reserves the right to accept one part of a bid and reject another, and to waive technical defects, if to do so best serves the interests of the Air District.
- (6) Subject to other provisions of Air District policy, a contract will be awarded to the bidder(s) offering the best value for quality goods and services. The following may be considered in determining the bid that provides the best value: bid price, proven cost-effectiveness, extended warranty, extended quality discount, esthetic value, expedient delivery of goods or services or other features of sufficient value.
- (7) The preparation of detailed specifications may be waived by the APCO if any of the following circumstances are present:
 - (A) Public health or property may be endangered by delay.
 - (B) Cost of labor will exceed savings.
 - (C) Required dates cannot be met.
 - (D) Monopoly/single source items are required.
 - (E) Prior experience has proven that a particular material, type of equipment, supplies or service is more economical to the Air District.
 - (F) The cost to prepare detailed plans/specifications or bids will exceed possible savings that could be derived from such plans/specifications or bids.
 - (G) Emergency purchases.
 - (H) Value of contract is less than \$25,000.

(b) Consultant Selection Policy

- (1) Due to the nature of the work to be performed or the level of staffing required, it may, from time to time, be necessary to utilize the services of outside consultants who are not employees of the Air District.
- (2) It is the policy of the Air District in the selection of any required outside consultants to encourage participation of minority, women and/or disadvantaged business enterprises, and of firms from within the Air District's nine-county geographic jurisdiction, in the bidding process in accordance with Section 3 above, to the extent allowable by law.
- (3) Prior to release of a request for consulting services, the following shall be prepared:
 - (A) A statement of the work to be performed;
 - (B) A statement of the qualifications of persons necessary to perform the requested work, which can include a specification of experience/education/training in general or specific fields; and
 - (C) An assessment of the resources needed to carry out the project, i.e., capital equipment or supplies.
- (4) Based on an evaluation of the information prepared according to subparagraph (b)(3) above, and any other information gathered, the APCO or designee shall evaluate the ability of staff to perform all or part of the work. If it is determined that all or part of the work should be performed by an outside consultant, the APCO shall determine if the work should be performed by sole source or whether it should be performed after a bid solicitation and award.
- (5) Contracts for temporary employment services or consultant services shall meet the requirements of this Policy.

(c) Bid Solicitation

- (1) For all procurements of goods or services with a value of thirty thousand dollars (\$30,000) or more, but not more than seventy thousand dollars (\$70,000), the APCO shall obtain a minimum of three (3) competitive prices for the goods/services. If there are not three vendors that provide the goods/services, the APCO must provide documentation that fewer than three vendors exist. The APCO must provide written justification for the selection of the vendor where the justification may be based on price or other factors that are important to the Air District.

- (2) For all procurements for goods or services with a value of seventy thousand dollars (\$70,000) or greater, the APCO shall prepare the following documents (as required):
 - (A) Instructions to Bidders (for written bids);
 - (B) Proposal Submittal Requirements;
 - (C) A draft contract, including all terms and conditions of the work to be performed; and
 - (D) A list of potential bidders.

Bids shall be solicited by any method as allowed in paragraph (a)(1) of this Section on purchases of services, materials or supplies excluding scientific and technical equipment and services uniquely available from a sole source. Where all sources of such services, materials or supplies in the Bay Area are known, bids may be requested from such sources by all means when it is deemed by the APCO to be in the best interest of the Air District.

- (3) The APCO may waive the provisions of this Section 4 or award a sole-source bid if:
 - (A) The cost of labor for preparation of the documents exceeds the possible savings that could be derived from such detailed documents; or
 - (B) Public health or property may be endangered by delay; or
 - (C) Prior experience has shown that the desired services are only available from the sole-source; or
 - (D) Other circumstances exist that require such waiver in the satisfactory interests of the Air District.

(d) Bid Award

- (1) Prior to accepting a bid that is not the lowest of three qualified and responsive bids, other qualified and responsive bidders will be provided with an opportunity to match the additional features provided in the bid of highest value. These bidders will be provided with a list of the features, but not the price.
- (2) Contracts subject to the competitive bidding requirements of this Policy shall be re-bid no less frequently than once every three years, except for financial auditing services contracts, which shall be re-bid no less frequently than once every five years. Service contracts with the original

manufacturer of equipment or software are exempt from the requirement of this subparagraph (d)(2).

5. Leases

The APCO is authorized to enter into lease agreements for the lease of real property as necessary and appropriate for the conduct of the Air District’s business, subject to the contracting limitations set forth in Section 9.4 of the Administrative Code and the provisions of this Policy (to the extent applicable to lease agreements). The APCO shall procure leases on the most favorable terms available.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT GRANTS POLICY

As part of the Bay Area Air Quality Management District’s goal to create a healthy breathing environment for Bay Area residents while protecting and improving public health, air quality, and the global climate, the Air District makes grants available for air quality improvement consistent with authorization received from the Air District Board of Directors and available funding.

The Air District administers grant funding through a variety of grant programs that help advance clean air projects throughout the Bay Area. All Air District grant programs are approved through the Air Districts Board of Directors and are funded through many different federal and state funding programs including, but not limited to: Congestion Management and Air Quality, Transportation for Clean Air Funds, Volkswagen Mitigation Trust, Community Health Protection, Community Grants, I Bank and state of California Carl Moyer programs as well as others. Each grant funding program has specific application, deadline, and funding requirements. Those interested in Air District grants can subscribe to and receive information about upcoming grant availability by going to the [Funding and Incentives](#) page on the Air District’s website to learn more about Air District grant programs.

Air District grants are only made through grant programs authorized by the Air District Board of Directors. In addition to federal and state grant funding, the Air District also makes grant funds available through new initiatives, settlement funds or other funding sources to help reach regional air quality goals. The Air District will give preference to awarding grants that benefit communities that have been disproportionately impacted by harmful emissions.

These grant projects are offered intermittently as funding becomes available for projects including, but are not limited to the categories listed below:

- a. Local Programs and Initiatives* - Clean air programs that include indoor air quality improvement, clean technology deployment and demonstration, air quality studies, greenhouse gas reduction initiatives and other clean air efforts in neighborhoods, cities or within certain industries.
- b. Education, Training* - Programs designed to provide the public with information regarding how air pollutants and exposure are measured, reduced, or studied. Can include training for air quality efforts by residents and students.
- c. Community Health Partnerships* - Programs that support respiratory health, education, and neighborhood health delivery programs.

The Air District strives to promote transparency, equity, fairness, and best practices in its grant programs. When grant funding becomes available, the Air District will announce and conduct outreach regarding the scope, eligibility, and application requirements of the funding opportunities.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT SPONSORSHIP POLICY

The Bay Area Air Quality Management District sponsors public events, conferences, public health programs and other activities that align with or help further its mission to create a healthy breathing environment for Bay Area residents while protecting and improving public health, air quality and the global climate.

The goal of Air District sponsorships is to advance the work of the Air District to promote clean air, behavior change, public health, greenhouse gas reductions and air quality education through public outreach, community engagement and partnerships. The Air District strives to support partnerships and events that introduce the Air District’s mission and initiatives to audiences who may not be familiar with them and to gain their support. The Air District’s objective is to promote transparency, equity, fairness, and best practices through its sponsorships policy and procedures.

To qualify for sponsorship, an organization or activity must fall within one or more of the following categories:

- a. *Showcasing Air District Programs and Initiatives*** through an event that provides an opportunity for the Air District to engage with key audiences and share information regarding the Air District’s mission and work by encouraging and promoting air quality improvement and behavior change, answering air quality questions, enrolling the public to receive Spare the Air Alerts or other Air District social media notifications, and other similar activities.
- b. *Education, Training and Networking Opportunity for Air District Workforce*** through attendance at professional conferences, seminars, workshops, and symposia hosted by trade, state, federal or professional organizations. This may also include opportunities for panel participation and staffing a booth that showcases the Air District’s activities.
- c. *Community Partnerships with Non-Profit Organizations*** to promote clean air initiatives that improve community health, further air pollution and greenhouse gas education and reduction goals, and other similar efforts.

Events must meet the requirements below, if applicable, to be eligible for a sponsorship:

- The Air District has available resources to staff an event or provide requested materials.
- The audience is made up of key stakeholders including Bay Area residents, air quality health practitioners, air quality professionals, and other groups that focus on clean air and greenhouse gas reductions.
- The sponsored event aligns with the mission and priorities outlined in the Air District’s Strategic Plan and helps build Air District partnerships with various organizations who can help advance Air District goals.

The Executive Officer/APCO is authorized to approve sponsorships up to \$35,000, or up to \$70,000 for Spare the Air (STA) sponsored events as part of the seasonal advertising and messaging campaigns where sponsorships are packaged together through a third-party event vendor to help the STA program gain visibility at multiple events. Approval by the Board of Directors is required for sponsorship above these amounts.

The Deputy Executive Officer for Public Affairs shall review all sponsorship applications for consistency with this Policy and shall recommend appropriate sponsorships to the Executive Officer/APCO for approval. The Executive Officer/APCO shall have final responsibility for approving all sponsorship awards under this Policy, with prior approval by the Board of Directors for sponsorships exceeding the thresholds specified in the preceding paragraph.

The Executive Officer/APCO shall report a summary of all sponsorships awarded in the prior year when presenting the Air District's proposed budget to the Board of Directors each year, including the name of the sponsorship recipient; the amount of the sponsorship; the activity, event, program or conference sponsored; and what the Air District received in return for the sponsorship.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

NON-DISCRIMINATION POLICY

This Non-Discrimination Policy (Policy) is adopted by Resolution of the Board of Directors of the Bay Area Air Quality Management District (Air District) to ensure non-discrimination, equity and accessibility throughout the Air District in all Air District programs and functions. This Policy implements Section 1.5 of the Air District’s Administrative Code and is a continuation of the Non-Discrimination Policy that was set forth in Division I, Section 15, of the Air District’s former Administrative Code, which was superseded by the current Administrative Code effective January 1, 2024.

Section One: Accessibility and Non-Discrimination Policy

The 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 the 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 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 with the Air District under this Policy. This Non-Discrimination Policy also applies to other people or entities affiliated with the 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. Individuals should contact the Non-Discrimination Coordinator identified below at least three days in advance of a meeting so that arrangements can be made accordingly.

Any person who believes discrimination has occurred with respect to an Air District program or activity should contact the Non-Discrimination Coordinator or visit the Air District’s website at www.baaqmd.gov/accessibility to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the Air District Non-Discrimination Coordinator, (415) 771-6000, or visit www.baaqmd.gov/accessibility for more information.

Section Two: Complaint Procedure

The complaint procedure has four steps. For complaints implicating violations of Title VI of the federal Civil Rights Act, the complaint procedure will follow EPA guidance on investigating and responding to Title VI complaints.

1. Submission of Complaint

A person who believes that they have, or a specific class of persons has, on the basis of any protected class, been excluded from or denied the benefits of, or been subjected to discrimination under, any program or activity of the Air District may file a written complaint with the Non-Discrimination Coordinator for the Air District. Such complaint must be filed within 180 calendar days after the date the person believes the discrimination occurred. The Executive Officer/Air Pollution Control Officer (APCO) may develop a Discrimination Complaint Form to facilitate the filing of such complaints.

2. Referral to Review Officer

Upon receipt of a complaint, the Non-Discrimination Coordinator will appoint one or more staff review officers, as appropriate, to evaluate and investigate the complaint, in consultation with the General Counsel. The staff review officer(s) will complete their review no later than 180 calendar days after the date the Air District received the complaint using a preponderance-of-the-evidence standard. If more time is required, the Non-Discrimination Coordinator will notify the complainant of the estimated time for completing the review. Upon completion of the review, the staff review officer(s) will make a recommendation regarding the merit of the complaint and whether remedial actions are available to provide redress. Additionally, the staff review officer(s) may recommend improvements to the Air District's processes as they relate to the Non-Discrimination Policy and environmental justice, as appropriate. The staff review officer(s) will forward their recommendations to the Non-Discrimination Coordinator for review. The Non-Discrimination Coordinator will issue the Air District's written response to the complainant.

3. Request for Reconsideration

If the complainant is dissatisfied with the response, the complainant may request, in writing, reconsideration by the APCO within 10 calendar days after receipt of the response. The request for reconsideration should explain any items the complainant feels were not addressed by the Non-Discrimination Coordinator. The APCO will notify the complainant within 10 calendar days whether the request for reconsideration has been accepted or rejected.

4. Reconsideration

In cases where the APCO agrees to reconsider the matter, the matter shall be returned to the staff review officer(s) to re-evaluate in accordance with Paragraph 2, above.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
EMPLOYER-EMPLOYEE RELATIONS RESOLUTION**

This Employer-Employee Relations Resolution addressing Recognition of Employees' Organizations is adopted by Resolution of the Board of Directors (Board) of the Bay Area Air Quality Management District (Air District) to continue in effect the provisions of Division I, Section 10, of the Air District's former Administrative Code ("Recognition of Employees' Organizations"), which was superseded by the current Administrative Code as of January 1, 2024. This Resolution is adopted and effectuates Section 12.1 of the current Administrative Code, which provides for Division I, Section 10, of the former Administrative Code to be adopted "as is" in an Employer-Employee Relations Resolution effective January 1, 2024

1. GENERAL PROVISIONS.

- (a) It is the purpose of this Resolution to promote full communication between the Air District and its employees regarding wages, hours, and other terms and conditions of employment. It is also the purpose of this Resolution to promote the improvement of personnel management and employer-employee relations within the Air District by providing a uniform basis for recognizing the right of employees of the Air District to join organizations of their own choice and be represented by such organizations in their employment relationships with the Air District. Nothing contained herein shall be deemed to supersede the provisions of existing State Law and ordinances affecting the Air District.
- (b) Nothing in this article shall be interpreted as precluding or discouraging the discussion of any and all matters of mutual interest, at the appropriate level, to the end that there be full understanding and cooperation among the parties and that problems be resolved expeditiously.
- (c) Nothing in this article shall be interpreted as precluding or discouraging the Air District from requesting assistance or advice, whether from outside experts or otherwise, in situations deemed appropriate by the Board.
- (d) If, after meeting and conferring for a reasonable period of time, representatives of the Air District and the recognized employee organization or organizations fail to reach agreement, the Air District and the recognized employee organization or organizations together may, but are not required to, submit any matters within the scope of representation to mediation and may make the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the Air District and one-half to the recognized employee organization or organizations.

2. REPRESENTATION.

- (a) Management and confidential employees shall not represent any employee organization which represents other than management and confidential employees of the Air District on matters within the scope of representation.

- (b) Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees.

3. REGISTRATION PROCEDURE PRIOR TO RECOGNITION.

- (a) No employee organization shall have rights under this article unless and until it has been registered with the Air District through the Human Resources/Employee Relations Officer (HRO). Employee organizations, having been registered, shall thereafter report in writing to the HRO any changes in the facts submitted in the registration within thirty (30) days of the occurrence of the change.
- (b) The registration shall consist of:
 - (1) the name and address of the employee organization;
 - (2) a list of the officers and principal representatives of the employee organization and a list of designated representatives authorized by the employee organization to act for it in matters within the scope of representation;
 - (3) a statement that the employee organization includes employees within its membership;
 - (4) a statement that the employee organization has, as one of its primary purposes, the function of representing employees in their relations with the Air District.
 - (5) the designation of two (2) or more persons and their addresses to whom notice, sent by United States mail, or to a specific place at the Air District office, will be deemed sufficient notice on the employee organization for any purpose; and
 - (6) a statement that the employee organization has no restriction on membership based on race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age, or sexual orientation or any other characteristic protected by law.

4. PROCEDURES FOR ESTABLISHING REPRESENTATION UNITS.

- (a) Representation units shall be established by the Board following submission of requests as hereinafter set forth. The decision of the Board shall be binding on all parties for the period established in Section 4(f) below.
- (b) The APCO shall make a recommendation to the Board concerning proposed representation units for the Air District. No Air District employee shall be included in more than one (1) representation unit. Management and confidential employees shall not be included in a representation unit containing classifications of non-management and non-confidential employees. The HRO shall be guided by the policy of the Board that any single representation unit shall encompass as many position classifications as possible consistent with the full use by employees of the privileges of organization and representation established by this article. Within the limits of this policy, criteria used in recommending representation units may

include, but shall not be limited to, such factors as community of interest among employees and the general field of work. No unit shall be established solely on the basis of the extent to which employees in the proposed unit have previously organized.

- (c) Employees or employee organizations may request of the Board the establishment of a particular representation unit by listing classifications and positions to be included and submitting a petition signed by at least thirty percent (30%) of the full-time regular, part-time regular and full-time probationary employees within the proposed representation unit.
- (d) The HRO shall verify all petitions and, upon verification, shall within ten (10) working days give notice to the employees within the proposed representation unit of the contents of the petition.
- (e) Employees within the proposed representation unit shall have ten (10) working days from the date of notification to submit petitions requesting changes in the proposed representation unit. Such petitions must be signed by at least thirty percent (30%) of the employees within the proposed modified representation unit.
- (f) Petitions for changes in representation units may be submitted not sooner than two (2) years following designation of the representation unit by the Board, except that in the event that the end of such two-year period shall occur during the months of April, May, or June of any year, such petitions may be submitted on or after December 1 of the preceding year.
- (g) For the purpose of this section, only full-time regular, part-time regular and full-time probationary employees shall be eligible to sign petitions for the establishment of representation units.

5. CERTIFICATION AND DE-CERTIFICATION AS A RECOGNIZED EMPLOYEE ORGANIZATION.

- (a) An employee organization shall be considered for certification as a recognized employee organization by the Board, through the HRO, following the submission of a request for recognition accompanied by, or in the form of, a petition indicating that at least thirty percent (30%) of the employees within the proposed or existing representation unit desire the petitioning employee organization to be their sole and exclusive representative.
- (b) The HRO shall verify each petition and, following verification, shall within ten (10) working days give notice to all employees within the proposed or existing representation unit and all employee organizations of the contents of the request.
- (c) Any other employee organization seeking certification as a recognized employee organization to represent the employees of a proposed or existing representation unit for which a request has been submitted and verified pursuant to Sections 5(a) and (b) above may, within ten (10) working days of the date of notice given pursuant to Section 5(b) above, request the Board through the HRO for recognition accompanied by, or in the form of, a petition indicating at least thirty percent (30%) of the employees within the proposed or existing representation unit desire the petitioning employee organization to be their sole and exclusive representative.

- (d) If the request for recognition shows a proof of employee approval of thirty percent (30%) of the employees within the unit and no challenging petition is filed within ten (10) working days following the date of notice, or, if two (2) or more requests are filed, the HRO, upon verifying all petitions, shall cause a secret election to be conducted or supervised by an agency independent of the Air District. All the employees of the representation unit shall be given the opportunity to choose among the petitioning employee organizations and no organization. Full-time and part-time employees within the representation unit on the payroll immediately preceding the election shall be entitled to vote.
- (e) The Board shall officially certify as the recognized employee organization the organization, if any, receiving a majority of such ballots cast. If a majority of such ballots cast is for no organization, the Board shall certify that no recognized employee organization represents the employees within the representation unit. If none of the choices on the ballot receives a majority of the ballots cast, a run-off election shall be held between the choices receiving the two (2) highest number of votes. The Board shall certify as the recognized employee organization for the representation unit the choice receiving the most votes in a valid election, or shall certify that no recognized employee organization represents the employees within the representation unit. For any election provided for in this article to be valid, at least fifty percent (50%) of the eligible voters must vote. The Board shall make its official certification within fifteen (15) working days of the official notification of the election results.
- (f) A request for de-certification of a recognized employee organization or for the certification of an employee organization other than the organization currently certified must be accompanied by, or, in the form of, a petition executed by at least thirty percent (30%) of the employees within the representation unit. The Board may also initiate a de-certification petition where, because of substantial changes in Air District functions, organizational structure, or job classifications within the representation unit, it appears that the recognized employee organization no longer retains significant support among employees within the representation unit. No de-certification petition under this section shall be filed earlier than two (2) years following certification of the recognized employee organization or earlier than one hundred and twenty (120) days and no later than ninety (90) days prior to the expiration of the period of time covered by an agreement or memorandum of understanding. The provisions of Sections 5(b) and (c) above shall apply to a proceeding under this section. The HRO shall cause a secret election to be conducted or supervised by an agency independent of the Air District wherein the employees within the representation unit on the payroll immediately preceding the election shall be entitled to vote. The recognized employee organization shall be de-certified or changed by the Board only if a majority of those casting valid ballots in an election vote for de-certification or change.
- (g) For the purpose of Sections 5(a) through (h) above, only full-time regular, part-time regular and full-time probationary employees shall be eligible to sign representation petitions or to vote in representation elections.

- (h) Requests for certification as a recognized employee organization may be submitted not sooner than one (1) year following the certification that the representation unit shall not be represented by a recognized employee organization.

6. MEETINGS.

- (a) The HRO, and/or others as designated by the Board or APCO, shall meet and confer with representatives of recognized employee organizations on matters within the scope of representation. The recognized employee organizations shall be advised of the name and address of the HRO.
- (b) It is in the interest of the Air District and of recognized employee organizations that the meet and confer process on the subject of salaries, fringe benefits and conditions of employment be brought to a mutually agreeable conclusion prior to that time when the Board adopts its annual budget for the Air District, which normally takes place in June. In order to meet this goal, the representatives of the Air District and of the recognized employee organization or organizations shall endeavor to adhere to the following schedule for the conduct of any annual meet and confer process.
- (c) By February 15 of each year (in years when the Memorandum of Understanding (MOU) is expiring), the APCO shall designate three (3) management employees/representatives to serve with the HRO as the Board's designated representatives in that year's meet and confer process. The APCO shall designate one of these individuals to serve as chief negotiator who may or may not be an Air District employee.
- (d) During the month of February of each year (in years when the Memorandum of MOU is expiring), the members of the recognized employee organization or organizations should confer among themselves in order to agree upon a list of issues within the scope of representation which the members of the recognized employee organization or organizations wish to address in the course of the meet and confer process. In addition, management representatives shall meet and confer among themselves in order to agree upon a list of issues to be addressed in the course of the meet and confer process. To the extent practicable, this list shall be drafted in the form of proposed language changes to the then existing MOU between the Air District and the recognized employee organization. These lists should be exchanged by no later than the end of February of each year.
- (e) The Board's designated representatives shall meet with the designated representatives of the recognized employee organization or organizations at a mutually acceptable time as soon as possible after the submission of each employee organization's list of issues.
- (f) The APCO shall present the matters set forth in each employee organization's list of issues to the full Board at a closed session to be held at the second regularly scheduled Board meeting in March. At this session, the Board shall instruct its designated representatives as to the Board's position on the issues to be addressed during the meet and confer process including any issues raised by the Board or by management.

- (g) Beginning in April of each year of successor MOU bargaining and until the meet and confer process is concluded, each regularly scheduled Board meeting shall have agendaized a brief closed session in order for the designated representatives to update the Board on the progress of that year's meet and confer process and, if necessary, to enable the Board to modify its instructions to its designated representatives concerning the subjects at issue.
- (h) To the extent practicable, the designated representatives of the Board and of the recognized employee organization or organizations shall meet as often as necessary during the course of the meet and confer process. The parties shall endeavor to bring the meet and confer process to a mutually agreeable conclusion by the first scheduled Board meeting in June.
- (i) The purpose of the meet and confer process is to promote an amicable resolution of issues within the scope of representation. This purpose is best served by following the procedures outlined above. For this reason, it is the view of the Board that the spirit of good faith and mutual obligation which the meet and confer process is intended to foster would be compromised if any recognized employee organization, its officers or designated representatives, or the designated representatives of the Board, were to circumvent these procedures or deviate from the meet and confer process with respect to any matter which is the subject of an on-going meet and confer process.
- (j) Air District staff will furnish any recognized employee organization, on request, with sufficient data on wage rates, job classifications and related matters to enable the recognized employee organization to bargain understandingly and to prepare for meet and confer sessions.
- (k) If after a reasonable period of time, the representatives of any recognized employee organization and the designated representatives of the Board fail to reach agreement concerning any subject matter at issue during an on-going meet and confer process, the Board and the recognized employee organization together may agree upon the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the Air District and one-half to the recognized employee organization.
- (l) The procedures outlined in Section 6(b) above are intended to apply to issues within the scope of representation which are normally addressed in connection with the Air District's annual budget process for that year. In the event that other issues within the scope of representation arise outside of the time frame outlined in Section 6(b), either the affected recognized employee organization or organizations, or the HRO, may request in writing that the designated representatives of each party meet and confer concerning said issue or issues. The designated representatives of each affected party shall meet at a mutually acceptable time as soon as possible thereafter concerning the issue or issues specified in said written request.
- (m) All meetings shall occur at Air District facilities or via virtual platform, unless otherwise mutually agreed.

- (n) If the subject of a meeting affects more than one (1) representation unit, a joint meeting may be held with all of the recognized employee organizations affected.
- (o) If agreement is reached, the participants shall jointly prepare and sign a written memorandum of such understanding, which shall be presented to the Board for determination and shall not be binding until ratified by the membership of the representational unit and approved by the Board.
- (p) Unless otherwise mutually agreed, no more than four (4) Air District employees, who are representatives of each recognized employee organization, shall be granted reasonable time off without loss of compensation or other benefits when formally meeting and conferring with designated Board representatives on matters within the scope of representation.
- (q) Timely requests in writing for reasonable time off for the purpose of Section 6(p) above shall be submitted to the employee's department head or his/her designated representative. Such requests shall include:
 - (1) the name of the employee;
 - (2) the name of the organization represented;
 - (3) the time, place, nature and estimated duration of the meeting.

Any such request may be denied by the department head on the basis of an operational emergency, the existence of which shall be reported by the department head to the HRO, who shall then contact the representative of the recognized employee organization, so that the meeting may be re-scheduled, if the recognized employee organization so desires.

- (r) Except in cases of emergency as provided in Section 6(s) below, the HRO shall give reasonable written notice to each recognized employee organization affected of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the Board and shall give such recognized employee organization an opportunity to meet with the HRO of the Air District.
- (s) In cases of emergency when the Board determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the Board shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

7. ACCESS TO EMPLOYEES DURING WORKING HOURS.

- (a) Any authorized representative of an employee organization seeking recognition under this article has the right to contact individual employees working within the proposed or existing representation units in Air District facilities during business hours on matters within the scope of representation, except on matters outlined in Section 7(c) below, providing prior arrangements have been made for each such contact with the department head or his/her designated representative, who shall grant permission for such contact if it will not disrupt the business of the work unit involved. When contact on the work location is precluded by confidentiality of

records, or of work situation, health and safety of employees or the public or by disturbance to others, the department head shall have the right to make other arrangements for a contact location removed from the work area.

- (b) Meetings of representatives of employee organizations seeking recognition under this article and a group of employees shall not be permitted during working hours. The HRO or his/her designated representative may, upon timely application, allow meetings of a representative of an employee organization seeking recognition and a group of employees during the lunch period in Air District facilities and at convenient dates.
- (c) No contacts shall be permitted during working hours with employees regarding membership, collection of moneys, election of officers, or other similar internal employee organization business.
- (d) Unless otherwise agreed, employees or representatives of employee organizations shall not be permitted to attend meetings or conferences called by Air District personnel concerning matters arising out of the normal course of Air District activities.

8 DUES DEDUCTIONS.

Consistent with governing state law and any negotiated MOU between the Air District and the exclusive representative, the Air District shall deduct and transfer to the Association dues for members of the exclusive representative who are in job classifications which are non-management and non-confidential.

9. CONSTRUCTION OF THIS RESOLUTION

- (a) Nothing in this Resolution shall be construed to deny any person, organization, or employee any rights granted by federal, state, or local law or charter provision.
- (b) The provisions of this Resolution are intended to be consistent with the provisions of Article 10, Division 4, Title 1 (Section 3500, et seq.) of the Government Code of the State of California.
- (c) If any provision of this Resolution or the application of such provision to any person, organization, employee or circumstance shall be held to be invalid, the remainder of section or the application of such provision to person, organization, employees, or circumstances other than those being held invalid shall not be affected thereby.
- (d) Subject to the limitations pertaining to representation units contained in Section 4(b) above, nothing contained herein shall be construed to prohibit two (2) or more employee organizations from acting jointly, as a single organization, to register, to petition for a representation unit, or to petition for certification as a recognized employee organization, and if certified, to represent the employees within the representation unit.
- (e) It is recognized that the provisions of this Resolution may require amendments from time to time. The Board, through the APCO, shall meet and confer or meet and consult as required by law with employee organizations prior to enacting any such amendments.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION No. 2023 - 13

A Resolution of the Board of Directors of the Bay Area Air Quality Management District Establishing an Executive Leadership Continuity Policy

RECITALS

WHEREAS, the Bay Area Air Quality Management District (Air District) recognizes the need to ensure executive leadership continuity in the event of a vacancy or the inability of the incumbent to fulfill their duties in positions reporting directly to the Board of Directors; and

WHEREAS, on November 2, 2022, the Air District’s Management Auditor Sjoberg Evashenk presented an Audit Report to the Board of Directors, which included Recommendation 1.9 calling for the implementation of executive leadership succession protocols; and

WHEREAS, the Air District aims to implement protocols that ensure executive leadership continuity in accordance with the recommendations provided;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District hereby establishes the Executive Leadership Continuity Policy as provided in Attachment 1 to this Resolution.

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 DIRECTOR GONZALEZ, seconded by DIRECTOR HUDSON, on the 5th day of JULY, 2023 by the following vote of the Board:

AYES: BRIAN BARNACLE, JOHN J. BAUTERS, KEN CARLSON, NOELIA CORZO, JOELLE GALLAGHER, JOHN GIOIA, JUAN GONZALEZ, DAVID HAUBERT, LYNDA HOPKINS, DAVID HUDSON, DAVINA HURT, TYRONE JUE, SERGIO LOPEZ, MYRNA MELGAR, NATE MILEY, RAY MUELLER, KATIE RICE, VICKI VEENKER, SHAMANN WALTON, STEVE YOUNG.

NOES: NONE.

ABSTAIN: NONE.

ABSENT: MARGARET ABE-KOGA, ERIN HANNIGAN, OTTO LEE, MARK ROSS.

DocuSigned by:
John Bauters
C7389B49E2E9456...

John J. Bauters
Chairperson of the Board of Directors

ATTEST:

DocuSigned by:
Lynda Hopkins
CC4FE6A9DF864C5...

Lynda Hopkins
Secretary of the Board of Directors

ATTACHMENT 1 – Executive Leadership Continuity Policy

The Board of Directors establishes the following policy and protocols to ensure continuity of Executive Leadership in the event that the Executive Officer/APCO or District Counsel positions become vacant or the incumbent is unavailable or unable to perform their duties.¹

4.1 Continuity of Executive Officer/APCO Leadership

4.1.1 Anticipated Inability to Perform Duties: If the Executive Officer/APCO (EO) anticipates that they will be unable to perform their duties for a period of time, the EO may, after informing the Chairperson of the Board, appoint any employee meeting the minimum qualifications of the then-current EO classification specification to serve as Acting EO during that period, up to a maximum of 21 working days. The EO shall promptly communicate this Acting EO appointment to all other Deputies and other appropriate Air District staff. The employee appointed to serve as Acting EO shall not receive an increase in pay during the Acting EO assignment. Should this period extend beyond 21 days, the EO may extend the appointment or appoint an alternate employee meeting the minimum qualifications of the then-current EO classification specification, with the written approval of the Chairperson of the Board. The extension of this appointment shall not exceed a total of 60 days without Board approval.

4.1.2 Unanticipated Inability to Perform Duties:

4.1.2.1 Emergency Appointment of Acting EO: In the event that (i) the EO is unable to perform their duties, (ii) no Acting EO has been appointed under Subsection 4.1.1 above; and (iii) an urgent need arises for action by the EO, another member of the executive team shall serve as Acting EO according to the following order of priority:

- i. Chief Operating Officer
- ii. Deputy of Finance and Administration
- iii. Deputy of Engineering and Operations
- iv. Deputy of Community and Equity
- v. Deputy of Science and Policy
- vi. Deputy of Governmental Affairs

The highest-priority employee from the priority list above who is able to perform the duties of the EO shall serve as Acting EO upon confirming that there is an urgent need for action and confirming that

¹ The numbering in this policy starts with 4 for convenience so that this policy of the Board of Directors can be incorporated directly into an implementation document of the Air District's Human Resources Division.

the EO and any higher-priority employees are unable to perform the EO duties, after making all reasonable efforts under the circumstances to contact and confer with the EO, all other employees from the priority list, the DC, and the Board Chair in accordance with the Continuity of Executive Leadership Procedures. That employee shall serve as Acting EO until such time as the EO or a higher-priority employee becomes able to perform the EO duties, or the Chairperson or the Board appoints a different person to serve as Acting EO. Any person who serves as Acting EO under this Subsection 4.1.2.1 shall take all reasonable steps to notify Air District staff and Board members promptly upon beginning their Acting EO service, and shall explain the circumstances authorizing their Acting EO service under this policy (without revealing any employee privacy or other confidential information). As soon as practicable, but not later than seven (7) days after the circumstances arise that create the need for Acting EO service under this Subsection 4.1.2, the Chairperson shall either affirm the Acting EO's appointment as Acting EO under this Policy or appoint an alternate qualified Air District employee to serve as Acting EO, to the extent that circumstances still require an Acting EO. A person serving as Acting EO shall not receive any increase in salary during their Acting EO service.

4.1.2.2 Board Appointment of Interim or Acting EO: As soon as practicable after the EO becomes unable to perform their duties, but not later than sixty (60) days thereafter, the Board shall convene in open session to appoint an Interim or Acting EO who meets the minimum qualifications of the then-current Classification Specification for EO position, to the extent the EO continues to be unable to perform their duties. If the candidate EO is a current employee of the Air District, the Acting EO shall be paid at Step E of the Deputy Executive Officer Classification, but not less than ten percent (10%) greater than the employee's current salary. If the candidate is not a current employee of the Air District, the Board shall authorize an appropriate salary in an employment contract with the Interim EO.

4.1.3 Removal of the EO by Board: If the Board terminates the EO's employment contract or suspends the EO from active duty, or if the Contract with the EO expires before a new EO is appointed, then unless the Board has taken action to appoint an acting/interim EO within 24 hours of the removal of the EO, the Chairperson shall appoint a current employee as Acting EO with an initial salary at Step E of the Deputy Executive Officer Classification, but not less than 10% greater than the appointee's current salary. As soon as practicable, but no later than sixty (60) days from the EO's termination/ suspension/contract expiration, the Board shall convene in open session to appoint an Interim EO who meets

the minimum qualifications of the then-current Classification Specification for EO position. If the Interim EO is a current employee of the Air District, the Interim EO shall be paid at Step E of the Deputy Executive Officer Classification, but not less than ten percent (10%) greater than the appointee's current salary. If the Interim EO is not a current employee of the Air District, the Board shall authorize an appropriate salary in an employment contract with the Interim EO.

4.2 Appointment and Salary Setting for the Acting District Counsel

4.2.1 Anticipated Inability to Perform Duties: If the District Counsel (DC) anticipates that they will be unable to perform their duties for a period of time, the DC may, after informing the Chairperson of the Board, appoint any employee meeting the minimum qualifications of the then-current DC classification specification to serve as Acting DC during that period, up to a maximum of 21 working days. The DC shall promptly communicate this Acting DC appointment to the APCO, Deputies, and other appropriate Air District staff. The employee appointed to serve as Acting DC shall not receive an increase in pay during the Acting DC assignment. Should this period extend beyond 21 days, the DC may extend the appointment or appoint an alternate employee meeting the minimum qualifications of the then-current DC classification specification, with the written approval of the Chairperson of the Board. The extension of this appointment shall not exceed a total of 60 days without Board approval.

4.2.2 Unanticipated Inability to Perform Duties:

4.2.2.1 Emergency Appointment of Acting DC: In the event that (i) the DC is unable to perform their duties, (ii) no Acting DC has been appointed under Subsection 4.2.1 above; and (iii) an urgent need arises for action by the DC, then another Air District attorney shall serve as Acting DC according to the following order of priority:

- i. Senior Assistant Counsel
- ii. Acting Senior Assistant Counsel
- iii. Assistant Counsel

The highest-priority Air District attorney from the priority list above (or in the event there are multiple attorneys in a category, the one with the longest tenure in that category) who is able to perform the duties of the DC shall serve as Acting DC upon confirming that there is an urgent need for action and confirming that the DC and any higher-priority Air District attorney are unable to perform the DC duties, after making all reasonable efforts under the circumstances to contact and confer with the DC, all other Air District attorneys, the APCO, and the Board Chair in accordance with the Continuity of

Executive Leadership Procedures. That Air District attorney shall serve as Acting DC until such time as the DC or a higher-priority Air District attorney becomes able to perform the DC duties, or the Chairperson or the Board appoints a different person to serve as Acting DC. Any person who serves as Acting DC under this Subsection 4.2.2.1 shall take all reasonable steps to notify Air District staff and Board members promptly upon beginning their Acting DC service, and shall explain the circumstances authorizing their Acting DC service under this policy (without revealing any employee privacy or other confidential information). As soon as practicable, but not later than seven (7) days after the circumstances arise that create the need for Acting DC service under this Subsection 4.2.2, the Chairperson shall either affirm the Acting DC's appointment as Acting DC under this Policy or appoint an alternate qualified Air District employee to serve as Acting DC, to the extent that circumstances still require an Acting DC. A person serving as Acting DC shall not receive any increase in salary during their Acting DC service.

4.2.2.2 **Board Appointment of Interim or Acting DC:** As soon as practicable after the DC becomes unable to perform their duties, but not later than sixty (60) days thereafter, the Board shall convene in open session to appoint an Interim or Acting DC who meets the minimum qualifications of the then-current Classification Specification for DC position, to the extent the DC continues to be unable to perform their duties. If the candidate DC is a current employee of the Air District, the Acting DC shall be paid at Step E of the Senior Assistant Counsel Classification, but not less than ten percent (10%) greater than the employee's current salary. If the candidate is not a current employee of the Air District, the Board shall authorize an appropriate salary in an employment contract with the Interim DC.

4.2.3 Removal of the DC by Board: If the Board terminates the DC's employment contract or suspends the DC from active duty, or if the Contract with the DC expires before a new DC is appointed, then unless the Board has taken action to appoint an acting/interim DC within 24 hours of the removal of the DC, the Chairperson shall appoint a current employee as Acting DC with an initial salary at Step E of the Senior Assistant Counsel Classification, but not less than 10% greater than the appointee's current salary. As soon as practicable, but no later than sixty (60) days from the DC's termination/suspension/contract expiration, the Board shall convene in open session to appoint an Interim DC who meets the minimum qualifications of the then-current Classification Specification for DC position. If the Interim DC is a current employee of the Air District, the Interim DC shall be paid at Step E of the Senior Assistant Counsel Classification, but not less than ten percent (10%) greater than the appointee's

current salary. If the Interim DC I s not a current employee of the Air District, the Board shall authorize an appropriate salary in an employment contract with the Interim DC.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2023-

A Resolution of the Board of Directors of the Bay Area Air Quality Management District Adopting a New Administrative Code, Board Rules of Procedure, Implementation Policies, and Related Documents

RECITALS

WHEREAS, the current Administrative Code of the Bay Area Air Quality Management District (“Air District”) has become outdated and is need of an update and overhaul;

WHEREAS, the Board of Directors (“Board”) discussed the Administrative Code at its special meeting and retreat on March 1, 2023, and give direction to staff to develop a revised Administrative Code for consideration by the Board;

WHEREAS, pursuant to that Board direction, staff undertook a project to develop a proposed new Administrative Code, in conjunction with a consultant team from the Renne Public Law Group, a firm with expertise in California public agency law and governance best practices;

WHEREAS, to provide guidance and direction to staff’s development of the new Administrative Code, the Chairperson of the Board appointed an ad hoc committee composed of the Chairperson and Directors Barnacle, Jue and Melgar (the “Ad Hoc Committee”) to work with staff on this effort;

WHEREAS, the Ad Hoc Committee met regularly with the staff development team to discuss and advise on the conceptual outline of the new Administrative Code as well as specific provisions and issues to be addressed in the new code and the final draft language of the new code;

WHEREAS, with the approval of the Ad Hoc Committee, staff broke the Administrative Code update development into two phases, with Phase One consisting of an overhaul of Division I (Operating Policies and Procedures) and Division II (Fiscal Policies and Procedures) of the current code, and Phase II consisting of an overhaul of Division III (Personnel Policies and Procedures);

WHEREAS, Phase One has now been completed, with the overhaul of the Air District’s personnel policies and procedures in Phase Two anticipated in 2024;

WHEREAS, in implementing Phase One, at the direction of the Ad Hoc Committee, the staff development team adopted as their guiding principles the goals of (i) ensuring that the Air District’s Administrative Code is consistent with current law; (ii) promoting effective oversight of Air District functions by the Board of Directors; (iii) promoting transparency in all of the agency’s programs and operations; (iv) incorporating current best practices for public agency management

and administration; and (v) streamlining the work of the Board of Directors so the Board can perform its functions in an efficient manner;

WHEREAS, consistent with these principles, and in consultation and coordination with the Ad Hoc Committee, staff developed a proposed new **Administrative Code** to replace Divisions I and II of the current code, a copy of which is attached hereto as Attachment 1;

WHEREAS, in developing the proposed new Administrative Code, staff were mindful that in 2021, the Board of Directors established the Air District's Community Advisory Council (CAC) to (among other things) advise the Board and the Air District on equity and environmental justice matters, but the CAC is not recognized on the same footing as the Air District's other legislative bodies in the current Administrative Code;

WHEREAS, to remedy this situation, staff included provisions in Section Five of the proposed new Administrative Code formally recognizing the CAC in the Code and incorporating the CAC's governing provisions, compensation and expense reimbursement procedures, and related matters as previously approved by the Board of Directors in Resolution No. 2023-14 on July 5, 2023, with no change to the substance of those provisions as previously approved;

WHEREAS, the new Administrative Code was developed and written with the intention of replacing Division I and II of the current Administrative Code, leaving Division III in place for the time being to govern personnel matters until a revision to Division III can be developed in Phase Two of the administrative code update project;

WHEREAS, the Finance & Administration Committee considered and discussed the proposed new Administrative Code at its meeting on October 4, 2023, and based on that discussion the Committee recommended that the Board of Directors adopt the new Administrative Code, to become effective January 1, 2024;

WHEREAS, to accompany the new Administrative Code, staff also prepared the attached proposed **Board Rules of Procedure**, a copy of which is attached hereto as Attachment 2, setting forth proposed rules to govern meetings of the Board of Directors and related matters;

WHEREAS, the Finance & Administration Committee also considered and discussed the proposed Board Rules of Procedure at its meeting on October 4, 2023, and based on that discussion recommended that the Board of Directors also adopt the Rules of Procedure, to become effective January 1, 2024;

WHEREAS, staff have prepared a comprehensive set of **Implementation Policies** and related documents to accompany the new Administrative Code, consisting of:

- (i) A proposed Meeting Compensation and Expense Reimbursement Policy, a copy of which is attached hereto as Attachment 3;
- (ii) A proposed Records Management and Access Policy, a copy of which is attached hereto as Attachment 4;

- (iii) A proposed revision to the Air District's Records Retention Schedule, which was adopted by the Board of Directors (most recently) on July 5, 2023, to clarify that ephemeral records that do not contain information of significant or lasting value do not need to be retained pursuant to the Records Retention Schedule, a copy of which proposed revision is attached hereto as Attachment 5a (redline version) and 5b (clean version); and
- (iv) A proposed Procurement Policy, a copy of which is attached hereto as Attachment 6;
- (v) A proposed Grants Policy, a copy of which is attached hereto as Attachment 7;
- (vi) A proposed Sponsorship Policy, a copy of which is attached hereto as Attachment 8;
- (vii) A proposed Non-Discrimination Policy, a copy of which is attached hereto as Attachment 9;
- (viii) A proposed Employer-Employee Relations Resolution to recognize the important role and rights of employees' association(s) to represent the Air District's employees, a copy of which is attached hereto as Attachment 10 and which incorporates and replaces the provisions in Division I, Section 10 of the current Administrative Code addressing these matters;

WHEREAS, the Finance & Administration Committee also considered and discussed all of these proposed implementation policies and related documents at its meeting on November 1, 2023, and based on that discussion recommended that the Board of Directors adopt them, to become effective January 1, 2024;

WHEREAS, staff also prepared a proposed **Remote Teleconferencing Meeting Policy** to provide rules and procedures for members of the Board's standing committees to participate in committee meetings using remote teleconferencing in accordance with the provisions of the Ralph M. Brown Act, a copy of which is attached hereto as Attachment 11;

WHEREAS, the Finance & Administration Committee considered and discussed the proposed Remote Teleconferencing Meeting Policy at its meetings on October 18 and November 1, 2023, and based on those discussions recommended that the Board of Directors adopt it, to become effective January 1, 2024;

WHEREAS, pursuant to Division I, Section 14 of the current administrative code, the Board of Directors was given notice of the proposed revisions to the administrative code at its regular meeting held on November 1, 2023;

WHEREAS, the Board of Directors considered and discussed the new Administrative Code, Board Rules of Procedure, Implementation Policies, and related documents at a duly-noticed regular meeting held on November 15, 2023, at which members of the public were afforded an opportunity to comment and testify on these matters; and

WHEREAS, the Board of Directors concurs in the Finance & Administration Committee's recommendations to adopt the new Administrative Code, Board Rules of Procedure, Implementation Policies and related documents, and desires to adopt them to the official business of the Bay Area Air Quality Management District.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby adopts the **Administrative Code** attached hereto as **Attachment 1** to replace Division I and Division II of the Air District's current Administrative Code effective January 1, 2024, and that Division I and Division II of the current Administrative Code shall be repealed effective on that date (except for the Definitions at the beginning of Division I, to the extent they are applicable to Division III).

BE IT FURTHER RESOLVED that Division III of the current Administrative Code shall remain in effect unless and until repealed or superseded as provided for under Section 12.1 of the new Administrative Code set forth in Attachment 1; that interpretation of terms used in Division III shall be governed by the Definitions set forth at the beginning of Division I of the current Administrative Code, to the extent applicable; and that in the event of any conflict between Division III and the new Administrative Code, Division III shall prevail.

BE IT FURTHER RESOLVED that the Board of Directors hereby dissolves, disbands and terminates the Technology Implementation Office Steering Committee, effective December 31, 2023, with the functions of that Committee to be handled by the new Policy, Grants & Technology Committee established pursuant to Section 3.2(d) of the new Administrative Code.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Board Rules of Procedure** attached hereto as **Attachment 2** effective January 1, 2024.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Meeting Compensation and Expense Reimbursement Policy** attached hereto as **Attachment 3** effective January 1, 2024, with the provisions of the Meeting Compensation and Expense Reimbursement Policy to supersede any conflicting prior policies or administrative code provisions applicable to the Board of Directors, CAC, Advisory Council and Hearing Board.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Records Management and Access Policy** attached hereto as **Attachment 4** effective January 1, 2024.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Revised Records Retention Schedule** attached hereto as **Attachment 5b** effective January 1, 2024.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Procurement Policy** attached hereto as **Attachment 6** effective January 1, 2024;

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Grants Policy** attached hereto as **Attachment 7** effective January 1, 2024.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Sponsorship Policy** attached hereto as **Attachment 8** effective January 1, 2024.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Non-Discrimination Policy** attached hereto as **Attachment 9** effective January 1, 2024.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Employer-Employee Relations Resolution** attached hereto as **Attachment 10** effective January 1, 2024.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts the **Remote Teleconferencing Meeting Policy** attached hereto as **Attachment 11** effective January 1, 2024.

BE IT FURTHER RESOLVED that the Board of Directors hereby adopts all of the foregoing documents with instructions to staff to correct any typographical or formatting errors before final publication, and to publish the documents in an appropriate format that promotes their accessibility and ease of use by the Board of Directors, the Air District's other legislative bodies, Air District staff, and members of the public.

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 Director _____, seconded by Director _____, on the ____ day of _____, 2023 by the following vote of the Board:

AYES:

NOES:

ABSTAIN:

ABSENT:

John J. Bauters
Chair of the Board of Directors

ATTEST:

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: Philip M. Fine
Executive Officer/APCO

Date: November 15, 2023

Re: Overview of 2023-2024 Spare the Air Winter Season and Summary of 2023 Spare
the Air Summer Season

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Spare the Air was created in 1991 by the Bay Area Air Quality Management District to alert residents when air quality is forecast to be unhealthy, to share information on ways to reduce air pollution and encourage clean air choices.

From easy, everyday tools—such as commute tips—and air quality resources, such as explanations of major air pollutant sources and their health effects, Spare the Air focuses on informing and helping residents choose actions that will improve air quality and make the Bay Area a healthier, more enjoyable place to live.

The Spare the Air program utilizes advertising and outreach campaigns each year to notify the public when air quality is forecast to be unhealthy, informs residents how to protect their health and encourages individual actions to improve air quality such as taking transit, walking or biking or switching to cleaner heating options. The Spare the Air program is known regionwide and is a trusted source of air quality information in the Bay Area.

DISCUSSION

Staff will provide an overview of the 2023-2024 Spare the Air winter season, a summary of the 2023 Spare the Air summer season and an overview of the results from the 2023 Spare the Air summer survey.

The Spare the Air winter campaign makes the link between the unhealthy air quality the region experiences during wildfires to wood smoke pollution from fireplaces. The campaign will continue to focus on the localized health impacts from wood smoke as well as indoor air quality impacts from wood burning. Staff will present an overview of this year’s creative and campaign strategy.

The 2023 Spare the Air summer campaign focused on promoting the return to transit as more Bay Area residents returned to the office. The campaign continued to use transit-focused creative targeting residents returning to the office, sporting events and other gatherings region-wide. Through social media and media outreach, the campaign also promoted active transportation. Results from the 2023 Spare the Air survey conducted during the summer campaign will also be presented. Survey topics include Spare the Air program recognition, behavior change and specific survey data about remote work and transportation modes.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Kristina Chu
Reviewed by: Kristine Roselius

ATTACHMENTS:

1. 2023-2024 Spare the Air Winter Season and Summary of 2023 Spare the Air Summer Season Presentation

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

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

From: Philip M. Fine
Executive Officer/APCO

Date: November 15, 2023

Re: Overview of the Bay Area Emissions Inventory

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

An emissions inventory is a systematic and recurring assessment of the amount of air pollution emitted, categorized by pollutant type, location, and the specific groups of air pollution sources. The emissions inventory provides data for air quality modeling, enabling the estimation of pollutant concentrations, exposure levels, and associated health risks. It also serves as the foundational dataset for identifying opportunities to potentially control emissions sources, offering a menu of options for reducing pollution to improve public health.

The Air District has developed and maintained the Bay Area Emissions Inventory for over two decades, covering over a thousand source categories. This regional emissions inventory presents estimates of annual emissions by county for the following set of pollutants: particulate matter with diameters 10 micrometers and smaller (PM₁₀) and 2.5 micrometers and smaller (PM_{2.5}), total organic gases (TOG), ozone-forming reactive organic gases (ROG), nitrogen oxides (NO_x), carbon monoxide (CO), and sulfur dioxide (SO₂).

The Air District has also developed emissions inventories for greenhouse gases (GHG) and toxics air contaminants (TACs). But the GHG and TACs estimates are based on different methodologies and are managed as separate inventory work products. The work on the TAC and GHG inventories is ongoing, but not yet ready to present.

The Air District staff periodically revises the regional inventory. The revision process accounts for various evolving factors, including changes in source activities (such as vehicle miles traveled), shifts in economic and demographic trends, and the influence of regulatory measures on emissions sources.

DISCUSSION

Recently, the inventory team in the Assessment, Inventory, and Modeling Division completed a comprehensive update to the Bay Area Emissions Inventory. This update incorporates the most current data available for various parameters, including source activities/throughput, emission calculation methods, and relevant factors to account for pollution controls required by regulations. In the process of this update, staff reorganized and consolidated emission source categories, streamlining them into five overarching sectors: Stationary Combustion, Stationary Non-Combustion, Mobile On-Road, Mobile Off-Road, and Miscellaneous sources.

The emissions inventory work products include a technical report that summarizes regional- and county-level total emissions, a dataset with lookup tables containing category-level emission estimates, and a detailed methodology document.

The staff presentation will discuss the methods and datasets, source contributions, variations by location and time, how we use the inventory, and its limitations.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Song Bai
Reviewed by: Greg Nudd

ATTACHMENTS:

1. Overview of Bay Area Emissions Inventory Presentation