



BOARD OF DIRECTORS
MEETING
April 2, 2025

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

Office of Santa Clara County
70 W. Hedding St.,
1st Floor Conference Room
San Jose, CA 95110

Scott Haggerty Heritage House
4501 Pleasanton Ave.
Pleasanton, CA 94566

Napa County Administration Building
1195 Third Street, Suite 310
Crystal Conference Room
Napa, CA 94559

San Mateo County
Board of Supervisors Offices
500 County Center, 5th Floor
Redwood City, CA 94063

Santa Rosa Junior College Campus
Doyle Library, Room 148
1501 Mendocino Ave.
Santa Rosa, CA, 95401

Alameda County
Board of Supervisors District 3
101 Callan Ave., Suite 103
San Leandro, CA 94577

Pittsburg City Hall
City Manager's Office
Mayor/Council Conference Room, 301A
65 Civic Ave., 3rd Floor
Pittsburg, California 94565

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/83740602473>, or may join Zoom by phone by dialing (669) 900-6833 or (408) 638-0968. The Webinar ID for this meeting is: 837 4060 2473

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, APRIL 2, 2025

10:00 AM

Chairperson, Lynda Hopkins

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 - 17)

The Consent Calendar consists of routine items that may be approved together as a group by one action of the Board. Any Board member or member of the public may request that an item be removed and considered separately.

4. Approval of the Draft Minutes of the Board of Directors Meeting of March 5, 2025

The Board will consider approving the Draft Minutes of the Board of Directors Meeting of March 5, 2025.

5. Board Communications Received from March 6, 2025, through April 1, 2025

A copy of communications directed to the Board of Directors received by the Air District from March 6, 2025, through April 1, 2025, if any, will be distributed to the Board Members by way of email.

6. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month February 2025

In accordance with Resolution No. 2012-08 the Board of Directors will receive a list of all Notices of Violations issued, and all settlements for amounts in excess of \$10,000, during the month of February 2025.

7. Personnel Out-of-State Business Travel Report for February 2025

In accordance with Section 1.1.3 of the Air District's Employee Travel and Business Expense Policy, the Board of Directors will be notified of Air District personnel who have traveled on out-of-state business.

8. Authorization to Amend Master Services Agreement with CipherEx, Inc. for Computer Infrastructure Maintenance Services

The Board of Directors will consider authorizing the Executive Officer/APCO to amend the Master Services Agreement with CipherEx, Inc. to increase the maximum dollar amount by \$200,000, from \$218,750 to \$418,750.

9. Authorization to Amend the Master Services Agreement with KBM-Hogue for Workplace Furniture Design, Procurement, and Installation Services at the Air District's Beale Street Headquarters

The Board of Directors will consider authorizing the Executive Director/APCO to amend the Air District's Master Services Agreement with KBM-Hogue to increase the total not-to-exceed amount of the agreement by \$750,000, from \$95,837.25 to \$845,837.25, and to extend the term of the agreement through September 21, 2029, to provide workplace furniture design, procurement, and installation services at Air District's Beale Street Headquarters. This item was recommended by the Finance and Administration Committee at its meeting on March 19, 2025.

10. Reappointment of Three Incumbent Members of the Air District's Hearing Board

The Board of Directors will consider reappointing the incumbent Principal Hearing Board members in the Attorney, Public (A), and Medical Professional seats on the Air District's Hearing Board. The Finance and Administration Committee recommended the reappointment of these three incumbent members at its meeting on March 19, 2025.

11. Authorization to Execute Lease Extension for Oakland East Air Monitoring Site

The Board of Directors will consider authorizing the Executive Officer/APCO to execute an amendment to the Air District's lease agreement with Western Pacific Property, LLC to extend the lease for the Oakland East air monitoring site at 9925 International Boulevard, Oakland, CA 94603 through January 31, 2035. The total estimated cost for the lease extension is \$1,350,554.11.

12. Approval of an Amendment to the Employment Agreement for General Counsel

The Board of Directors will consider approving an amendment to the employment agreement for General Counsel. This item will be presented by Lynda Hopkins, Board Chairperson.

13. Report of the Stationary Source Committee Meeting of March 12, 2025

The Board of Directors will receive a report of the Stationary Source Committee Meeting of March 12, 2025.

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

14. Report of the Community Equity, Health, and Justice Committee Meeting of March 12, 2025

The Board of Directors will receive a report of the Community Equity, Health, and Justice Committee meeting of March 12, 2025.

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

15. Report of the Policy, Grants, and Technology Committee Meeting of March 19, 2025

The Board of Directors will receive a report of the Policy, Grants, and Technology Committee Meeting of March 19, 2025.

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

16. Report of the Finance and Administration Committee Special Meeting of March 19, 2025

The Board of Directors will receive a report of the Finance and Administration Committee meeting of March 19, 2025.

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

17. Report of the Community Advisory Council Meeting of March 20, 2025

The Board of Directors will receive a report of the Community Advisory Council Meeting of March 20, 2025.

*For the full Council agenda packet and materials, click on the link below:
www.baaqmd.gov/en/about-the-air-district/community-advisory-council/agendasreports*

ACTION ITEM(S)

18. Consideration of State Legislation

The Board will consider adopting positions on pending state legislative bills including, but not limited to, Assembly Bill (AB) 339 (Ortega), AB 1226 (Essayli), AB 1368 (Wallis), Senate Bill (SB) 318 (Becker), and SB 712 (Grove). This item will be presented by Alan Abbs, Legislative Officer.

INFORMATIONAL ITEM(S)

19. United States Environmental Protection Agency (US EPA) Initiatives Under the New Federal Administration and How the Bay Area May be Affected

The Board of Directors will consider and discuss the new federal Administration's stated intent to implement new policies and roll back regulations in a manner that could impact the Air District and air quality in the Bay Area. This item will be presented by Carrie Schilling, Senior Assistant Counsel, Legal Division.

OTHER BUSINESS

20. 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.

21. 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)

22. Report of the Executive Officer/APCO

23. Chairperson's Report

24. Time and Place of Next Meeting

Wednesday, May 7, 2025, 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

25. Conference with Legal Counsel re Existing Litigation (Government Code Sections 54956.9(a) and (d)(1))

Pursuant to Government Code Sections 54956.9(a) and (d)(1), the Board of Directors will meet in closed session with legal counsel to discuss the following cases:

Stephen (Rex) Sanders v. Bay Area Air Quality Management District, Northern District of California Case No. 23-cv-04416-RFL;

Terri Levels v. Bay Area Air Quality Management District, Northern District of California Case No. 23-cv-04432-RFL;

Lewis Letang v. Bay Area Air Quality Management District, Northern District of California Case No. 24-cv-01316-RFL;

Rochele Henderson v. Bay Area Air Quality Management District, Northern District of California Case No. 24-cv-01460-RFL;

Veronica Eady v. Bay Area Air Quality Management District, Northern District of California Case No. 24-cv-07000-RFL; and

Vanessa Johnson v. Bay Area Air Quality Management District, Northern District of California Case No. 24-cv-06276-RFL.

26. Conference with Labor Negotiators Pursuant to Government Code Section 54957.6

Conference with Labor Negotiators

Pursuant to Government Code Section 54957.6

Agency Designated Representatives:

Laura A. Izon, Atkinson, Andelson, Loya, Ruud & Romo

Hyacinth Hinojosa, Deputy Executive Officer of Finance and Administration

Lisa Baker, Director of Human Resources

Employee organization: BAAQMD Employees' Association

OPEN SESSION

27. 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 Acting Non-Discrimination Coordinator, Diana Ruiz, at (415) 749-8840 or by email at druiz@baaqmd.gov.

**BAY AREA AIR DISTRICT
375 BEALE STREET, SAN FRANCISCO, CA 94105
FOR QUESTIONS PLEASE CALL (415) 749-4941**

**EXECUTIVE OFFICE:
MONTHLY CALENDAR OF AIR DISTRICT MEETINGS**

APRIL 2025

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	2	10:00 a.m.	1 st Floor Board Room
Board of Directors Stationary Source Committee	Wednesday	9	10:00 a.m.	1 st Floor, Yerba Buena Room
Board of Directors Community Equity, Health, and Justice Committee	Wednesday	9	1:00 p.m.	1 st Floor, Yerba Buena Room
Board of Directors Policy, Grants, and Technology Committee	Wednesday	16	10:00 a.m.	1 st Floor Board Room
Board of Directors Finance and Administration Committee	Wednesday	16	10:00 a.m.	1 st Floor Board Room

MAY 2025

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Special Meeting Budget Hearing	Wednesday	7	9:00 a.m.	1 st Floor Board Room
Board of Directors Meeting	Wednesday	7	10:00 a.m.	1 st Floor Board Room
Board of Directors Stationary Source Committee	Wednesday	14	10:00 a.m.	1 st Floor, Yerba Buena Room
Board of Directors Community Equity, Health and Justice Committee	Wednesday	14	1:00 p.m.	1 st Floor, Yerba Buena Room
Board of Directors Community Advisory Council Retreat	Friday Saturday	16 17	6:00 p.m. 8:00 a.m.	TBD
Board of Directors Policy, Grants and Technology Committee	Wednesday	21	10:00 a.m.	1 st Floor Board Room
Board of Directors Finance and Administration Committee	Wednesday	21	1:00 p.m.	1 st Floor Board Room

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Approval of the Draft Minutes of the Board of Directors Meeting of March
5, 2025

RECOMMENDED ACTION

Approve the Draft Minutes of the Board of Directors Meeting of March 5, 2025.

BACKGROUND

None.

DISCUSSION

Attached for your review and approval are the Draft Minutes of the Board of Directors Meeting of March 5, 2025.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENT(S):

1. Draft Minutes of the Board of Directors Meeting of March 5, 2025

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

Board of Directors Regular Meeting
Wednesday, March 5, 2025

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, Lynda Hopkins, called the meeting to order at 10:07 a.m.

Roll Call:

Present, In-Person (Bay Area Metro Center, 375 Beale Street, 1st Floor Board Room, San Francisco, CA, 94105): Chairperson Lynda Hopkins; Vice Chairperson Vicki Veenker; and Directors Monica Brown, Brian Colbert, Juan González III, Tyrone Jue, Sergio Lopez, Bilal Mahmood, Gabe Quinto, and Shamann Walton.

Present, In-Person Satellite Location: (Office of Contra Costa County Supervisor Ken Carlson, 2255 Contra Costa Blvd., Suite 202, Pleasant Hill, CA 94523): Director Dionne Adams.

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: (San Mateo County Board of Supervisors Offices, 500 County Center - 5th Floor, Redwood City, CA 94063): Directors Noelia Corzo and Rico Medina.

Present, In-Person Satellite Location: (Sacramento Area Council of Governments, El Dorado Room, 1415 L Street, Suite 300, Sacramento, CA 95814): Director Steve Young.

Present, In-Person Satellite Location: (Scott Haggerty Heritage House, 4501 Pleasanton Ave., Pleasanton, CA 94566): Director David Haubert.

Present, In-Person Satellite Location: (Alameda County Board of Supervisors District 3, Office of Supervisor Lena Tam, 101 Callan Avenue, Suite #103, San Leandro, CA 94577): Director Lena Tam.

Absent: Directors Margaret Abe-Koga, Brian Barnacle, Ken Carlson, Joelle Gallagher, Otto Lee, Ray Mueller, and Mark Salinas.

2. **PLEDGE OF ALLEGIANCE**

3. **SPECIAL ORDERS OF THE DAY**

Chair Hopkins welcomed the following new employees: Qais Ahmadyaar, Assistant Staff Specialist I in the Information Systems Development Division; Erick Macario, Air Quality Specialist II in the Compliance and Enforcement Division; Anabel Salazar, Air Quality Specialist II in the Compliance and Enforcement Division; Swati Gupta, Systems Analyst in the Information Systems Development Division; and Shayla Elliot, Human Resource Technician II in the Human Resource Office. Chair Hopkins also announced that Dr. Julia Luongo was promoted to the role of Principal Air Quality Specialist in the Rules and Strategic Policy Division; Betty Kwan was promoted to the role of Senior Air Quality Specialist in the Compliance and Enforcement Division; Daniel Langmaid was promoted to the role of Supervising Staff Specialist in the Strategic Incentives Division.

CONSENT CALENDAR (ITEMS 4 – 19)

4. Approval of the Draft Minutes of the Board of Directors Special Meeting/Retreat of January 29, 2025
5. Approval of the Draft Minutes of the Board of Directors Meeting of February 5, 2025
6. Board Communications Received from February 5, 2025, through March 4, 2025
7. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of January 2025
8. Personnel Out-of-State Business Travel Report for January 2025
9. Amendments to Section 9.4 of the Administrative Code Regarding Procurement
10. Authorization to Execute a Memorandum of Understanding with the California Air Pollution Control Officers Association for the Prescribed Burn Reporting and Monitoring Support Program
11. Authorization to Execute Lease Amendments for Office, Shop, Lab, and Garage Space for Meteorology and Measurement Division in Richmond
12. Public Hearing to Adopt Determination of Effectiveness of Transportation Fund for Clean Air Project Expenditures for Fiscal Year (FY) 2023-2024 and Authorize Cost-Effectiveness Criteria for Air District-Sponsored Programs commencing FY 2025-2026
13. Financial Update for the Second Quarter of FY 2024-2025, Ending December 31, 2024
14. FY 2024-2025 Second Quarter Reporting of Payments for Routine and Recurring Goods/Services Expenses and Contracts Executed under Delegated Authority
15. Position Qualifications for Members of the Advisory Council
16. Report of the Stationary Source Special Committee Meeting of February 19, 2025
17. Report of the Community Equity, Health, and Justice Special Committee Meeting of February 19, 2025

- 18. Report of the Finance and Administration Special Committee Meeting of February 26, 2025
- 19. Report of the Policy, Grants, and Technology Special Committee Meeting of February 26, 2025

Public Comments

No requests received.

Board Comments

None.

Board Action

Director González made a motion, seconded by Director Brown, to **approve** Consent Calendar Items 4-19, inclusive; and the motion **carried** by the following vote of the Board:

- AYES: Adams, Brown, Colbert, Corzo, Gioia, González, Haubert, Hopkins, Jue, Lopez, Mahmood, Medina, Quinto, Tam, Veenker, Walton, Young.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Abe-Koga, Barnacle, Carlson, Gallagher, Lee, Mueller, Salinas.

ACTION ITEMS

20. CONSIDERATION OF FEDERAL AND STATE LEGISLATION

Alan Abbs, Legislative Officer, gave the staff presentation *Consideration of State and Federal Legislation*, including: action requested; federal legislation (Cleaner Air Spaces Act); state legislation (Assembly Bill (AB) 546 (Caloza)); and recap of requested action.

Public Comments

Public comments were given by Patrick Messac, member of the Air District’s Community Advisory Council.

Board Comments

The Board and staff discussed concern of potential claw backs on funding would impact Air District programs; and reauthorization of the State’s Cap and Trade program and recent auction activity.

Board Action

Vice Chair Veenker made a motion, seconded by Director Quinto, to do the following:

1. Adopt a position of **SUPPORT** for United States House of Representatives Bill 566 (Peters, Scott H. [D-CA-50]) – Cleaner Air Spaces Act.
2. Adopt a position of **SUPPORT** for United States Senate Bill 147 (Bennet, Michael F. [D-CO]) – Cleaner Air Spaces Act
3. Adopt a position of **SUPPORT** for AB 546 (Caloza) – Health care coverage: portable high efficiency particulate air (HEPA) purifiers and filters.

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

AYES: Adams, Brown, Colbert, Corzo, Gioia, González, Haubert, Hopkins, Jue, Lopez, Mahmood, Medina, Quinto, Tam, Veenker, Walton, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barnacle, Carlson, Gallagher, Lee, Mueller, Salinas.

INFORMATIONAL ITEMS

21. OVERVIEW OF THE AIR DISTRICT LEGAL DIVISION

Alexander Crockett, General Counsel, gave the staff presentation *Overview of Air District Legal Division*, including: outline; Legal Division organization; enforcement overview, penalty collection history, and lessons for further improvement; enforcement case studies (Valero Refinery and Green Sage); litigation; other Air District program areas; public agency legal requirements; Air District business functions; and what’s coming in 2025.

Public Comments

No requests received.

Board Comments

The Board and staff discussed the Board’s belief that the Air District’s Legal Division has been demonstrating a more health-protective approach, yielding significant results; whether the Air District anticipates more or fewer violations and penalties, and historical violation and penalty trends; what prompted the 2019 inspection of the Valero Refining Company refinery in Benicia that resulted in a \$82 million penalty; reorganizational challenges within the Legal Division and opportunities in recruiting (whether additional resources are needed); appreciation for the new internship and fellowship opportunities within the Legal Division; what prompts the Air District to partner with other regulatory agencies when investigating a violation; and concerns about the ongoing issue of the permitting backlog at the Air District.

Board Action

No action taken.

22. UPDATE ON UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S (US EPA) INITIAL AREA DESIGNATIONS FOR THE FEDERAL ANNUAL FINE PARTICULATE MATTER (PM) STANDARD

Michael Flagg, Principal Air Quality Specialist, gave the staff presentation *Update on US EPA's Initial Area Designations for the Federal Annual Fine PM Standard*, including: National Ambient Air Quality Standards; preliminary 2025 PM_{2.5} Design Values (DV); preliminary 2022-2024 PM_{2.5} data; and designations timeline.

Public Comments

Public comments were given by Michael Randall, Environmental Justice League (EJL).

Board Comments

The Board and staff discussed how the US EPA is anticipated to act to the new revised primary annual standard for PM_{2.5} of 9 micrograms per cubic meter, in the midst of rolling back many rules, including air pollution regulations; the 2024 PM_{2.5} annual DV for the San Jose - Jackson Street monitoring station; invalid DV; and whether the PM_{2.5} levels of the Bay Area's individual monitoring stations will be required to be at or below 9 micrograms per cubic meter.

Board Action

No action taken.

OTHER BUSINESS

23. PUBLIC COMMENT ON NON-AGENDA MATTERS (OUT OF ORDER, ITEM 19)

Public comments were given by Mark Williams, Jr., EJL; Mark Williams, Sr., EJL; Yvonne Eashman, ELJ; Jared Butler; Josiah Butler; Lacey Johnson, EJL; Stacey, EJL; and Michael Randall, EJL.

24. BOARD MEMBER COMMENTS

- Vice Chair Veenker asked how the anticipated rollback of US EPA rules and prior litigation on Clean Air Act waivers may affect the Air District.
- Director Mahmood introduced himself as a new Board member.

25. REPORT OF THE EXECUTIVE OFFICER/AIR POLLUTION CONTROL OFFICER (APCO)

Dr. Philip M. Fine, Executive Officer/APCO, welcomed the 2025 Board officers, new Board members, and responded to Vice Chair Veenker's inquiry on the Clean Air Act waivers, committing to including a report on this item at the Board's April Policy, Grants, and Technology Committee meeting.

26. CHAIRPERSON’S REPORT

Chair Hopkins made the following announcements:

- On February 12, 2025, the Alameda County Mayors’ Conference reappointed Juan González III to the Air District’s Board for another two-year term from February 12, 2025, to February 12, 2027.
- On February 11, 2025, the San Francisco County Board of Supervisors appointed Supervisor Bilal Mahmood to the Air District’s Board for a term from February 11, 2025, to February 1, 2029.
- On January 13, 2025, the San Mateo County City Selection Committee appointed San Bruno Mayor, Rico E. Medina, to serve on the Air District’s Board for the remainder of Davina Hurt’s term (March 1, 2025, to December 31, 2025).
- On February 20, 2025, the Governor Newsom appointed Lynda Hopkins to serve the remainder of Davina Hurt’s term as a Board member of the California Air Resources Board.

27. TIME AND PLACE OF NEXT MEETING

Wednesday, April 2, 2025, at 10:00 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 (12:02 p.m.)

28. PUBLIC EMPLOYEE APPOINTMENT AND EMPLOYMENT PURSUANT TO GOVERNMENT CODE SECTION 54957(b)

Title: General Counsel

Reportable Action: Chair Hopkins said that direction was given to staff but had nothing else to report.

29. CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6

Conference with Labor Negotiators

Pursuant to Government Code Section 54957.6

Agency Designated Representatives:

Laura A. Izon, Atkinson, Andelson, Loya, Ruud & Romo

Hyacinth Hinojosa, Deputy Executive Officer of Finance and Administration

Lisa Baker, Director of Human Resources

Employee organization: Bay Area Air Quality Management District Employees’ Association

Reportable Action: Alexander Crockett, General Counsel, had nothing to report.

OPEN SESSION (1:20 p.m.)

30. **ADJOURNMENT**

The meeting was adjourned at 1:21 p.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Board Communications Received from March 6, 2025, through April 1,
2025

RECOMMENDED ACTION

No action requested at this time.

BACKGROUND

None.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from March 6, 2025, through April 1, 2025, 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

ATTACHMENT(S):

None

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Notices of Violations Issued and Settlements in Excess of \$10,000 in the
Month February 2025

RECOMMENDED ACTION

No action requested at this time.

BACKGROUND

None.

DISCUSSION

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

BUDGET CONSIDERATION/FINANCIAL IMPACT

The penalties collected are recorded in the Air District's General Fund. A portion of the penalty funds may be expended in accordance with the Community Benefits Penalty Funds Policy adopted by the Board of Directors on May 1, 2024.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Alexander G. Crockett

ATTACHMENT(S):

1. NOVs Issued and Settlements in Excess of \$10,000 - Feb 2025

NOTICES OF VIOLATIONS ISSUED

The following Notice(s) of Violation(s) were issued in February 2025:

Alameda						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
7-11 Store	C0644	Livermore	A62110A	2/3/25	8-7-302.3	Gas Dispensing Facility Violation
ARCO #83649	C6476	Oakland	A62707A	2/3/25	8-7-301.6	Gas Dispensing Facility Violation
Bancroft Gas Corp.	C9259	Oakland	A62708A	2/5/25	8-7-301.6	Gas Dispensing Facility Violation
Com - First African Methodist Episcopal Church	S770052	Oakland	A62712A	2/20/25	11-2-401.5	Asbestos Violation
NG Grewal Inc.	C8419	Oakland	A64729A	2/6/25	8-7-503.3	Gas Dispensing Facility Violation
Pacific Galvanizing	A0456	Oakland	A61943A	2/24/25	2-1-307	Permit Requirement/Condition Violation
Philz Coffee	E3015	Oakland	A61942A	2/6/25	2-1-307	Permit Requirement/Condition Violation
Probhjot Singh of Chevron	S770324	Livermore	A62111A	2/28/25	8-7-308	Gas Dispensing Facility Violation
Safety-Kleen of California, Inc.	A1190	Newark	A64767A	2/10/25	2-1-307	Permit Requirement/Condition Violation
Tesla, Inc.	A1438	Fremont	A64763A	2/3/25	2-6-307	Title V Requirement/Permit Condition Violation
Tesla, Inc.	A1438	Fremont	A64764A	2/3/25	2-6-307	Title V Requirement/Permit Condition Violation
Tesla, Inc.	A1438	Fremont	A64765A	2/3/25	2-6-307	Title V Requirement/Permit Condition Violation
Tesla, Inc.	A1438	Fremont	A64766A	2/3/25	2-6-307	Title V Requirement/Permit Condition Violation

Contra Costa						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
C&H Sugar Company Inc.	S770181	Crockett	A62698A	2/25/25	2-1-307	Permit Requirement/Condition Violation
C&H Sugar Company Inc.	S770181	Crockett	A62698B	2/25/25	2-1-301	No Authority to Construct
Chevron Inc. (Americas OE/HES)	A0072	Richmond	A64378A	2/6/25	8-33-304.5	Gasoline Bulk Terminal Violation
Chevron Products Company	A0010	Richmond	A62544A	2/6/25	6-1-301	Visible Emissions Violation
Chevron Products Company	A0010	Richmond	A62545A	2/19/25	1-522.4	Continuous Emissions Monitor Violation
CWG Demolition & Hauling, Inc.	S769613	Danville	A62709A	2/10/25	11-2-401.5	Gas Dispensing Facility Violation
Innovative Construction Solutions	S769928	Concord	A60981A	2/6/25	8-40-401	Aeration of Contaminated Soil and Removal of Underground Storage Tanks Violation
Innovative Construction Solutions	S769928	Concord	A60981B	2/6/25	8-40-402	Aeration of Contaminated Soil and Removal of Underground Storage Tanks Violation
Martinez Refining Company LLC	A0011	Martinez	A64817A	2/3/25	1-301	Public Nuisance Violation
Martinez Refining Company LLC	A0011	Martinez	A64818A	2/5/25	6-1-305	Visible Emissions Violation
Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A64419A	2/10/25	2-1-307	Permit Requirement/Condition Violation
Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A64420A	2/10/25	1-522.4	Continuous Emissions Monitor Violation
Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A64421A	2/10/25	1-522.4	Continuous Emissions Monitor Violation

Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A64422A	2/10/25	1-522.4	Continuous Emissions Monitor Violation
Rotten Robbie #37	C1218	Concord	A64730A	2/25/25	8-7-302	Gas Dispensing Facility Violation

Marin						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Marin Country Club	C0344	Novato	A61910A	2/10/25	2-1-307	Permit Requirement/Condition Violation
Stone Tree Golf Club	C0736	Novato	A61911A	2/5/25	2-1-307	Permit Requirement/Condition Violation

San Francisco						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Bay-View Greenwaste Management Co, LLC	B2003	San Francisco	A64128A	2/26/25	2-1-301	No Authority to Construct and No Permit to Operate
Bay-View Greenwaste Management Co, LLC	B2003	San Francisco	A64128B	2/26/25	2-1-302	No Authority to Construct and No Permit to Operate
Bay-View Greenwaste Management Co, LLC	B2003	San Francisco	A64129A	2/26/25	2-1-307	Permit Requirement/Condition Violation

San Mateo						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
ARCO Facility #02090	C2810	Daly City	A62939A	2/26/25	2-1-307	Permit Requirement/Condition Violation
Browning-Ferris Industries of CA Inc.	A2266	Half Moon Bay	A60982A	2/27/25	2-6-307	Title V Requirement/Permit Condition Violation

Westlake Chevron	C8634	Daly City	A62938A	2/26/25	8-7-301.5	Gas Dispensing Facility Violation
------------------	-------	-----------	---------	---------	-----------	-----------------------------------

Santa Clara						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Buccaneer Demolition	S769516	San Jose	A63198A	2/6/25	11-2-401.5	Gas Dispensing Facility Violation
Buccaneer Demolition	S770233	San Jose	A64840A	2/4/25	11-2-401.5	Gas Dispensing Facility Violation
Calgas	C5313	San Jose	A64839A	2/3/25	2-1-302	No Permit to Operate
Capitol Premier Carwash	C9947	San Jose	A64166A	2/10/25	8-7-301.5	Gas Dispensing Facility Violation
Chevron	C9522	San Jose	A64165A	2/10/25	8-7-302.1	Gas Dispensing Facility Violation
City of San Jose, Dept of Streets & Traffic	A7331	San Jose	A63347A	2/24/25	2-1-302	No Permit to Operate
Cupertino Valero	C0486	Cupertino	A64167A	2/14/25	2-1-307	Permit Requirement/Condition Violation
Gas N' Go	C9723	San Jose	A64168A	2/14/25	2-1-307	Permit Requirement/Condition Violation
Kaiser Foundation Hospital	B5885	Santa Clara	A64220A	2/6/25	2-1-302	No Permit to Operate
Kaiser Foundation Hospital	B5885	Santa Clara	A64221A	2/6/25	2-1-301	No Authority to Construct and No Permit to Operate
Kaiser Foundation Hospital	B5885	Santa Clara	A64221B	2/6/25	2-1-302	No Authority to Construct and No Permit to Operate
LADC Consulting Inc.	S770234	San Jose	A64841A	2/19/25	11-2-401.5	Gas Dispensing Facility Violation
Northwall Builders Inc.	S769998	Palo Alto	A62937A	2/11/25	11-2-401.5	Gas Dispensing Facility Violation
Sierra Circuits, Inc.	A2298	Sunnyvale	A60948A	2/10/25	2-1-301	No Authority to Construct and No Permit to Operate

Sierra Circuits, Inc.	A2298	Sunnyvale	A60948B	2/10/25	2-1-302	No Authority to Construct and No Permit to Operate
The Home Depot (Store #6621)	B7731	San Jose	A63345A	2/24/25	2-1-301	No Authority to Construct and No Permit to Operate
The Home Depot (Store #6621)	B7731	San Jose	A63345B	2/24/25	2-1-302	No Authority to Construct and No Permit to Operate
Valley Lapping, Inc.	E0157	San Jose	A63344A	2/24/25	2-1-307	Permit Requirement/Condition Violation
Veterans Administration Medical Center	A0450	Palo Alto	A59196A	2/19/25	9-7-506	Boiler Emissions Violation
Veterans Administration Medical Center	A0450	Palo Alto	A59197A	2/19/25	9-7-506	Boiler Emissions Violation
Veterans Administration Medical Center	A0450	Palo Alto	A59198A	2/19/25	9-7-506	Boiler Emissions Violation

Solano						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Valero Benicia Asphalt Plant	A0901	Benicia	A61871A	2/6/25	2-6-307	Title V Requirement/Permit Condition Violation
Valero Benicia Asphalt Plant	A0901	Benicia	A61874A	2/6/25	2-6-307	Title V Requirement/Permit Condition Violation
Valero Refining Company	B5574	Benicia	A61873A	2/6/25	2-6-307	Title V Requirement/Permit Condition Violation
Valero Refining Company - California	B2626	Benicia	A61872A	2/6/25	2-6-307	Title V Requirement/Permit Condition Violation
Valero Refining Company - California	B2626	Benicia	A61875A	2/13/25	2-6-307	Title V Requirement/Permit Condition Violation

Sonoma						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comment
Chevron Santa Rosa	C4998	Santa Rosa	A61912A	2/10/25	8-7-301.5	Gas Dispensing Facility Violation
Old Adobe Union School District	C0283	Petaluma	A61914A	2/13/25	2-1-307	Permit Requirement/Condition Violation
Republic Services of Sonoma County, Inc.	A2254	Petaluma	A62494A	2/10/25	2-6-307	Title V Requirement/Permit Condition Violation
Republic Services of Sonoma County, Inc.	A2254	Petaluma	A62495A	2/27/25	2-6-307	Title V Requirement/Permit Condition Violation
Republic Services of Sonoma County, Inc.	A2254	Petaluma	A62496A	2/27/25	2-6-307	Title V Requirement/Permit Condition Violation
Republic Services of Sonoma County, Inc.	A2254	Petaluma	A62497A	2/27/25	2-6-307	Title V Requirement/Permit Condition Violation
Rooster Run Golf Course	C9856	Petaluma	A61913A	2/14/25	2-1-307	Permit Requirement/Condition Violation
Somo Village Commercial, LLC	A1146	Rohnert Park	A62391A	2/11/25	9-7-506	Boiler Emissions Violation
Somo Village Commercial, LLC	A1146	Rohnert Park	A62392A	2/11/25	9-7-506	Boiler Emissions Violation

SETTLEMENTS FOR \$10,000 OR MORE REACHED

There were no settlements for \$10,000 or more completed in February 2025.

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Personnel Out-of-State Business Travel Report for February 2025

RECOMMENDED ACTION

No action requested at this time.

BACKGROUND

Section 1.1.3 of the Air District's Employee Travel and Business Expense Policy (Policy) requires notification to the Board of Directors of Air District personnel who have traveled on out-of-state business. The monthly out-of-state business travel report is presented at the first regular Board meeting following travel completion.

DISCUSSION

There were no out-of-state business travel activities that occurred in the month of February 2025.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Michelle Hutson
Reviewed by: Stephanie Osaze

ATTACHMENT(S):

None

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Authorization to Amend Master Services Agreement with CipherEx, Inc. for
Computer Infrastructure Maintenance Services

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Executive Officer/APCO to execute an amendment to Contract No.2024.042 with CipherEx, Inc. to increase the maximum dollar amount by \$200,000 from \$218,750 to \$418,750.

BACKGROUND

The Air District routinely engages fulfillment partners to support computer network maintenance activities. In alignment with the Air District's procurement policy, competitive procurements are periodically conducted to identify and establish long-term partnerships for these essential services. A procurement process is currently in progress to select new long-term partners. While this process is underway, the Air District must continue to meet its ongoing computer infrastructure maintenance requirements to ensure operational continuity.

CipherEx, Inc. is currently a technology fulfillment partner in good standing with the Air District, demonstrating an exceptional ability to provide Information Technology (IT) infrastructure expertise.

DISCUSSION

Over the last few years, the Air District has successfully worked with CipherEx, Inc. on IT infrastructure maintenance projects such as adding computer capacity, replacing failed components, and providing network enhancements and updates. The vendor has built familiarity with the Air District's infrastructure and has delivered projects efficiently on time and within budget.

Prior to preparing this proposed contract amendment with this vendor, the Air District requested proposals and evaluated existing fulfillment partners to confirm that CypherEx, Inc. services were priced competitively and provided value. Three vendors provided submissions. The table below summarizes the average scores for each vendor under each evaluated category:

Vendor	Experience	Knowledge	History	Fees	Total
CipherEx, Inc.	5/5	10/10	8/10	5/5	28
ePlus Tech, Inc.	4/5	8/10	7/10	4/5	23
GetMeITHelp, LLC.	4/5	8/10	7/10	4/5	23

This contract amendment will extend the availability of this vendor to assist the Air District with IT infrastructure maintenance and through the planned competitive procurement for new resources.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for this amended contract in the amount of \$200,000 is included in the Fiscal Year 2025-2026 proposed budget and will be managed within the allocated resources for IT modernization initiatives.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Patricia Roman
Reviewed by: John Chiladakis

ATTACHMENT(S):

1. CipherEx 2024.042
2. CipherEx 2024.042 Amendment 1
3. CipherEx 2024.042 Amendment 2
4. CipherEx Inc. Master Services Agreement Amendment 3

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

MASTER SERVICES CONTRACT

CONTRACT NO. 2024.042

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 **CipherEx Inc.** (“CONTRACTOR”) whose address is 2010 Crow Canyon Place, Suite 100, San Ramon, CA 94583.
2. **RECITALS**
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for Services as defined herein. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the Services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.
3. **DEFINITIONS**
 - A. “Purchase Order” shall mean the written or electronic document used by DISTRICT to track payments to CONTRACTOR under this Contract.
 - B. “Services” shall mean the services to be provided by CONTRACTOR hereunder as generally described in the General Description of Services, attached hereto as Attachment A and made a part hereof by this reference, and as specifically described in Task Orders issued pursuant to this Contract.
 - C. “Task Order” shall mean a written request by DISTRICT for specific services to be performed by CONTRACTOR.
4. **PERFORMANCE REQUIREMENTS**
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraphs A-E above.

5. TERM – The term of this Contract is from the date of execution of the Contract to December 31, 2026, unless further extended by amendment of this Contract in writing or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.

6. TERMINATION

A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 13 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all services under this Contract, except such services as are specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining services performed but not billed, including any services specified in the termination notice, on or before ten (10) business days following the termination date.

B. Either party may terminate this Contract for breach by the other party.

i) Failure to perform any agreement or obligation contained in this Contract or failure to complete the services in a satisfactory manner shall constitute a breach of the Contract.

ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.

iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.

iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 13.

v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.

7. INSURANCE

A. CONTRACTOR shall maintain the following insurance:

i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.

ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.

iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If CONTRACTOR is a sole proprietor, CONTRACTOR may meet this insurance requirement with personal automobile liability insurance carrying a

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

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

8. INDEMNIFICATION

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

9. AGREEMENT TO PROVIDE SERVICES

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

shall be in the sole discretion of DISTRICT. Without limiting the generality of the foregoing, the actual quantity of services to be purchased hereunder shall be determined by DISTRICT in its sole discretion and shall not exceed \$105,000. This Contract is not exclusive. CONTRACTOR expressly acknowledges and agrees that DISTRICT may purchase at its sole discretion, services that are identical or similar to the services described in this Contract from any third party.

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

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

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

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

CONTRACTOR: CipherEx Inc.
2010 Crow Canyon Place, Suite 100
San Ramon, CA 94583
Attn: Siamak Behbahani

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

15. EMPLOYEES OF CONTRACTOR

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

16. CONFIDENTIALITY – In order to carry out the purposes of this Contract, CONTRACTOR may require access to certain of DISTRICT's confidential information (including trade secrets, inventions, confidential know-how, confidential business information, and other information that DISTRICT

considers confidential) (collectively, "Confidential Information"). It is expressly understood and agreed that DISTRICT may designate in a conspicuous manner Confidential Information that CONTRACTOR obtains from DISTRICT, and CONTRACTOR agrees to:

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

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

18. PUBLICATION

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

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

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

regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.

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

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

CIPHEREX INC.

By: DocuSigned by:
Philip M. Fine
Philip M. Fine
Executive Officer/APCO

By: *Siamak Behbahani*
Siamak Behbahani
CEO

Date: 3/13/2024

Date: 03/11/2024

Approved as to form:
District Counsel

By: DocuSigned by:
Alexander Crockett
Alexander Crockett
General Counsel

Attachment A
General Description of Services

DISTRICT's Information Technology (IT) network utilizes advanced CISCO hardware with failover and high availability systems. Over time, the network infrastructure requires maintenance, updates and enhancements as the manufacturer releases updates and patches for their systems. These activities require an expert level of technical proficiency and knowledge specific to the equipment makes and models utilized in the infrastructure.

Pursuant to Task Orders issued under the Contract, CONTRACTOR shall provide technical project support for maintenance, upgrades and enhancements to the DISTRICT's IT network.

AMENDMENT NO. 1 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2024.042

This amendment to the above-entitled contract ("Contract Amendment") is dated, for reference purposes only, April 4, 2024.

RECITALS:

1. The Bay Area Air Quality Management District ("DISTRICT") and **CipherEx Inc.** ("CONTRACTOR") (hereinafter referred to as the "PARTIES") entered into the above-entitled contract for technical project support for maintenance, upgrades and enhancements to the DISTRICT's Information Technology infrastructure (the "Contract"), which Contract was executed on behalf of CONTRACTOR on March 11, 2024, and on behalf of DISTRICT on March 13, 2024.
2. The PARTIES seek to amend the total maximum cost of the Contract because DISTRICT seeks to have CONTRACTOR provide additional services to DISTRICT and CONTRACTOR desires to provide those additional services, up to the new total maximum cost.
3. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR desire to amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, "Agreement to Provide Services," of the Contract to replace "\$105,000" with "\$175,000."
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

CIPHEREX INC.

By: DocuSigned by:
Philip M. Fine
Philip M. Fine
Executive Officer/APCO

By: *Siamak Behbahani*
Siamak Behbahani
CEO

Date: 4/12/2024

Date: 04/09/2023

Approved as to form:

By: DocuSigned by:
Alexander Crockett
Alexander Crockett
General Counsel

AMENDMENT NO. 2 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2024.042

This amendment to the above-entitled contract (“Contract Amendment”) is dated, for reference purposes only, February 28, 2025, and consists of two (2) pages.

RECITALS:

1. The Bay Area Air Quality Management District (“DISTRICT”) and **CipherEx Inc.** (“CONTRACTOR”) (hereinafter referred to as the “PARTIES”) entered into the above-entitled contract for technical project support for maintenance, upgrades and enhancements to the DISTRICT’s Information Technology infrastructure (the “Contract”), which Contract was executed on behalf of CONTRACTOR on March 11, 2024, and on behalf of DISTRICT on March 13, 2024.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated April 4, 2024, for reference purposes only, to amend the total maximum cost of the Contract.
3. The PARTIES seek to amend the total maximum cost of the Contract because DISTRICT seeks to have CONTRACTOR provide additional services to DISTRICT and CONTRACTOR desires to provide those additional services, up to the new total maximum cost.
4. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR desire to amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, “Agreement to Provide Services,” of the Contract to replace “\$175,000” with “\$218,750.”
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

CIPHEREX INC.

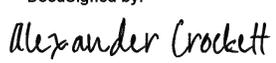
By: 
98506AF9981D4CC...
Dr. Philip M. Fine
Executive Officer/APCO

By: 
Siamak Behbahani
CEO

Date: 3/5/2025

Date: 03/03/2025

Approved as to form:

By:  3/5/2025
6DC7110552B5451...
Alexander G. Crockett
General Counsel

AMENDMENT NO. 3 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2024.042

This amendment to the above-entitled contract ("Contract Amendment") is dated, for reference purposes only, March 6, 2025, and consists of two (2) pages.

RECITALS:

1. The Bay Area Air Quality Management District ("DISTRICT") and **CipherEx Inc.** ("CONTRACTOR") (hereinafter referred to as the "PARTIES") entered into the above-entitled contract for technical project support for maintenance, upgrades and enhancements to the DISTRICT's Information Technology infrastructure (the "Contract"), which Contract was executed on behalf of CONTRACTOR on March 11, 2024, and on behalf of DISTRICT on March 13, 2024.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated April 4, 2024, for reference purposes only, to amend the total maximum cost of the Contract.
3. The PARTIES entered into Amendment No. 2 to the Contract, dated February 28, 2025, for reference purposes only, to amend the total maximum cost of the Contract.
4. The PARTIES seek to amend the total maximum cost of the Contract because DISTRICT seeks to have CONTRACTOR provide additional services to DISTRICT and CONTRACTOR desires to provide those additional services, up to the new total maximum cost.
5. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR desire to amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, "Agreement to Provide Services," of the Contract to replace "\$218,750" with "\$418,750."
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

CIPHEREX INC.

By: _____
Dr. Philip M. Fine
Executive Officer/APCO

By: _____
Siamak Behbahani
CEO

Date: _____

Date: _____

Approved as to form:

By: _____
Alexander G. Crockett
General Counsel

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Authorization to Amend the Master Services Agreement with KBM-Hogue
for Workplace Furniture Design, Procurement, and Installation Services at
the Air District's Beale Street Headquarters

RECOMMENDED ACTION

Authorize the Executive Officer/APCO to execute an amendment to the Master Services Agreement with KBM-Hogue (Contract No. 2022.084) to:

1. Increase the total not-to-exceed amount of the agreement by \$750,000, from \$95,837.25 to \$845,837.25, and
2. Extend the contract end date from March 31, 2025 to September 21, 2029.

The purpose of this amendment is for continued workplace furniture design, procurement, and installation services at the Air District's Beale Street Headquarters.

This item was recommended by the Finance and Administration Committee at its meeting on March 19, 2025.

BACKGROUND

In 2022, the Air District identified the need for furniture additions and modifications at the Air District's Beale Street Headquarters and entered into a Master Services Agreement with KBM-Hogue.

The Air District anticipates the need for additional furniture and adjustments pursuant to the Executive Officer/APCO's directive to staff to enhance in-office presence beginning July 1, 2025. Increasing the funds will allow the processing of these requests efficiently and effectively.

KBM-Hogue is a local dealer for Knoll furniture and is the Air District's sole furniture provider for Knoll furniture. The Air District entered into Contract 2022.084 with KBM-Hogue which expires on March 31, 2025.

DISCUSSION

KBM-Hogue was selected from the Request for Proposals (RFP) issued by the Bay Area Headquarters Authority (BAHA) in 2014 for furniture dealers to design, procure, and install furniture for the Bay Area Metro Center at the Air District's Beale Street Headquarters. As a partner agency, the Air District also participated in the RFP evaluation process. BAHA entered into a 10-year agreement with KBM-Hogue through 2024 which includes a Cooperative Use clause that allows the Air District to obtain discounted pricing for Knoll furniture and installation, under the same terms and conditions as BAHA. In 2024, BAHA signed a five-year extension with KBM-Hogue through September 21, 2029, and the Air District contract amendment will parallel the BAHA contract.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for this amended contract in the amount of \$187,500 is included in Fiscal Year Ending 2025 budget, Program 702. Each remaining year's expenditure of up to \$187,500 will be budgeted accordingly in the subsequent year's budgets.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Raymond Wang
Reviewed by: Hyacinth Hinojosa

ATTACHMENT(S):

1. 1_KBM Hogue 2022.084_exe
2. 2_KBM Hogue 2022.084 Amendment 1_exe
3. 3_KBM Hogue 2022.084 Amendment 2_exe
4. 4_KBM Hogue 2022.084 Amendment 3_lgl approved draft
5. 5_Bay Area Headquarters Authority BAHA-KBM Agreement
6. 6_Hogue Amendment 8_BAHA MTC_Exp September 21, 2029

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

MASTER SERVICES CONTRACT

CONTRACT NO. 2022.084

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 **KBM-Hogue** (“CONTRACTOR”) whose address is 250 Montgomery St #1400, San Francisco, CA 94104.
2. **RECITALS**
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for Services as defined herein. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the Services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.
3. **DEFINITIONS**
 - A. “Purchase Order” shall mean the written or electronic document used by DISTRICT to track payments to CONTRACTOR under this Contract.
 - B. “Services” shall mean the services to be provided by CONTRACTOR hereunder as generally described in the General Description of Services, attached hereto as Attachment A and made a part hereof by this reference, and as specifically described in Task Orders issued pursuant to this Contract.
 - C. “Task Order” shall mean a written request by DISTRICT for specific services to be performed by CONTRACTOR.
4. **PERFORMANCE REQUIREMENTS**
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraphs A-E above.

5. TERM – The term of this Contract is from April 1, 2022 to March 31, 2025, unless further extended by amendment of this Contract in writing, or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.

6. TERMINATION

- A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 13 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all services under this Contract, except such services as are specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining services performed but not billed, including any services specified in the termination notice, on or before ten (10) business days following the termination date.
- B. Either party may terminate this Contract for breach by the other party.
- i) Failure to perform any agreement or obligation contained in this Contract or failure to complete the services in a satisfactory manner shall constitute a breach of the Contract.
 - ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
 - iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.
 - iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 13.
 - v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.

7. INSURANCE

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

use is covered under the CONTRACTOR's personal automobile liability insurance. A CONTRACTOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental agency.

- iv) Professional liability insurance with limits not less than one million dollars (\$1,000,000) each claim.
- B. All insurance shall be placed with insurers acceptable to DISTRICT.
- C. Prior to commencement of work under this Contract, CONTRACTOR shall furnish properly-executed certificates of insurance for all required insurance. Upon request by DISTRICT, CONTRACTOR shall provide a complete copy of any required insurance policy. CONTRACTOR shall notify DISTRICT in writing thirty (30) days prior to cancellation or modification of any required insurance policy. Any such modifications are subject to pre-approval by DISTRICT.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, DISTRICT reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or to terminate this Contract for breach.

8. INDEMNIFICATION

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

9. AGREEMENT TO PROVIDE SERVICES

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

- C. Notwithstanding any other provision of this Contract to the contrary, DISTRICT shall have no obligation to order or purchase any services hereunder and the placement of any Task Order shall be in the sole discretion of DISTRICT. Without limiting the generality of the foregoing, the actual quantity of services to be purchased hereunder shall be determined by DISTRICT in its sole discretion and shall not exceed \$30,000. This Contract is not exclusive. CONTRACTOR expressly acknowledges and agrees that DISTRICT may purchase at its sole discretion, services that are identical or similar to the services described in this Contract from any third party.
10. TASK ORDERS – Each Task Order will specify the following items, as relevant: specific services requested, schedule for services, location where services are to be performed (with contact person), and cost or estimated cost of services. Each Task Order issued under this Contract shall be made part of, and be incorporated into this Contract, and shall reference this Contract on the face of each Task Order. Should any Task Order not conform to or satisfy the terms of this Contract, CONTRACTOR shall have five (5) business days after receipt to reject the Task Order. By not rejecting the Task Order within five (5) business days, CONTRACTOR will have accepted the Task Order. Acceptance by CONTRACTOR is limited to the provisions of this Contract and the Task Order. No additional or different provisions proposed by CONTRACTOR or DISTRICT shall apply. In addition, the parties agree that this Contract and accepted Task Orders constitute a contract for services and satisfy all statutory and legal formalities of a contract.
11. PRICING, INVOICES, AND PAYMENT
- A. DISTRICT shall pay CONTRACTOR for all services ordered and provided in compliance with the terms and conditions of this Contract and with Task Orders issued under this Contract.
 - B. CONTRACTOR shall submit original invoices to DISTRICT in form and substance and format reasonably acceptable to DISTRICT. Each invoice, including supporting documentation, must be prepared in duplicate on CONTRACTOR's letterhead; must list DISTRICT's contract number, Purchase Order Number, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and must be submitted to: Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105, Attn: Contracts Manager.
 - C. Except as specifically set forth in Attachment A or in Task Orders under this Contract, DISTRICT shall not be responsible for any additional costs or expenses of any nature incurred by CONTRACTOR in connection with the provision of the services, including without limitation travel expenses, clerical or administrative personnel, long distance telephone charges, etc.
 - D. CONTRACTOR represents, warrants and covenants that the prices, charges and fees for services set forth in this Contract (on the whole) are at least as favorable as the prices, charges and fees CONTRACTOR charges (on the whole) to other of its customers or clients for the same or substantially similar services provided under the same or substantially similar circumstances, terms, and conditions. If CONTRACTOR agrees or contracts with other clients or customers similarly situated during the Term of this Contract, and offers or agrees to financial terms more favorable than those set forth herein (on the whole), CONTRACTOR hereby agrees that it will reduce the prices, charges and/or fees charged to DISTRICT in respect of the services hereunder to the most favorable rates received by those other clients or customers.
12. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.

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

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

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

CONTRACTOR: KBM-Hogue
250 Montgomery St. #1400
San Francisco, CA 94104
Attn: Paul Razo

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

15. EMPLOYEES OF CONTRACTOR

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

D. DISTRICT reserves the right to review the credentials to perform the services for any of CONTRACTOR's employees assigned herein and to disapprove CONTRACTOR's assignments. CONTRACTOR warrants that it will not employ any subcontractor(s) without prior written approval from DISTRICT.

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

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

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

18. PUBLICATION

- A. DISTRICT shall approve in writing any report or other document prepared by CONTRACTOR in connection with performance under this Contract prior to dissemination or publication of such report or document to a third party. DISTRICT may waive in writing its requirement for prior approval.
- B. Until approved by DISTRICT, any report or other document prepared by CONTRACTOR shall include on each page a conspicuous header, footer, or watermark stating "DRAFT – Not

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

- C. Information, data, documents, or reports developed by CONTRACTOR for DISTRICT, pursuant to this Contract, shall be part of DISTRICT’s public record, unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information, provided DISTRICT approves use of such information in advance. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.

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

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

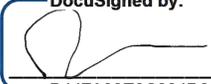
19. NON-DISCRIMINATION – In the performance of this Contract, CONTRACTOR shall not discriminate in its recruitment, hiring, promotion, demotion, and termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. CONTRACTOR shall also require each subcontractor performing services in connection with this Contract to comply with this section and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.
20. PROPERTY AND SECURITY – Without limiting CONTRACTOR’S obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT’s premises.
21. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.
22. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Contract, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.

23. ATTORNEYS' FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
24. FORCE MAJEURE – Neither DISTRICT nor CONTRACTOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.
25. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
26. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
27. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
28. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.
29. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to CONTRACTOR providing services to DISTRICT and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.
30. SURVIVAL OF TERMS – The provisions of sections 8 (Indemnification), 16 (Confidentiality), 17 (Intellectual Property Rights), and 18 (Publication) shall survive the expiration or termination of this Contract.

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

KBM-HOGUE

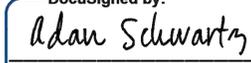
By: 
 DocuSigned by:
 B447A99E2C334D2
 Alexander Crockett
 Interim Executive Officer/APCO

By: 
 Matt Denning
 Principal

Date: 4/4/2022

Date: March 22, 2022

Approved as to form:
District Counsel

By: 
 DocuSigned by:
 160A810F087E4D3
 Adan Schwartz
 Acting District Counsel

3/28/2022

Attachment A
General Description of Services

CONTRACTOR shall furnish, deliver, and install changes or modifications to existing furniture, as requested by DISTRICT.

For all furniture and service requests, CONTRACTOR shall provide written estimates or proposals, which shall include details, specifications, dimensions, drawings, and/or plans as appropriate. CONTRACTOR's written estimates or proposals shall serve as Task Orders when signed by DISTRICT and issued to CONTRACTOR pursuant to Section 10 of this Contract. CONTRACTOR shall not commence work until DISTRICT has issued the signed Task Order.

CONTRACTOR billable rate:

- Project Management: \$90 per hour
- Design Services: \$90 per hour

AMENDMENT NO. 1 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2022.084

This amendment to the above-entitled contract (“Contract Amendment”) is dated, for reference purposes only, April 17, 2023.

RECITALS:

1. The Bay Area Air Quality Management District (“DISTRICT”) and **KBM-Hogue** (“CONTRACTOR”) (hereinafter referred to as the “PARTIES”) entered into the above-entitled contract for services to furnish, deliver, and install changes or modifications to existing furniture (the “Contract”), which Contract was executed on behalf of CONTRACTOR on March 22, 2022, and on behalf of DISTRICT on April 4, 2022.
2. The PARTIES seek to amend the total cost of the Contract because DISTRICT seeks additional services from CONTRACTOR, and CONTRACTOR desires to provide those services.
3. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, “Agreement to Provide Services,” of the Contract to replace “\$30,000” with “\$55,837.25.”
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

KBM-HOGUE

By: DocuSigned by:
Philip Fine
7314B577922A46A...
Sharon L. Landers
Interim Chief Operating Officer

By: 
Matt Denning
Principal

Date: 5/9/2023

Date: April 25, 2023

Approved as to form:
District Counsel

By: DocuSigned by:
Alexander Crockett 5/1/2023
B5AE1A26FCA4453
Alexander G. Crockett
District Counsel

AMENDMENT NO. 2 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2022.084

This amendment to the above-entitled contract ("Contract Amendment") is dated, for reference purposes only, August 9, 2023, and consists of two (2) pages.

RECITALS:

1. The Bay Area Air Quality Management District ("DISTRICT") and **KBM-Hogue** ("CONTRACTOR") (hereinafter referred to as the "PARTIES") entered into the above-entitled contract for services to furnish, deliver, and install changes or modifications to existing furniture (the "Contract"), which Contract was executed on behalf of CONTRACTOR on March 22, 2022, and on behalf of DISTRICT on April 4, 2022.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated April 17, 2023, for reference purposes only, to amend the total cost of the Contract.
3. The PARTIES seek to further amend the total cost of the Contract because DISTRICT seeks additional services from CONTRACTOR, and CONTRACTOR desires to provide those services.
4. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR amend the above-entitled Contract as follows:

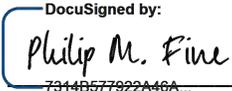
TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, "Agreement to Provide Services," of the Contract to replace "\$55,837.25" with "\$95,837.25."
2. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

KBM-HOGUE

By: 
Philip M. Fine
Executive Officer/APCO

By: 
Matt Denning
Principal

Date: 8/22/2023

Date: August 11, 2023

Approved as to form:
District Counsel

By: 
Alexander G. Crockett
District Counsel

AMENDMENT NO. 3 TO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
CONTRACT NO. 2022.084

This amendment to the above-entitled contract ("Contract Amendment") is dated, for reference purposes only, February 19, 2025, and consists of two (2) pages.

RECITALS:

1. The Bay Area Air Quality Management District ("DISTRICT") and **KBM-Hogue** ("CONTRACTOR") (hereinafter referred to as the "PARTIES") entered into the above-entitled contract for services to furnish, deliver, and install changes or modifications to existing furniture (the "Contract"), which Contract was executed on behalf of CONTRACTOR on March 22, 2022, and on behalf of DISTRICT on April 4, 2022.
2. The PARTIES entered into Amendment No. 1 to the Contract, dated April 17, 2023, for reference purposes only, to amend the total cost of the Contract.
3. The PARTIES entered into Amendment No.2 to the Contract, dated August 9, 2023, for reference purposes only, to amend the total cost of the Contract.
4. The PARTIES seek to further amend the term and total cost of the Contract because DISTRICT seeks to continue to receive services from CONTRACTOR, and CONTRACTOR desires to continue to provide those services.
5. In accordance with Section 29 of the Contract, DISTRICT and CONTRACTOR amend the above-entitled Contract as follows:

TERMS AND CONDITIONS OF CONTRACT AMENDMENT:

1. By this Contract Amendment, DISTRICT and CONTRACTOR amend Section 5, "Term." The term of the Contract shall be extended so that the termination date of the Contract is now September 21, 2029.
2. By this Contract Amendment, DISTRICT and CONTRACTOR amend Paragraph C of Section 9, "Agreement to Provide Services," of the Contract to replace "\$95,837.25" with "\$845,837.25."
3. DISTRICT and CONTRACTOR agree that all other terms and conditions of the Contract shall remain in full force and effect.

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

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

KBM-HOGUE

By: _____
Dr. Philip M. Fine
Executive Officer/APCO

By: _____
Matt Denning
Principal

Date: _____

Date: _____

Approved as to form:

By: _____
Alexander G. Crockett
General Counsel

CONTRACT APPROVAL SHEET

AGENCY:	BAHA	ConTracker #:		Contract No. (Acctg. use only):	
NAME OF CONTRACTOR/CONSULTANT:	Hogue and Associates				
PROJECT TITLE:	375 Beale Street Furniture				
	Amount	Approval by ED or Committee (specify)	Committee Approval Date <i>Attach most recent signed Comm. memo</i>	Grant/Allocation Name	Grant No./ Allocation No./ Funding Source (Acctg.)
Original contract	\$500,000	BAHA	June 25, 2014		903 913014 6900
Amend #1					R2 9/19/14
Amend #2					
Amend #3					
WORK ITEM #:		Sole Source: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>			
FISCAL YEARS:		delete 2 check marks. If yes, attach signed sole source justification			
Insurance Code:	MPL	Insurance Exceptions:	Employee dishonesty/crime - \$250k / pollution liability - \$1M		
Contractor Contact/Email:	Olivia Swinehart / oswinehart@hoguesf.com				
Contractor Address:	250 Montgomery Street, Suite 1500, San Francisco, CA 94104				

Document1

Delete this/red and hit F9 to update the path above before printing your final draft

REVIEW LIST

Project Manager:		Date:	8/1/14 to 9/18/14 <i>Re-review initials</i>
Section Director:		Date:	8/1/14 to 9/18/14
Contract Administration ¹ :		Date:	8/1/14
IT Review:	n/a Nick Roethel	Date:	
Office of the General Counsel:	 Cindi Segal <i>w/edits</i>	Date:	9/18/14
Deputy Executive Director:		Date:	9/18/14
Deputy Executive Director:	n/a Alix Bockelman ³	Date:	9/19/2014
Finance Section:		Date:	

Pre Award Audit Required: Yes No

Return to Contract Administration

RECEIVED

AUG 05 2014

MTC LEGAL DEPT

¹ Includes DBE review for all federally-funded contracts.

² Reviews all procurements and contracts from HAO, BOO, and TCI, plus BATA, BAHA, MTC SAFE, and BAIFA,-funded work.

³ Reviews all procurements and contracts from Planning, PAA, LPA and ATS.

PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN, SPECIFICATION,
ACQUISITION AND INSTALLATION OF NEW FURNITURE

between

BAY AREA HEADQUARTERS AUTHORITY

and

HOGUE AND ASSOCIATES

for

WORKSTATION, OFFICE, PUBLIC SPACE AND ANCILLARY FURNITURE AND
INSTALLATION LABOR

for the

REGIONAL AGENCY HEADQUARTERS FACILITY
AT 375 BEALE STREET, SAN FRANCISCO

FISCAL YEARS 2014-2015 to 2024-2025

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>PAGE</u>
1. SCOPE OF SERVICES.....	1
1.1 PROJECT STATUS REPORTS.....	2
2. PERIOD OF PERFORMANCE.....	2
3. COMPENSATION AND METHOD OF PAYMENT.....	2
4. KEY PERSONNEL.....	3
5. AMENDMENTS.....	3
6. TERMINATION.....	3
7. INSURANCE AND FINANCIAL SECURITY REQUIREMENTS.....	5
8. INDEPENDENT CONTRACTOR.....	5
9. INDEMNIFICATION.....	5
10. DATA TO BE FURNISHED BY BAHA.....	6
10.1 NOT USED.....	6
10.2 NOT USED.....	6
11. OWNERSHIP OF WORK PRODUCTS.....	6
12. SUBCONTRACTS AND SUPPLIERS.....	7
13. ASSIGNMENT OF AGREEMENT.....	7
13.1 COOPERATIVE USE.....	8
14. RECORDS.....	8
15. AUDITS.....	8
16. NOTICES.....	8
17. SOLICITATION OF CONTRACT.....	9
18. PROHIBITED INTERESTS.....	9
18.1 ORGANIZATIONAL CONFLICTS OF INTEREST.....	10
19. LAWS AND REGULATIONS.....	11
19.1 PROJECT STABILIZATION AGREEMENT.....	11
20. CLAIMS OR DISPUTES.....	11
21. REMEDIES FOR BREACH.....	12
22. TEMPORARY SUSPENSION OF WORK.....	12
23. WARRANTY OF SERVICES.....	13
24. DISPUTE RESOLUTION.....	13
25. CHOICE OF LAW.....	14
26. ATTORNEYS' FEES.....	14
27. PARTIAL INVALIDITY.....	15
28. BENEFIT OF AGREEMENT.....	15
29. NO THIRD PARTY BENEFICIARIES.....	15
30. ENTIRE AGREEMENT; MODIFICATION.....	15
ATTACHMENT A, SCOPE OF WORK.....	16
ATTACHMENT A-1, FURNITURE PURCHASES.....	20
ATTACHMENT A-2, TASK ORDER PROCESS.....	22
ATTACHMENT A-3, TASK ORDER FORM.....	24
ATTACHMENT B, PROJECT SCHEDULE.....	27
ATTACHMENT C, COMPENSATION AND METHOD OF PAYMENT.....	28
ATTACHMENT C-1, TASK ORDER PAYMENT.....	29
ATTACHMENT D, KEY PERSONNEL ASSIGNMENTS.....	31
ATTACHMENT E, INSURANCE AND FINANCIAL SECURITY (BOND) PROVISIONS.....	32
ATTACHMENT E-1, PAYMENT BOND TO ACCOMPANY CONTRACT.....	38
ATTACHMENT E-2, PERFORMANCE BOND TO ACCOMPANY CONTRACT.....	39
ATTACHMENT E-3, CONSENT OF SURETY.....	40
ATTACHMENT F, NOT USED.....	41
ATTACHMENT G, SUBCONTRACTOR AND SUPPLIER LIST.....	42
ATTACHMENT H, NOT USED.....	43
ATTACHMENT I, PROJECT STABILIZATION AGREEMENT.....	44
ATTACHMENT J, NOT USED.....	45
ATTACHMENT K, KNOLL DISCOUNTING STRUCTURE.....	46

PROFESSIONAL SERVICES AGREEMENT
Between BAY AREA HEADQUARTERS AUTHORITY
And HOGUE AND ASSOCIATES

To PROVIDE AND INSTALL WORKSTATIONS, OFFICE, PUBLIC SPACE, AND OTHER
ANCILLARY FURNITURE AT 375 BEALE STREET, SAN FRANCISCO, CA

THIS AGREEMENT is made and entered into as of the 22nd day of September, 2014, by and between the Bay Area Headquarters Authority (herein called "BAHA"), a joint powers authority established pursuant to a joint exercise of powers agreement between BAHA and BATA entered into pursuant to Government Code Sections 6500 *et. seq.* and Hogue and Associates, (herein called "DEALER"), a California corporation organized under the laws of the State of California.

RECITALS

WHEREAS, BAHA intends secure a DEALER to provide design, specification, ordering, manufacturing and installation services for workstations, office, public space, and other ancillary furniture at 375 Beale Street, San Francisco, California (herein called "the Project"); and

WHEREAS, Hogue and Associates is a preferred Knoll Dealer and Knoll will provide manufacturing for the office, public space, and other ancillary furniture; and

WHEREAS, the services required for the Project cannot be performed satisfactorily by the officers and employees of BAHA; and

WHEREAS, the parties hereto now wish to enter into an agreement (the "Agreement") pursuant to which DEALER will render professional services in connection with the Project as hereinafter provided.

NOW, THEREFORE, the parties hereto agree as follows:

1. SCOPE OF SERVICES

DEALER's services are described in Attachment A, Scope of Work, attached hereto and incorporated herein by this reference. DEALER agrees to perform or secure the performance of all specified services within the maximum payment specified in Article 3, subject to the prior written approval of a work plan by Teri Green, (herein called "BAHA Project Manager"). All required furniture purchases shall be authorized by Task Order. All services described in a duly executed Task Order are hereby incorporated into the Agreement upon their execution. All Task Orders shall be developed according to the process established in Attachment A-2, Task Order

Process, attached hereto and incorporated herein, and should include, at a minimum, a completed form as shown in Attachment A-3, Task Order Form. DEALER agrees to perform or secure the performance of all furniture purchases in their entirety with respect to fully executed Task Orders within the Maximum Payment specified in Article 3. As BAHA Project Manager, Teri Green is responsible for communication with DEALER and the administration of this Agreement. BAHA's Executive Director or designated representative may substitute a new BAHA Project Manager by written notice to DEALER.

DEALER's point of contact and the individual authorized to communicate to BAHA on behalf of DEALER is Olivia Swinehart ("DEALER Project Manager"). Paul Razo will be the DEALER point of contact while Olivia Swinehart is on maternity leave until January 2015. A change in the DEALER Project Manager requires BAHA written approval.

1.1 PROJECT STATUS REPORTS

DEALER shall provide BAHA with project status reports (PSR's) on a regular timeframe to be determined by BAHA and DEALER (bi-weekly, monthly, etc.).

2. PERIOD OF PERFORMANCE

DEALER's services hereunder shall commence on or after September 22, 2014, and shall be completed no later than September 21, 2024, unless extended by duly executed amendment or earlier terminated, as hereinafter provided. BAHA shall have the option to extend this Agreement for two (2) additional five-year periods, subject to agreement on terms by BAHA and DEALER, and future funding approvals by BAHA. DEALER's services shall be performed in accordance with the schedule included in Attachment B, Project Schedule, attached hereto and incorporated herein by this reference.

3. COMPENSATION AND METHOD OF PAYMENT

Subject to duly executed amendments, BAHA will pay DEALER for its services as described in Attachment A, a total amount, including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subcontractors' and suppliers' costs (including mark-up), travel, equipment, materials and supplies, expenses and any fixed fee, five hundred thousand dollars (\$500,000) ("Maximum Payment"). BAHA shall make payments to DEALER in accordance with the provisions described in Attachment C, Compensation and Method of Payment, attached hereto and incorporated herein by this reference.

All invoices shall be made in writing and delivered or mailed to BAHA as follows:

Attention: Accounting Section
Bay Area Headquarters Authority
Joseph P. Bort MetroCenter
101 - 8th Street
Oakland, CA 94607-4700

Payment shall be made by BAHA within thirty (30) days of receipt of an acceptable invoice, approved by the Project Manager or a designated representative.

4. KEY PERSONNEL

The key personnel to be assigned to this work by DEALER and, if applicable, their hourly rates and the estimated hours to be supplied by each are set forth in Attachment D, Key Personnel Assignments, attached hereto and incorporated herein by this reference. Substitution of any of the personnel named in Attachment D or a decrease in the hours provided to the project by such personnel of more than 10% requires the prior written approval of the Project Manager or a designee. DEALER shall maintain records documenting compliance with this Article, which shall be subject to the audit requirements of Article 15. DEALER agrees that all personnel assigned to this work will be professionally qualified for the assignment to be undertaken. BAHA reserves the right to direct removal of any individual, including key personnel, assigned to this work.

5. AMENDMENTS

BAHA reserves the right to request changes in the services to be performed by DEALER. All such changes shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the Executive Director or a designated representative and DEALER and specifically identified as amendments to the Agreement. The BAHA Project Manager is not a designated representative, for purposes of approving an amendment.

6. TERMINATION

A. Termination for Convenience. BAHA may terminate this Agreement for convenience, in whole or in part, at any time by written notice to DEALER. Upon receipt of notice of termination, DEALER shall stop work under this Agreement immediately, to the extent provided in the notice of termination, and shall promptly submit its termination claim to BAHA. DEALER shall be paid for hours worked and reimbursed for authorized expenses, plus reasonable termination costs, not to exceed the maximum amount payable for the terminated work. For terminated deliverables-based

Task Orders, DEALER shall be reimbursed in accordance with the change and cancellation fee policy provided with each applicable quote. For terminated time-and-materials Task Orders, DEALER shall be paid for hours worked, plus authorized expenses and reasonable termination costs, not to exceed the maximum amount payable under the terminated Task Order. If DEALER has any property in its possession belonging to BAHA, DEALER will account for the same, and dispose of it in the manner BAHA directs. Except as provided above, BAHA shall not in any manner be liable for DEALER's actual or projected lost profits had DEALER completed the services required by this Agreement.

B. Termination for Default. If DEALER does not deliver the work products specified in this Agreement in accordance with the delivery schedule or fails to perform in the manner called for in the Agreement, or if DEALER fails to comply with any other material provision of the Agreement, BAHA may terminate this Agreement for default. Termination shall be effected by serving a fifteen (15) day advance written notice of termination on DEALER, setting forth the manner in which DEALER is in default. If DEALER does not cure the breach or describe to BAHA's satisfaction a plan for curing the breach within the fifteen (15) day period, BAHA may terminate the Agreement for default. In the event of such termination for default, DEALER will be entitled to be reimbursed only for work performed in full compliance with the contract requirements as follows: DEALER shall be paid for hours worked and reimbursed for authorized expenses, not to exceed the maximum amount payable for the terminated work.

For terminated deliverables-based Task Orders, DEALER shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables. For terminated time-and-materials Task Orders, DEALER shall be paid for hours worked, plus authorized expenses, not to exceed the maximum payable under the terminated Task Order. Such reimbursement will be offset by any costs incurred by BAHA to complete work required under the Agreement. In no event shall BAHA be required to reimburse DEALER for any costs incurred for work causing or contributing to the default. If DEALER has any property in its possession belonging to BAHA, DEALER will account for the same, and dispose of it in the manner BAHA directs. BAHA shall not in any manner be liable for the DEALER's actual or projected lost profits had the DEALER completed the services required by this Agreement.

C. If it is determined by BAHA that DEALER's failure to perform resulted from unforeseeable causes beyond the control of DEALER, such as a strike, fire, flood, earthquake or other event that is not the fault of, or is beyond the control of DEALER, BAHA, after setting up a new delivery or performance schedule, may allow DEALER to continue work, or treat the termination as a termination for convenience.

7. INSURANCE AND FINANCIAL SECURITY REQUIREMENTS

DEALER shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the types of insurance and financial security listed in Attachment E, Insurance and Financial Security (Bond) Provisions, attached hereto and incorporated herein, against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement. All insurance must be placed with insurers with a Best's rating of A-VIII or better.

8. INDEPENDENT CONTRACTOR

DEALER is an independent contractor and not an employee or agent of BAHA and has no authority to contract or enter into any agreement in the name of BAHA. DEALER has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by DEALER who are assisting in the performance of services under this Agreement. DEALER shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. DEALER shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

9. INDEMNIFICATION

To the maximum extent permitted by law, DEALER shall indemnify, keep and hold harmless BAHA and those entities (if any) identified as additional insureds in Attachment E, Insurance and Financial Security (Bond) Provisions, and their commissioners, directors, officers, agents, and employees ("BAHA Indemnified Parties") against any and all demands, claims, suits or actions arising out of any of the following:

- A. Any injury or death to persons or property or pecuniary, financial or economic losses that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by DEALER caused by any breach of the Agreement or negligent act or omission or willful misconduct of the DEALER or its officers, employees, subconsultants or agents; or
- B. Any allegation that materials or services provided by DEALER under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

DEALER further agrees to defend any and all such claims, actions, suits or other legal proceedings and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against any of the BAHA Indemnified Parties, DEALER shall, at its expense, satisfy and discharge the same.

The provisions set forth in this Article are intended to be applied to the fullest extent allowed under the law and, if any portion of it is found to be void or unenforceable, the remainder is to be severable and enforceable. This indemnification shall survive termination or expiration of this Agreement.

10. DATA TO BE FURNISHED BY BAHA

All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials (“BAHA Data”) made available to DEALER by BAHA for use by DEALER in the performance of its services under this Agreement shall remain the property of BAHA and shall be returned to BAHA at the completion or termination of this Agreement. No license to such BAHA Data, outside of the Scope of Work of the Project, is conferred or implied by DEALER’s use or possession of such BAHA Data. Any updates, revisions, additions or enhancements to such BAHA Data made by DEALER in the context of the Project shall be the property of BAHA and subject to the provisions of Article 11.

10.1 NOT USED

10.2 NOT USED

11. OWNERSHIP OF WORK PRODUCTS

All drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture and any other documents, materials, data and products (“Work Products”) prepared or assembled and furnished to BAHA by DEALER or its subconsultants pursuant to this Agreement shall be and are the property of BAHA. BAHA shall be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of the DEALER or in the hands of any subconsultant upon completion or termination of the work shall be immediately delivered to BAHA. DEALER hereby assigns to BAHA ownership of any and all rights, title and interest in and to such Work Products, including ownership of any copyright, patent, trademark, trade secret, or other intellectual property or proprietary rights in the Work Product. DEALER also agrees to execute all papers necessary for BAHA to perfect its ownership of the rights in the Work Product. Notwithstanding the above, “Work Products” are not intended nor shall they be construed to include DEALER’S pre-existing intellectual property secured, developed, written, or produced by DEALER prior to the execution of this Agreement or developed concurrently with this Agreement but not specifically for this Agreement; DEALER shall retain all right, title and interest in any such pre-existing intellectual property.

DEALER shall be responsible for the preservation of any and all such Work Products prior to transmittal to BAHA, and DEALER shall replace any such Work Products as are lost, destroyed, or damaged while in its possession without additional cost to BAHA.

DEALER represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

12. SUBCONTRACTS AND SUPPLIERS

A. Subcontractors and suppliers approved by BAHA for subcontract work or supplies under this Agreement are listed in Attachment G, Subcontractor and Supplier List, attached hereto and incorporated herein by this reference. Any subcontractors or suppliers must be engaged under written contract with the DEALER with provisions allowing the DEALER to comply with all requirements of this Agreement, including without limitation Article 11, OWNERSHIP OF WORK PRODUCTS. Failure of a subcontractor or supplier to provide insurance in accordance with Article 7, INSURANCE REQUIREMENTS, shall be at the risk of DEALER.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between BAHA and any subcontractors or suppliers, and no subcontract or supplier shall relieve DEALER of his/her responsibilities and obligations hereunder. DEALER agrees to be as fully responsible to BAHA for the acts and omissions of its subcontractors and suppliers and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by DEALER. DEALER's obligation to pay its subcontractors and suppliers is an independent obligation from BAHA's obligation to make payments to DEALER.

C. Any substitution of subcontractors or suppliers listed in Attachment G must be approved in writing by BAHA's Project Manager in advance of assigning work to a substitute subcontractor or supplier.

D. Applicable provisions of this Agreement shall be included in any subcontract or supplier agreement in excess of \$25,000 entered into under of this Agreement.

13. ASSIGNMENT OF AGREEMENT

DEALER shall not assign this Agreement, or any part thereof without prior express written consent of the Project Manager or a designated representative, and any attempt thereat shall be void and unenforceable.

13.1 COOPERATIVE USE

The Metropolitan Transportation Commission (MTC), Association of Bay Area Governments (ABAG), and Bay Area Air Quality Management District (Air District), may utilize this Agreement for cooperative use purposes to obtain Workstation, Office, Public Space, and Ancillary Furniture and Installation, at the same terms and conditions included in this Agreement during the period of time that this Agreement is in effect.

14. RECORDS

DEALER agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. DEALER further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer.

15. AUDITS

DEALER shall permit BAHA, and its authorized representatives to have access to DEALER's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 14. DEALER shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time.

DEALER further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subcontractor agrees that BAHA, or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor for the term specified above.

16. NOTICES

Except for invoices submitted by DEALER pursuant to Article 3, all notices or other communications to either party by the other shall be deemed given when made in writing and delivered, mailed, emailed, or faxed to such party at their respective addresses as follows:

member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by BAHA.

18.1 ORGANIZATIONAL CONFLICTS OF INTEREST

DEALER shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to BAHA; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

DEALER shall not engage the services of any subcontractor, supplier or independent contractor on any work related to this Agreement if the subcontractor, supplier or independent contractor, or any employee of the subcontractor, supplier, or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement DEALER becomes aware of an organizational conflict of interest in connection with the work performed hereunder, DEALER shall immediately provide BAHA with written notice of the facts and circumstances giving rise to this organizational conflict of interest. DEALER's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, BAHA becomes aware of an organizational conflict of interest in connection with DEALER's performance of the work hereunder, BAHA shall similarly notify DEALER. In the event a conflict is presented, whether disclosed by DEALER or discovered by BAHA, BAHA will consider the conflict presented and any alternatives proposed and meet with DEALER to determine an appropriate course of action. BAHA's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject the DEALER to damages incurred by the BAHA in addressing organizational conflicts that arise out of work performed by DEALER, or to termination of this Agreement for breach.

19. LAWS AND REGULATIONS

DEALER shall comply with any and all applicable laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of such government, including but not limited to BAHA, that relate to or in any manner affect the performance of the Agreement. Those laws, statutes, ordinances, rules, regulations and procedural requirements which are imposed on BAHA as a recipient of federal or state funds are hereby in turn imposed on DEALER.

19.1 PROJECT STABILIZATION AGREEMENT

If applicable, DEALER shall be required to adhere to Attachment I, Project Stabilization Agreement as attached hereto and incorporated herein by this reference. DEALER and all subcontractors or suppliers, if applicable, must comply with applicable sections of the California Labor Code (e.g., Sections 1720 et seq. and Title 8 of the California Code of Regulations Sections 16000 et seq.) governing the payment of prevailing wages, as determined by the Director of the California Department of Industrial Relations, in regards to all work performed under this Agreement.

20. CLAIMS OR DISPUTES

DEALER shall be solely responsible for providing timely written notice to BAHA of any claims for additional compensation and/or time in accordance with the provisions of the Agreement. It is BAHA's intent to investigate and attempt to resolve any DEALER claims before DEALER has performed any disputed work. Therefore, DEALER's failure to provide timely notice shall constitute a waiver of DEALER's claims for additional compensation and/or time.

DEALER shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by BAHA, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given BAHA due written notice of a potential claim. The potential claim shall set forth the reasons for which DEALER believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

Such notice shall be given to BAHA prior to the time that DEALER has started performance of the work giving rise to the potential claim for additional compensation.

If there is a dispute over any claim, DEALER shall continue to work during the dispute resolution process in a diligent and timely manner as directed by BAHA, and shall be governed by all applicable provisions of the Agreement. DEALER shall maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached which resolves DEALER's claim, the parties will execute an Agreement modification to document the resolution of the claim. If the parties cannot reach an agreement with respect to the DEALER claim, they may choose to pursue dispute resolution pursuant to Article 24, DISPUTE RESOLUTION, or BAHA may terminate the Agreement.

21. REMEDIES FOR BREACH

In the event DEALER fails to comply with the requirements of the Agreement in any way, BAHA reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by BAHA or DEALER shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

22. TEMPORARY SUSPENSION OF WORK

BAHA, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as BAHA may deem necessary. The suspension may be due to the failure on the part of DEALER to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of DEALER. The DEALER shall comply immediately with the written order of BAHA to suspend the work wholly or in part. The suspended work shall be resumed when DEALER is provided with written direction from BAHA to resume the work.

If the suspension is due to DEALER's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of the DEALER, all costs shall be at DEALER's expense and no schedule extensions will be provided by BAHA.

In the event of a suspension of the work, DEALER shall not be relieved of DEALER's responsibilities under this Agreement, except the obligations to perform the work which BAHA has specifically directed DEALER to suspend under this section.

If the suspension is not the responsibility of DEALER, suspension of all or any portion of the work under this Section may entitle DEALER to compensation and/or schedule extensions subject to the Agreement requirements.

23. WARRANTY OF SERVICES

A. In the performance of its services, DEALER represents and warrants that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing. In addition, DEALER shall provide such specific warranties as may be set forth in specific Task Orders as agreed upon by the parties.

B. In the event that any services provided by DEALER hereunder are deficient because of DEALER's or subconsultants failure to perform said services in accordance with the warranty standards set forth above, BAHA shall report such deficiencies in writing to the DEALER within a reasonable time. BAHA thereafter shall have:

1. The right to have DEALER re-perform such services at the DEALER's expense; or
2. The right to have such services done by others and the costs thereof charged to and collected from the DEALER if within 30 days after written notice to DEALER requiring such re-performance, DEALER fails to give satisfactory evidence to the BAHA that it has undertaken said re-performance; or
3. The right to terminate the Agreement for default. DEALER shall be responsible for all errors and omissions and is expected to pay for all deficient work as a result of errors and omissions.

24. DISPUTE RESOLUTION

A. Informal Resolution of Disputes. DEALER and BAHA shall use good faith efforts to resolve all disputes informally at the project manager level. In the event such efforts are unsuccessful, either party may request that BAHA provide a written determination as to the proposed resolution of the dispute. Within twenty-one (21) calendar days of the request, BAHA's Project Manager shall provide a written determination as to the dispute, which shall include the basis for its decision. Upon DEALER's written acceptance of the Project Manager's determination, the Agreement may be modified and the determination implemented or, failing agreement, BAHA may in its sole discretion pay such amounts and/or revise the time for performance in accordance with the Project Manager's determination.

If the Project Manager's determination is not accepted by DEALER, the matter shall promptly be referred to senior executives of the parties having designated authority to settle the dispute. The senior executives will exchange memoranda stating the issues in dispute and their respective positions and then meet for negotiations at a mutually agreed time and place. If the matter has not been resolved within thirty calendar (30) days of commencement of senior management

negotiations, the parties may mutually agree to try to settle the dispute by means of alternate dispute resolution methodologies, as set forth below.

B. Controversies Subject to Alternative Dispute Resolution. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between BAHA and DEALER which cannot be resolved through the informal efforts described above, may, by specific agreement of the parties, be submitted to alternative dispute resolution (that is, mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time.

C. Other Remedies. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction. DEALER must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action.

D. Pending Resolution. DEALER shall continue to work during the dispute resolution process in a diligent and timely manner as directed by BAHA, and shall be governed by all applicable provisions of the Agreement.

E. Cost of Alternative Dispute Resolution Proceedings. Each party shall bear the costs and expenses incurred by it in connection with such alternative dispute resolution processes. The cost of any mediator or independent decision maker shall be shared equally between the parties.

F. Survival of this Article. This Article shall survive completion or terminations of this Agreement, but under no circumstances shall either party call for an alternative dispute resolution of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceeding to litigate such claim or dispute under the laws of the State of California.

25. CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the State.

26. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover reasonable attorneys' fees, in addition to all court costs.

27. PARTIAL INVALIDITY

If any term or condition of the Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

28. BENEFIT OF AGREEMENT

The Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

29. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

30. ENTIRE AGREEMENT; MODIFICATION

This Agreement for Services, including any attachments, constitutes the complete Agreement between the parties and supersedes any prior written or oral communications. DEALER represents that in entering into the Agreement it has not relied on any previous representations, inducements, or understandings of any kind or nature. This Agreement may be modified or amended only by written instrument signed by both the DEALER and BAHA. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

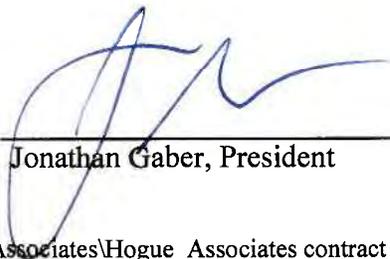
IN WITNESS WHEREOF, the Agreement has been executed by the parties hereto as of the day and year first written above.

BAY AREA HEADQUARTERS AUTHORITY

HOGUE AND ASSOCIATES



Steve Heminger, Executive Director



Jonathan Gaber, President

J:\CONTRACT\Contracts-New\Con BAHA\FY 14-15\Hogue & Associates\Hogue Associates contract final.docx

ATTACHMENT A, SCOPE OF WORK

The services to be performed by DEALER shall consist of services requested by the Project Manager or a designated representative, including but not limited to the following:

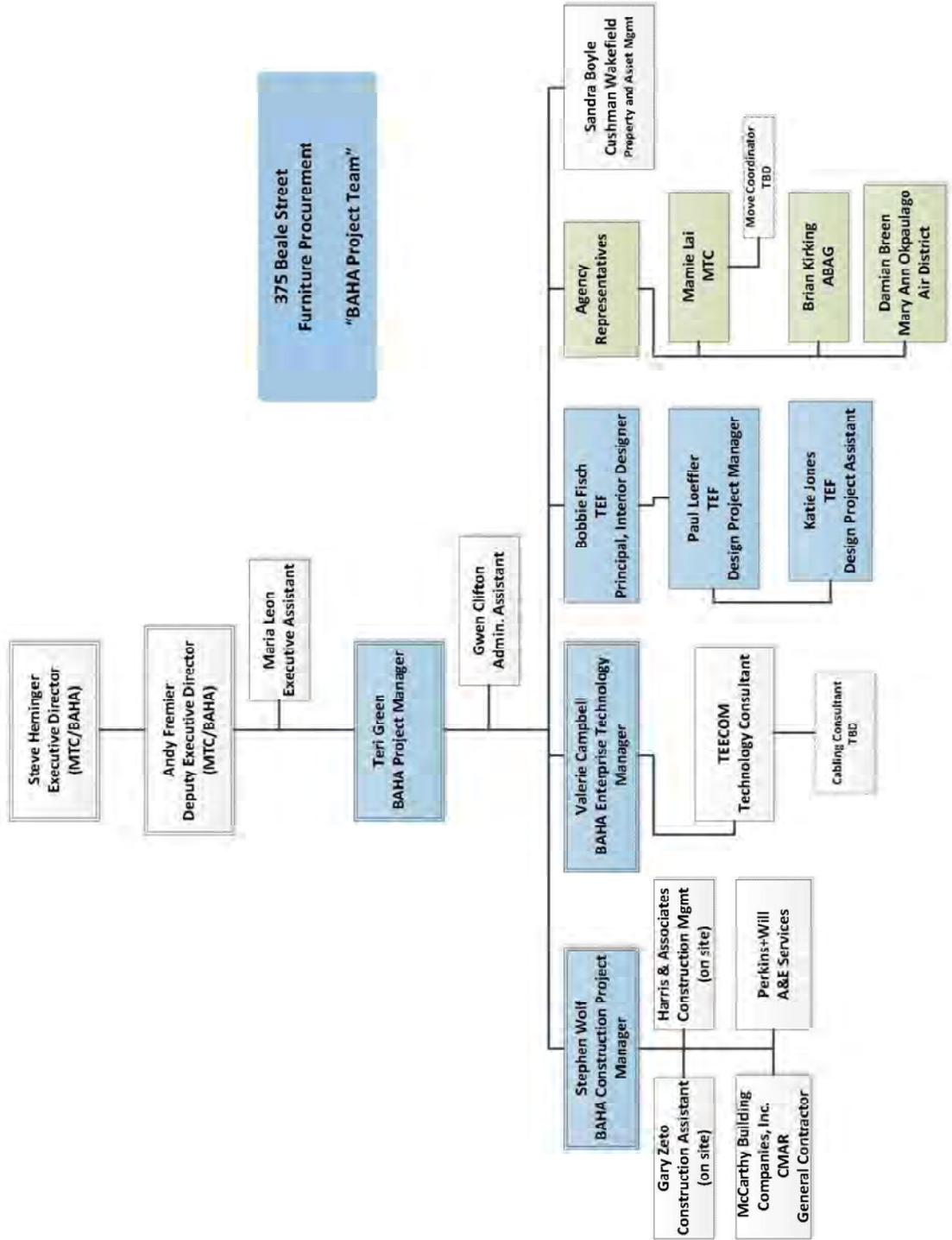
DEALER will receive direction and approvals from the BAHA Project Manager who will work in close coordination with the “BAHA Project Team” and “Agency Representatives”. See attached organization chart.

	Scope of Services
General	<ul style="list-style-type: none"> • Provide project administration, supervision and ongoing support services needed for initial furniture purchase required for move-in and future orders or upgrades at 375 Beale Street. • Develop, maintain and share current project schedules to track all processes involved in design, manufacturing and installation of furniture. • Attend Owner, Architect, Contractor (OAC) meetings to provide updates on the furniture schedule, walk the job site, and be aware of any changes to construction that may affect the furniture. • Coordinate, through the BAHA Construction Manager, for services required of the General Contractor, their subcontractors and other service providers as required. • Coordinate, through the BAHA Enterprise Technology Manager, for services related to the technology infrastructure and cabling that impact furniture installation. • Maintain complete documentation of purchased orders, inventory and installation plans. • Track purchases by Agency (BAHA, MTC, Air District and ABAG) to facilitate fixed asset accounting requirements. • Perform the work at all times with a sufficient staff to carry out the obligations in an efficient and timely manner, and in accordance with the agreed upon Project Schedule.
Design Development and Planning	<ul style="list-style-type: none"> • Coordinate weekly furniture meetings with BAHA Project Team to review project plan, schedule and changes and all other tasks required to develop and finalize furniture packages. • Take minutes, including action items, for each meeting and share with BAHA Project Team. • Review and update proposed typical workstations/private offices and other furniture packages (Shared Agency, Agency Unique, Executive Areas, and Public Spaces) requirements with BAHA Project Team. • Develop updates based on approved direction from BAHA Project Manager. • Develop and maintain updated project plan/schedule with milestone dates to track important decisions and actions. • Monitor all deadlines including: drawing sign-off, deposit receipt, order

	<p>entry dates and delivery dates.</p> <ul style="list-style-type: none"> • Confirm that specified quantities, sizes and configurations correspond with the floor plan. Coordinate all submittals and other required approvals with Architect (TEF Architects). • Develop and maintain detailed project budgets and product pricing that track with the development of the furniture specifications. Advise BAHA Project Manager if there are any deviations from the approved project budget. • Test-fit and verify critical dimensions of walls, power/data outlets and other related items at 375 Beale Street • Conduct, in coordination with BAHA Construction Manager and Enterprise Technology Manager, all meetings needed to develop, propose and confirm electrical circuiting and wiring solutions needed to complete ordering of open-plan workstations, along with parallel exercise to confirm data cable routing, capacity and intended termination locations within same workstations.
Ordering	<ul style="list-style-type: none"> • Finalize furniture plans and receive sign-off on layouts from BAHA and TEF Architects. • Submit purchase orders to Knoll and open line manufacturers on behalf of BAHA. • Check order acknowledgements for accuracy.
Pre-Installation	<ul style="list-style-type: none"> • Meet regularly at the job-site with BAHA Construction Manager (or designee) and the general contractor, electrical, cabling and audio visual (AV) vendors to address any issues in the field and to answer questions about the electrical/data capacity of the panels, conference room tables, etc. • Solicit, manage bids and select Installer (subcontractor) to receive, deliver and install furniture. • Work with BAHA to develop a mutually agreed upon Site Conditions Plan which establishes the conditions to be expected at the Site to enable delivery and installation of the furniture. • Arrange kick-off meeting with the lead installer to review the project scope, installation schedule and BAHA and DEALER's expectations. • Finalize labor requirements and coordinate with installers, electricians and other trades. Confirm critical dimensions of enclosures pertaining to products supplied by DEALER. • Review the installation schedule with the BAHA Project Team prior to delivery of furniture to ensure that any areas that may need priority are attended to in that order. • Keep the BAHA Project Team informed of delivery/ installation schedule relative to construction. • Evaluate job site prior to delivery and notify team of conditions that may affect delivery including confirmation that loading dock conditions, entryways and elevators are adequate to receive the product. (Determine whether a direct-to-site delivery is possible.) • Coordinate furniture delivery/installation through the BAHA Construction

	<p>Manager (or designee).</p> <ul style="list-style-type: none"> • Submit Installation Certificate of Insurance documentation.
<p>Delivery and Installation</p>	<ul style="list-style-type: none"> • Direct and coordinate phasing of installation with BAHA Construction Manager (or designee). Update installation schedules or sequences as changes required. • Determine and coordinate special trailer loading and delivery requirements. • Provide complete protection of floor and wall finishes as necessary for delivery and installation, including entire path of travel from loading dock or garage to final install site, including elevator interior. • Be responsible for removing all debris associated with the furniture delivery and set up. • Pre-punch furniture to resolve issues prior to formal punch walk with BAHA Project Team. • Walk the site with lead installer to check for cleanliness and furniture wipe-down. • Perform as needed punch lists and provide a schedule for the completion of the punch list items to the satisfaction of BAHA. • Be responsible for all materials and equipment prior to installation, and until acceptance is given in writing by BAHA. DEALER to assume responsibility for any loss or expense associated with storing materials and equipment prior to the date of acceptance. • In coordination with McCarthy Building Companies, Inc. and its subcontractors, receive and pass all applicable inspections from the Local Code Jurisdiction and obtain sign off of installation permits.
<p>Post-Installation</p>	<ul style="list-style-type: none"> • Conduct final punch walk-through with BAHA Project Team and Agency Representatives. Resolve all items within two weeks or as soon as practical for long-lead replacement items. • Maintain ultimate responsibility for the coordination of all work and adjustments. • Submit Installation Completion Certificate. • Create and provide a “Standards Binder” which includes images and descriptions of all furniture ordered. Warranty and cleaning information is also included. • Address any warranty claims, reconfigurations or questions. • Conduct a project close-out meeting with the client to answer questions and receive feedback on the product applications and customer service. • Provide orientation and training for staff assigned to maintain new furniture. • Provide a post-occupancy review within one (1) month of installation finish to address any outstanding issues.
<p>On-going Support</p>	<ul style="list-style-type: none"> • Provide on-going services and product for future orders and upgrades.

ORGANIZATION CHART



ATTACHMENT A-1, FURNITURE PURCHASES

Furniture Purchases

BAHA may request furniture purchases on an as-needed basis. All such furniture purchases shall be authorized by Task Order, initiated and developed according to the detailed task order process described in Attachment A-2, Task Order Process, attached hereto and incorporated herein by this reference. Task Orders shall include, at a minimum, a detailed description of the work to be performed, a completion date for performance, a maximum payment amount, payment terms (deliverables-based or time and materials) and subcontractor/supplier participation (if any), in a completed form as shown in Attachment A-3, Task Order Form, attached hereto and incorporated herein by this reference.

Labor, Installation and Delivery

Labor/installation prices will be quoted at the time the order is placed based on this mutually agreed upon condition of the facilities as established in the Site Conditions Plan. In the event that it is necessary to stage the furnishings in areas other than those of the originally intended destination, additional handling charges may apply. Should it be necessary to deliver and/or install during evening or weekend hours, or should working conditions be materially different from the Site Conditions Plan or should additional structural support be necessary, additional charges may apply.

DEALER shall be financially responsible for damage it or a supplier or subcontractor causes during delivery and installation of furniture. If other trades are present on the job site during this time, DEALER shall not be financially responsible for damage if BAHA is unable to determine that DEALER, or one of its subcontractors or suppliers, caused the damage.

Bolting

DEALER is not responsible for the construction of the walls whereon certain items of furniture may be secured or installed. BAHA will provide DEALER with construction drawings showing the presence of wiring, plumbing, hidden gas lines, or other materials that are commonly housed within construction walls. DEALER will provide BAHA with any recommendations related to additional work that may be necessary to secure furniture to these walls. Recommendations may include the addition of wall-backing to the private offices to reinforce the wall and to adequately secure the wall-mounted panels on which the overheads and surfaces are hung. Should DEALER, including its subcontractors or suppliers, cause physical damage to the walls as a result of bolting furniture, DEALER will not be held responsible for such damage if damage directly results from conditions being materially different than shown on the drawings.

Cancellation Policy

All product quoted is “made to order” and will be ordered on behalf of BAHA. This purchase is for commercial use and not for personal, family or household purposes. Change and cancellation fee policies for all furniture will be provided by DEALER in writing with each quote and prior to any order placement. Should cancellation be required, BAHA agrees to be responsible for charges and fees as specified in the applicable change and cancellation fee policy.

ATTACHMENT A-2, TASK ORDER PROCESS

Detailed Task Order Process:

Task Orders will be numbered sequentially. The period of performance shall be as set forth in the individual Task Order. The process for developing, signing and tracking task orders is summarized as follows:

Step 1 – The BAHA Project Manager (“BAHA PM”) prepares a draft Task Order to issue to DEALER. The BAHA PM may solicit feedback from DEALER to facilitate drafting the Task Order.

Step 2* – DEALER prepares a proposal in response to the draft Task Order. A draft Task Order, as included in this Agreement as Attachment A-3, Task Order Form, attached hereto and incorporated herein by this reference, shall be provided to DEALER for review and comment.

Step 3* – The BAHA PM reviews DEALER’s proposal to determine if it meets the objectives of the draft Task Order and if DEALER’s proposed costs are reasonable. The BAHA PM may solicit early feedback from the BAHA Section Director at this time, if necessary. Any changes to the draft Task Order deemed appropriate by BAHA shall be incorporated in a draft Final Task Order.

Step 4* – The BAHA PM forwards the draft Final Task Order to the BAHA Contract Administrator for review and approval. Once approved, the BAHA PM forwards two copies of the Task Order to the BAHA Section Director, for review and approval. The BAHA Section Director signs both copies of a Final Task Order to signify approval and returns them to the BAHA PM.

Step 5 – The BAHA PM sends both copies of the signed Final Task Order to DEALER, who signs both copies and returns one to the BAHA PM.

Step 6 – The BAHA PM sends one copy of the fully executed Task Order to the BAHA or BAHA Task Lead who initiates work, and sends another copy to BAHA Finance to encumber funds against the Task Order. The BAHA PM keeps the original fully-executed Task Order for the official project record.

Step 7 – Any services added to the Agreement by a Task Order shall be subject to all applicable conditions of the Agreement. Revisions to Task Orders shall require written approval by both the BAHA Section Director and DEALER. Revisions to Task Orders shall require written approval by both the BAHA Section Director and DEALER.

Step 8 – The BAHA PM is responsible for overseeing the successful conclusion of the Task Order, and will manage the progress of the work, track invoices against the Task Order budget, and track milestone completion against the Task Order schedule.

Step 9 – Once the BAHA PM determines the Task Order is complete, the BAHA PM will send written notification to DEALER that the Task Order is complete and that all associated invoices are due to BAHA within 30 days. Any balance of budget is made available to spend on future task orders at the BAHA PM’s discretion.

Step 10 – The BAHA PM will annually assess the need for a Contract audit.

**The BAHA Project Manager may revise the Task Order and/or DEALER may be asked to revise the proposal based on feedback received during Steps 2 through 4.*

ATTACHMENT A-3, TASK ORDER FORM

1. Task Order No. (include FY)	
2. Title of Task:	
3. BAHA Task Lead (if different from BAHA Project Manager):	
4. Description of work:	<i>Summarize key task expectations. For more information, see attached <u>Task Order Budget and Schedule</u> and <u>Detailed Description of Work</u> (attached).</i>
5. Original Maximum Payment:	
6. Amended Maximum Payment:	<i>Include each amendment to maximum payment, by amendment number, for particular fiscal year.</i>
7. Completion Date:	Date Schedule attached.
8. Payment terms:	<i>Check the one that applies (see below for more information):</i> <input type="checkbox"/> Time and Materials <input type="checkbox"/> Deliverables

9. Payment Terms [*complete A for Task Orders including one or more deliverables-based payments or B for Time and Materials Task Orders.*]

A. Deliverables-based.

	<u>Deliverable</u>	<u>Total Cost*</u>
1.		\$1
2.		\$1
3.		\$1
4.		\$1
5.		\$1
6.		\$1
7.		\$1
	Total:	\$7.00

*Due upon satisfactory completion as determined by the BAHA Project Manager.

B. Time and Materials

Specify hourly rate for applicable personnel and include estimate of expenses.

	<u>Personnel/Expense</u>	<u>Duties</u>	<u>Rate</u>	<u>Est. Hours</u>	<u>Total Cost</u>
1.			\$		\$1
2.			\$		\$1
3.			\$		\$1
4.			\$		\$1
5.			\$		\$1
Total:					\$5.00

<u>Activity</u>	<u>Lead</u>	<u>Estimated Amount Budgeted</u>
		\$1
		\$1
		\$1
		\$1
		\$1
		\$1
TOTAL MAXIMUM PAYMENT		\$6.00

BAY AREA HEADQUARTERS
 AUTHORITY

HOGUE AND ASSOCIATES

 Teri Green, Director
 Date: _____

 Jonathan Gaber, President
 Date: _____

Task Order Schedule

<u>Deliverable/Milestone</u>		<u>Due Date</u>
		Date

Detailed Description of Work

Task Order #: Title

1. Description of subtask 1.
Deliverable – deliverable name
2. Description of subtask 2.
Deliverable – deliverable name
3. Description of subtask 3.
Deliverable – deliverable name
4. Etc.

ATTACHMENT B, PROJECT SCHEDULE

Task #	Work to be Performed/Deliverables (#)	Completion Date
1	Project Plan and Timeline	Within 30 days from start date and updated monthly (minimum)
2	Project Status Report (Monthly) and other reports (TBD)	Within 30 days from start date and updated monthly; other reports TBD
3	Site Conditions Plan	60 days prior to initial furniture orders
4	Design/Specification/Ordering	TBD
5	Pre-Installation Walkthrough	TBD
6	Installation	TBD
7	Post-Installation Walkthrough	TBD

ATTACHMENT C, COMPENSATION AND METHOD OF PAYMENT

LABOR – HOUR

A. Compensation. DEALER shall be compensated for as-need design services based on the hourly rates for the key personnel set forth in Attachment D, Key Personnel Assignment, attached hereto and incorporated herein by this reference, which include all labor, supervision, applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance, equipment, materials and supplies. Said hourly rates shall remain in effect for the term of the Agreement, unless BAHA prior written authorization is obtained for any changes. In no event shall the total compensation to be paid DEALER under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Method of Payment. DEALER shall submit invoices for services rendered on a monthly basis, identifying the work for which payment is requested; the hours worked; any authorized expenses, together with receipts for such expenses; the amount requested; and the cumulative amount billed and paid under this Agreement.

C. Withheld Amounts and Final Payment. BAHA shall withhold, as a retainage, 5% of the value of each payment due hereunder until all services required under this Agreement have been completed and accepted by BAHA. Final payment of any balance due to DEALER, including any amounts withheld, will be made promptly after satisfactory completion of the work under this Agreement, and after receipt and written acceptance by BAHA of the reports and working papers which are required to be furnished under this Agreement and after punch list is closed out to BAHA's satisfaction, whichever is later.

ATTACHMENT C-1, TASK ORDER PAYMENT

A. Compensation. DEALER shall be compensated for furniture purchases as specified in signed Task Orders. All Task Orders shall be developed according to the process established in Attachment A-2, Task Order Process, attached hereto and incorporated herein, and should include, at a minimum, a completed form as shown in Attachment A-3, Task Order Form. Payment terms may be based on acceptance of agreed-upon deliverables or upon time and materials reimbursement, depending on the requirements of each Task Order. For time and materials-based payment of Task Orders, labor rates in Attachment D, Key Personnel Assignments, shall apply. The hourly rates in Attachment D include all applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance, equipment, materials and supplies. Said hourly rates shall remain in effect for the term of the Agreement, unless BAHA prior written authorization is obtained for any changes. In no event shall the total compensation to be paid DEALER under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Payment for Task Orders. Payment for furniture purchases provided under Task Orders shall be authorized in Task Orders executed by the BAHA Project Manager and DEALER. Task Orders shall include, at a minimum, a detailed description of work to be performed, a schedule for performance, a specific method of payment (deliverables or time and materials) and a maximum payment.

BAHA will make an initial deposit payment of fifty percent (50%) of the furniture purchase costs, upon furniture ordering by DEALER to be approved by the BAHA Project Manager. Payment for the remaining fifty percent (50%) will be made upon installation of furniture. BAHA shall withhold, as a retainage, 5% of the value of each payment due, until punch list is closed out to BAHA's satisfaction, and after receipt and acceptance by BAHA of the reports and working papers which are required to be furnished under this Agreement, whichever is later. The furniture purchase costs include product and sales tax.

C. Method of Payment. DEALER shall submit invoices for services rendered no more frequently than on a monthly basis. Invoices shall identify work for which payment is requested by Task Order number (including fiscal year). All invoices will be dated, numbered in serial order, and signed by DEALER.

For Task Orders authorizing payment on the basis of satisfactory deliverables, DEALER shall specify each deliverable for which payment is requested, the amount requested, and the total amount paid to date under the Task Order.

For Task Orders authorizing time and materials payment, DEALER shall specifying the work performed, hours worked, and amount due (by personnel), the total amount claimed under the invoice and the amount paid to date under the Task Order.

In the event that the project is delayed for reasons beyond DEALER's control and it is not possible for the facility to receive the specified product at the mutually agreed upon delivery schedule, BAHA will be required to pay DEALER the remainder of the total product invoice amount thirty (30) days from the intended installation date that could not be met. BAHA shall withhold 5% of the value of the payment per Attachment C, Section C. Withheld Amounts and Final Payment of this Agreement.

ATTACHMENT D, KEY PERSONNEL ASSIGNMENTS

	<u>Name</u>	<u>Rate/hour*</u>	<u>Position/Description</u>
1.	Jonathan Gaber	N/A	Project Principal and President of Hogue
2.	Olivia Swinehart	\$80/hr	Account Manager/Senior Account Executive
3.	Paul Razo	\$80/hr	Account Manager/Senior Project Manager
4.	Amanda Ghourdjian	\$80/hr	Project Coordinator/Project Manager
5.	Chiara Wine	\$80/hr	Project Designer/Senior Designer
6.	Cristina Figone	N/A	Consultant/VP, Business Development
7.	Kelly McVay	\$80/hr	Field Project Manager
8.	Neda Thiele	N/A	Architecture and Design Representative
9.	Gary Zowada	N/A	Senior Sales Associate
10.	Hogue Designer	\$80/hr	Assisting Chiara Wine

*Charges for key personnel are normally included in the Dealer Mark-up with exception of the following people whose service rate is \$80/hr: Olivia Swinehart, Paul Razo, Amanda Ghourdjian, Chiara Wine, Kelly McVay and others in the Hogue Design Department for a total estimated 500 hours or \$40,000. The estimated hours may be revised as Task Orders are developed.

ATTACHMENT E, INSURANCE AND FINANCIAL SECURITY (BOND) PROVISIONS

1. INSURANCE

A. Minimum Coverages. The insurance requirements specified in this section shall cover DEALER's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that DEALER authorizes to work under this Agreement (hereinafter referred to as "Agents.") DEALER shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.

DEALER is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, DEALER shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling DEALER's indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event DEALER or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that DEALER's insurance be primary without right of contribution from BAHA. Prior to beginning work under this contract, DEALER shall provide BAHA with satisfactory evidence of compliance with the insurance requirements of this section.

1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of DEALER's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of BAHA. Such Workers Compensation & Employers Liability may be waived, if and only for as long as DEALER is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of DEALER and DEALER's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of BAHA.

BAHA and those entities listed in Part 3 of this Attachment E (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from DEALER's operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by DEALER and DEALER's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

4. Umbrella Insurance in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.

5. Errors and Omissions Professional Liability Insurance for errors and omissions and the resulting damages, including, but not limited to, economic loss to BAHA and having minimum limits of \$1,000,000 per claim.

The policy shall provide coverage for all work performed by DEALER and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the DEALER. No contract or agreement between DEALER and any subcontractor/consultant shall relieve DEALER of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by DEALER and any subcontractor/consultant working on behalf of DEALER on the project.

6. Property Insurance. Property Insurance covering DEALER'S own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of BAHA (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of BAHA.

7. Employee Dishonesty/Crime Insurance. An Employee Dishonesty insurance policy covering DEALER's employees for loss of or damage to money, securities or other property resulting from theft. The following limits of liability should apply: (a) Employee Dishonesty - \$250,000; and (b) Client Property Blanket Bond - \$250,000. DEALER shall reimburse BAHA for any and all losses within the deductible, for insured losses, the cost to prove the loss, accountants' fees, defense costs including attorneys' fees and any other fees associated with a claim. In lieu of a Client Property Blanket Bond, the policy shall contain a Joint Loss Payee endorsement or other Third Party coverage naming BAHA.

8. Contractors' Pollution Liability Insurance. Contractors' Pollution Liability insurance for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of at least \$1,000,000 per occurrence or claim and a general aggregate limit of at least \$1,000,000. This insurance shall include coverage for, but not be limited to sudden and accidental discharges; gradual discharges, clean-up of pollutants and disposal thereof; and, mold, asbestos or lead, if an abatement contract. If DEALER disposes of Hazardous Materials under this Agreement, DEALER shall designate the disposal site and provide a certificate of insurance from the disposal facility to BAHA.

DEALER's Business Automobile Liability coverage shall also be extended to cover pollution liability during loading; unloading and while in transit including, but not limited to, the perils of collision and upset. Coverage may be provided by endorsement to the general liability and automobile policies or by a separate policy.

Such policy shall contain a Waiver of Subrogation in favor of BAHA.

BAHA and those entities listed in Article 3 below, and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from DEALER's operations.

B. Acceptable Insurers. All policies will be issued by insurers acceptable to BAHA, generally with a Best's Rating of A-VIII or better.

C. Self-Insurance. DEALER's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to BAHA.

D. Deductibles and Retentions. DEALER shall be responsible for payment of any deductible or retention on DEALER's policies without right of contribution from BAHA. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that BAHA seeks coverage as an additional insured under any DEALER insurance policy that contains a deductible or self-insured retention, DEALER shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of DEALER, subconsultant, subcontractor, or any of their employees, officers or directors, even if DEALER or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage. If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, DEALER shall:

Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;

Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and

If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, DEALER shall purchase “extended reporting” coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of DEALER’s personnel, subcontractors, and equipment have been removed from BAHA’s property, and the work or services have been formally accepted. DEALER must notify BAHA if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

G. Certificates of Insurance. Prior to commencement of any work hereunder, DEALER shall deliver to BAHA Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

H. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by DEALER are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by DEALER pursuant hereto, including, but not limited to, liability assumed pursuant to Article 9 of this Agreement.

2. FINANCIAL SECURITY (BONDS)

Performance and Payment Bonds

Within thirty (30) days of contract execution, DEALER shall file with BAHA on the forms provided in Attachment E-1 and Attachment E-2, herein, two surety bonds in the amounts and for the purposes noted below. DEALER shall pay all premiums and costs relating to the required bonds.

Performance Bond is in the amount of \$5,000,000, which is 100% of the initial contract amount for furniture purchases to guarantee faithful performance of the Agreement, including the replacing of or making acceptable, any defective materials or faulty workmanship. The Performance Bond shall be released after installation and after all Contractor obligations have been met, including addressing punch list items to BAHA’s satisfaction.

Payment Bond is in the amount of \$5,000,000, which is 100% of the initial contract amount for furniture purchases to inure to the benefit of persons performing labor or furnishing materials in connection with the work of this Agreement. This bond shall be maintained in full force and effect until all work under the contract is completed and accepted by BAHA, and until all claims for materials and labor have been paid.

For any subsequent furniture orders beyond the initial contract amount that exceed \$50,000, DEALER shall secure individual surety bonds, subject to the same terms and conditions contained in this Agreement.

The Performance and Payment Bonds shall in no event be construed to cap, liquidate, or otherwise modify or limit the amount of damages payable by DEALER for breach of this Agreement.

Both the Performance Bond and the Payment Bond shall be issued by a surety company(ies) acceptable to BAHA with a Best Guide Rating of A-VII or better, listed in Circular 570: Federal Treasury Listing of Qualified Sureties with a bond amount within the underwriting limitation, and authorized to execute such in the State of California.

Should any surety or sureties be deemed unsatisfactory at any time by BAHA, notice will be given to the DEALER to that effect, and DEALER shall forthwith substitute a new surety or sureties satisfactory to BAHA. The direct and indirect costs for replacement bonds shall be the sole responsibility of the DEALER.

All alterations, time extensions, extra work, additional work or any other changes authorized in this Agreement, may be made without notice to, or securing the prior consent of, the surety or sureties on the Performance or Payment Bonds.

As alterations, time extensions, extra work, additional work or any other changes are authorized and incorporated into this Agreement, DEALER will within ten days secure a "Consent of Surety" on the form provided under Attachment E-3 to increase the performance and payment bond amount to reflect the revised contract amount.

3. ADDITIONAL INSUREDS

The following entities are to be named as Additional Insureds under applicable sections of this Attachment E and as BAHA Indemnified Parties, pursuant to Article 9 of the Agreement.

- Bay Area Headquarters Authority (BAHA)
- Metropolitan Transportation Commission (MTC)
- Bay Area Toll Authority (BATA)
- Bay Area Air Quality Management District (BAAQMD)
- Association for Bay Area Governments (ABAG)

ATTACHMENT E-1, PAYMENT BOND TO ACCOMPANY CONTRACT

KNOW ALL MEN BY THESE PRESENTS

THAT WHEREAS, the Bay Area Headquarters Authority ("BAHA") has awarded to _____ as Principal, hereinafter designated as the "DEALER," a contract for the work described as follows:

Regional Agency Headquarters Facility at 390 Main Street/375 Beale Street, San Francisco:
Workstation, Office, Public Space and Ancillary Furniture and Installation.

AND WHEREAS, DEALER is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics or material suppliers employed on work under said contract as provided by law;

NOW, THEREFORE, We the undersigned DEALER and Surety are held and firmly bound unto the BAHA in the sum of _____ dollars (\$ _____), said sum being 100% of the estimated amount payable by the said the BAHA under the terms of the contract, for which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly and by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That if DEALER, his or its heirs, executors, administrators, successors, assigns or subcontractors shall fail to pay any of the persons named in Section 3181 of the Civil Code, amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the DEALER pursuant to Section 13020 of the Unemployment Insurance Code with respect to the work and labor, that the surety hereon will pay for the same, in an amount not exceeding the sum specified in this bond; otherwise, the above obligation shall be void. In case suit is brought upon this bond, the said surety will pay a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons named in Section 3181 of the Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____ A.D., 201__.

DEALER
Surety
[SEAL]
Attorney in Fact

ATTACHMENT E-2, PERFORMANCE BOND TO ACCOMPANY CONTRACT

KNOW ALL MEN BY THESE PRESENTS

THAT WHEREAS, the Bay Area Headquarters Authority (“BAHA”) has awarded to _____

as Principal, hereinafter designated as the “DEALER,” a contract for the work described as follows:

Regional Agency Headquarters Facility at 390 Main Street/375 Beale Street, San Francisco:
Workstation, Office, Public Space and Ancillary Furniture and Installation.

AND WHEREAS, DEALER is required to furnish a bond in connection with said contract guaranteeing the faithful performance thereof;

NOW, THEREFORE, We, the undersigned DEALER and Surety, are held and firmly bound unto BAHA, in the sum of _____ dollars (\$ _____), to be paid to BAHA or its certain attorney, its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That if DEALER, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the foregoing contract and any alteration thereof made, as therein provided, on his or their part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless BAHA, its officers and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise, it shall be and remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____ A.D., 201__.

DEALER

Surety

Attorney in Fact

ATTACHMENT E-3, CONSENT OF SURETY

Bond Number: _____

CONSENT OF SURETY

To be attached to and form a part of Performance and Payment Bond No. _
in the amount of \$ _____ on behalf of _____ as principal and executed by _____, as Surety,
in favor of The Bay Area Headquarters Authority (BAHA), hereinafter called "Owner", for the
Regional Agency Headquarters Facility at 390 Main Street/375 Beale Street, San Francisco:
Workstation, Office, Public Space and Ancillary Furniture and Installation.

In consideration of the mutual agreements herein contained the Principal and the Surety hereby
consent to the following: _____

Nothing herein contained shall vary, alter or extend any provision or condition of this bond except as
herein expressly stated.

Signed, Sealed and Dated this _____ day of _____, 201__.

(Principal)

By: _____

(Surety)

By: _____

Attorney-in-fact

ATTACHMENT F, NOT USED

ATTACHMENT G, SUBCONTRACTOR AND SUPPLIER LIST

	<u>Name/Address of Subcontractor or Supplier</u>	<u>Amount of Subcontract</u>	<u>Description of Work</u>
1.	Knoll	TBD	Manufacturer of office furniture
2.	Furniture Installers	TBD	Commercial furniture delivery and installation
3.	Other furniture vendors	TBD	Open line/ancillary furniture manufacturers and dealers

ATTACHMENT H, NOT USED

ATTACHMENT I, PROJECT STABILIZATION AGREEMENT

PROJECT STABILIZATION AGREEMENT

for the

BAY AREA HEADQUARTERS PROJECT

Between the

BAY AREA HEADQUARTERS AUTHORITY

And the

SAN FRANCISCO BUILDING & CONSTRUCTION TRADES COUNCIL AND ITS AFFILIATED LOCAL UNIONS

PREAMBLE

 This Project Stabilization Agreement (“Agreement”) is made and entered into the 14th day of March, 2012, by and between the Bay Area Headquarters Authority (“BAHA” or “Owner”), together with any prime contractor (individually referred to as “Prime Contractor”) and subcontractors at all tiers (all of whom, including Prime Contractor, are collectively referred to as “Contractors”), who shall become signatory to this Agreement by signing the “Agreement To Be Bound” attached hereto as Exhibit A, and the San Francisco Building & Construction Trades Council (“Council”) and its affiliated local unions who have executed this Agreement (referred to individually as “Union” and collectively as “Unions”). The parties further agree that the provisions of this Agreement shall apply to the construction work for the Bay Area Headquarters Authority building as described and defined in Section 2.1 of this Agreement (“Project”).

Recitals

WHEREAS, the Contractors will be engaged in construction of the Project; and

WHEREAS, a skilled labor pool represented by Building Trades Unions will be required to complete the work involved; and

WHEREAS, the Building Trades Unions agree to cooperate in every way possible with employees of the Contractors; and

WHEREAS, the parties desire to provide employment opportunities on the Project to military veterans returning from overseas conflicts; and

WHEREAS, the parties to this Agreement mutually agree that safety, quality, productivity and labor harmony are primary goals; and

WHEREAS, the parties recognize the need for safe, efficient and quality construction in order to reduce unnecessary delays and to shorten construction schedules, thereby further reducing costs, resulting in timely completion of the Project; and

WHEREAS, the parties desire to mutually establish and stabilize wages, hours and working conditions for the employees employed on the Project by the Contractors, and further to encourage close cooperation to achieve a satisfactory, continuous and harmonious relationship between the parties to this Agreement.

NOW THEREFORE, the parties, in consideration of the mutual promises and covenants herein contained, mutually agree as follows:

ARTICLE 1

PURPOSE

- 1.1 It is critical to BAHA and to the taxpayers and transit users in its service territory that this Project be completed in as timely and economical manner as possible. The parties to this Agreement acknowledge that large numbers of skilled and trained workers of various construction trades will be required in the performance of the Project, and that on a project of this size, with multiple contractors and crafts on the job site at the same time, the potential for work disruption is substantial. It is the purpose and intent of the parties to this Agreement to make every cooperative effort to achieve the timely, safe, and economical construction of the Project and to assure access of BAHA and the Contractors to the skilled and trained workers represented by the Council and Unions. The parties further recognize and agree that the Project must be undertaken in a spirit of labor harmony, peace and stability, with the utilization of skilled labor under fair and safe working conditions without disruption or disputes. The purposes of this Agreement are to promote efficient construction operations on the Project, to insure an adequate supply of skilled craftspeople and, in so doing, the parties to this Agreement establish the foundation to promote the public

interest, to provide a safe work place, to assure high quality construction and to secure optimum productivity, on-schedule performance and BAHA's satisfaction.

- 1.2 It is the intent of the parties to set out uniform and fair working conditions for the efficient completion of the Project, to provide for peaceful, efficient and binding procedure for settling labor disputes, to maintain harmonious labor/management relations and eliminate strikes, lockouts and other delays.

ARTICLE 2

SCOPE OF AGREEMENT

- 2.1 This Agreement shall apply only to that demolition, hazardous material remediation, surveying, site preparation and new construction work awarded by and under the control of BAHA and performed by the signatory Contractors at 390 Main Street, San Francisco, California, during the term of this Agreement. Construction of any phase, portion, section or segment of the Project shall be deemed complete when such phase, portion, section or segment has been turned over to BAHA by the Contractor and BAHA has accepted such phase, portion, section or segment. Once accepted by BAHA, this Agreement shall have no force or effect on such portion of the Project accepted by BAHA. This Agreement shall cover and apply to all initial tenant improvement work on leased space, whether or not awarded by, or under the control of, BAHA performed at the Project site commenced within eighteen (18) months after issuance of the certificate of completion, or similar form of government acceptance, issued to BAHA. If agreed separately in writing by the parties, this Agreement may be extended to certain future work.
- 2.2 This Agreement shall not apply to work covered by the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the National Agreement of Elevator Constructors, and that any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Technicians *except* that Articles 5 (No Strike-No Lockout), 6 (Work Assignments and Jurisdictional Disputes) and 11 (Grievance Dispute Resolution Procedure) of this Agreement shall apply to such work performed under these agreements.
- 2.3 This Agreement shall apply only to construction craft employees working on this Project represented by the Unions signatory hereto, and shall not apply to a Contractor's supervisors, technical or non-manual employees including, but not limited to, executives, engineers, office and clerical employees, drafters, supervisors,

timekeepers, messengers, guards, or any other employees above the classification of general foreman, or inspectors, material testers, and/or x-ray technicians, except to the extent that such inspectors, material testers, and/or x-ray technicians are customarily covered by the local master collective bargaining agreement negotiated between a Union and its historically recognized bargaining party (“Schedule A agreement”) and as to which classification a prevailing wage determination has been published.

- 2.4 All off-site manufacture and handling of materials, equipment or machinery shall not be covered by this Agreement; *provided*, however, that all off-site work, including fabrication, that is traditionally performed by any of the Unions that is directly or indirectly part of the Project, if such work is covered by a provision of a Schedule A agreement or local addendum to a national agreement of the applicable Union(s), shall be covered by the terms and conditions of this Agreement; *provided further*, that lay-down or storage areas or equipment or material manufacturing (pre-fabrication) sites dedicated solely to the Project or Project work, and the movement of materials or goods between the Project site and a dedicated site(s) as well as between locations on the Project site and the delivery and removal of construction equipment, apparatus, machinery, materials and supplies, including, but not limited to, ready-mix concrete, asphalt, aggregate, sand or earth that are directly incorporated into a work process or debris, earth or other waste construction materials removed from the Project site shall be covered by the terms and conditions of this Agreement.
- 2.5 After installation by the Contractors and upon notice of completion, it is understood BAHA and tenants reserve the right to perform the operation, repair, maintenance or revision of equipment or systems with persons of their choice. If required, the service representative may make a final check to protect the terms of a manufacturer’s guarantee or warranty prior to start-up of a piece of equipment.
- 2.6 It is expressly agreed and understood by the parties hereto that BAHA shall retain the right at all times to perform and/or subcontract all portions of the construction and related work on the Project site not covered by this Agreement.
- 2.7 It is expressly agreed and understood by the parties hereto that BAHA shall have the right to purchase material and equipment from any source and the craftspeople will handle and install such material and equipment.
- 2.8 Without limiting the foregoing, the parties recognize and agree that the items specifically excluded from the scope of this Agreement include the following:

- (a) Furniture, equipment and machinery owned or controlled by BAHA; however, the installation of office modular furniture shall be covered by this Agreement;
- (b) All employees of BAHA, any Contractor, design team or any other consultant of BAHA not performing construction craft labor within the scope of this Agreement;
- (c) Any work performed on or near, or leading to or into the Project site by state, county, city or other governmental bodies, or their contractor(s); or by utilities or their contractor(s);
- (d) Off-site maintenance of leased equipment and on-site supervision of such work; and
- (e) The testing and calibration of specialty equipment, including, but not limited to: communications dishes/antennae; audio/visual equipment; security access controls; surveillance cameras; and intrusion alarms; however the installation of the equipment and termination of electrical connections of such equipment shall be covered by this Agreement.

2.9 The parties agree that BAHA, at its sole option, may terminate, delay, and/or suspend any and all portions of the work covered by this Agreement at any time. Further, BAHA may prohibit some or all work on certain days or during certain hours of the day to mitigate the effect of the ongoing Project work on the businesses and residents in the vicinity of the Project site; and/or require such operational or schedule changes that may be deemed necessary, in its sole judgment. Any operational or schedule changes shall be subject to any applicable wage provisions included in a Schedule A agreement.

ARTICLE 3

SUBCONTRACTS

3.1 Each of the Contractors agrees that neither it nor any of its subcontractors will subcontract any work to be done on the Project except to a person, firm, or corporation who is or becomes party to this Agreement by executing the Agreement to be Bound attached hereto as Exhibit A and incorporated herein. Any Contractor working on the Project shall, as a condition to working on the Project, become signatory to and perform all work under the terms of this Agreement. Subject to the

provisions of Section 2.4, above, the furnishing of materials, supplies or equipment and the delivery thereof shall in no case be considered subcontracting, if not otherwise covered in the scope of work of this Agreement.

- 3.2 A subcontractor is defined as any person, firm or corporation who agrees under contract with a Contractor to perform on the Project any part or portion of the construction work covered by the prime contract, including the operation of construction equipment, performance of labor and/or installation of materials. The furnishing of supplies, equipment, or materials that are stockpiled for later use shall in no case be considered subcontracting. Construction trucking work, including the removal of debris and/or excess construction materials as well as delivery of materials directly incorporated into a work process, as described in Section 2.4 of this Agreement, shall be covered within the scope of this Agreement and, specifically, this Article 3, to the fullest extent provided by law and by prevailing wage determinations of the California Department of Industrial Relations.
- 3.3 The Contractors have the primary obligation for performance of all conditions of this Agreement. This obligation cannot be relieved, evaded or diminished by subcontracting. Should a Contractor elect to subcontract, such Contractor shall continue to have such primary obligation.
- 3.4 Any Contractor who provides in the subcontract that the subcontractor will pay the wages and benefits and will observe the hours and all other terms and conditions of this Agreement, shall not be liable for any delinquency by such subcontractor in the payment of any wages or fringe benefits provided herein, including payments to Health & Welfare, Pension, Vacation/Holiday Dues Supplement and Training & Retraining Funds, except as provided in the Labor Code.
- 3.4.1 All Contractors will give written notice to the Union(s) of any subcontract involving the performance of work covered by this Agreement within either five (5) days of entering such subcontract or before the subcontractor commences work on the Project, whichever occurs first, and shall specify the name and address of the lower tier Contractor. Written notice at a Pre-Job/Mark-up meeting (as described in Section 8.2 of this Agreement) shall be deemed written notice under this provision for those lower tier Contractors listed at the Pre-Job/Mark-up meeting only.
- 3.4.2 Thereafter, if such lower tier Contractor should become delinquent in the payment of any wages or benefits as above specified, the applicable fringe benefit trust fund shall immediately give written notice thereof to the Prime Contractor and to the affected Contractor specifying the nature and amount of such delinquency.

- 3.4.3 In the event any Contractor fails to give written notice of a subcontract as required herein, such Contractor shall be liable for all delinquencies of the subcontractor on this Project only without limitation.
- 3.4.4 The provisions of this Section 3.4 shall be applied only to the extent permitted by law and, notwithstanding any other provision of this Agreement, no aspect of the subcontractors' clause, including its enforcement, may be enforced by or subject to strike action.
- 3.4.5 Nothing in this Agreement is meant to interfere with the normal enforcement or collection rights of the fringe benefit trust funds.

ARTICLE 4

RELATIONSHIP BETWEEN PARTIES

- 4.1 This Agreement shall only be binding on the signatory parties hereto, and shall not apply to parents, affiliates, subsidiaries, or other divisions of the Coordinator (as described in Article 7 of this Agreement) and any Contractor unless signed by such parent, affiliate, subsidiary, or other division of such entity.
- 4.2 Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement. Any alleged breach of this Agreement by a Contractor or any dispute between the signatory Union(s) and the Contractor respecting compliance with the terms of this Agreement, shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and each other Contractor party to this Agreement.
- 4.3 It is mutually agreed by the parties that any liability by a signatory Union(s) to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a signatory Union(s) shall not affect the rights, liabilities, obligations and duties between the Contractors and the other Unions party to this Agreement.
- 4.4 It is recognized by the parties to this Agreement that the Contractors and Coordinator are acting only on behalf of said Contractors and Coordinator, and said Contractors and Coordinator have no authority, either expressed, implied, actual, apparent or ostensible, to speak for or bind BAHA.

ARTICLE 5

NO STRIKES - NO LOCKOUTS

- 5.1 There shall be no strikes, picketing, work stoppages, slowdowns, or other disruptive activity for any reason including, but not limited to, disputes relating to the negotiation or renegotiation of the local collective bargaining agreements that serve as the basis for the Schedule A agreements, economic strikes, unfair labor practices strikes, safety strikes, sympathy strikes, and jurisdictional strikes by the Union or employees working under this Agreement against any Contractor covered under this Agreement on the Project. There shall be no lockout by any Contractor. Failure of any Union, or employee employed under this Agreement, to cross any picket line established by any Union, signatory or non-signatory to this Agreement, or by any other organization or individual, where such picket line is directed at the Project, or a Contractor or employer working on the Project, resulting in the failure of one or more employees employed under this Agreement to engage in Project work as directed by his/her Contractor or other disruption of Project work, is a violation of this Article. The Prime Contractor and the Union shall take all steps necessary to obtain compliance with this Article and neither shall be held liable for conduct for which it is not responsible.
- 5.2 If a Contractor contends that any Union has violated this Article or Section 6.3, below, it will notify in writing the Secretary-Treasurer of the Council, the Coordinator, the business manager/senior executive of the involved Union(s), and the Prime Contractor. The Secretary-Treasurer and the leadership of the involved Union(s) will immediately instruct, order, and use their best efforts to cause the cessation of any violation of this Article.
- 5.3 If the Union contends that any Contractor has violated this Article, it will notify the Contractor, the Prime Contractor and the Coordinator setting forth the facts that the Union contends violate the Agreement, at least twenty-four (24) hours prior to invoking the procedures of Section 5.4. The Prime Contractor shall promptly order the involved Contractor(s) to cease any violation of this Article.
- 5.4 Any party to this Agreement may institute the following procedure, in lieu of or in addition to any other action at law or equity, when a breach of Section 5.1, above, or Section 6.3, below, is alleged:
- 5.4.1 The party invoking this procedure shall notify John Kagel, whom the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, Robert Hirsch shall be appointed the

alternate, or, if he is unavailable, he shall appoint an alternate. Notice to the arbitrator shall be by the most expeditious means available, with notices to the party(ies) alleged to be in violation and to the Council if it is a Union alleged to be in violation. For purposes of this Article, written notice may be given by electronic mail, facsimile, hand delivery, or overnight mail and will be deemed effective upon receipt.

- 5.4.2 Upon receipt of said notice, the arbitrator named above or his alternate shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Council's Secretary-Treasurer and the Business Manager/senior executive(s) as required by Section 5.2, above.
- 5.4.3 The arbitrator shall notify the parties of the place and time chosen for this hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party or parties to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.
- 5.4.4 The sole issue at the hearing shall be whether or not a violation of Section 5.1, above, or of Section 6.3, below, has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation, or mitigation of such violation or to award damages (except as set forth in Section 5.7, below) which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but its issuance shall not delay compliance with, or enforcement of, the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief, and such award shall be served on all parties by hand or registered mail upon issuance.
- 5.4.5 Such award shall be final and binding on all parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 5.4.4 of this Article, all parties waive the right to a hearing and agree that such proceedings may be *ex parte*. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or by delivery to their address as shown on this Agreement or in the applicable

Schedule A agreement (for a Union), as shown on their business contract for work under this Agreement (for a contractor), and to the representing Union (for an employee), by certified mail by the party(ies) first alleging the violation.

- 5.4.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the parties to whom they accrue.
- 5.4.7 The fees and expenses of the arbitrator shall be paid by the losing party.
- 5.5 BAHA is a party in interest in all proceedings arising under this Article and Articles 6 and 11 and its designated representative and the Coordinator shall be sent contemporaneous copies of all notifications required by these Articles.
- 5.6 If the arbitrator determines in accordance with 5.4.4 above that a work stoppage has occurred, the respondent Union shall, within eight (8) hours of receipt of the award, direct all the employees it represents on the Project to return immediately to work. If the craft involved does not return to work by the beginning of the next regularly scheduled shift following such eight (8) hour period after receipt of the arbitrator's award, and the respondent Union has not complied with its obligation immediately to instruct, order, and use its best efforts to cause a cessation of the violation and a return to work of the employees it represents, then the respondent Union shall pay a sum as liquidated damages to the Contractor, and shall pay an additional sum per shift for each shift thereafter on which the craft has not returned to work. Similarly, if the arbitrator determines in accordance with Section 5.4.4 above that a lockout has occurred, the respondent Contractor shall, within eight (8) hours of receipt of the award, return all of the affected employees to work on the Project, or otherwise correct the violation as found by the arbitrator. If the respondent Contractor does not take such action by the beginning of the next regularly scheduled shift following the eight (8) hour period, the respondent Contractor shall pay a sum as liquidated damages to the affected Union(s) (to be apportioned among the affected employees and the benefit funds to which contributions are made on their behalf, as appropriate and designated by the arbitrator) and shall pay an additional sum per shift thereafter in which compliance by the respondent Contractor has not been completed. The arbitrator shall retain jurisdiction to determine compliance with this Section and to establish the appropriate sum of liquidated damages, which shall not be less than ten thousand dollars (\$10,000.00) nor more than twenty-five thousand dollars (\$25,000.00) for each shift.

- 5.7 Withholding employees, but not picketing, for failure of a Contractor to tender trust fund contributions as required in Article 16 and/or for failure to meet its weekly payroll is not a violation of this Article.
- 5.8 The procedures contained in Section 5.4 shall be applicable only to alleged violations of this Article. Discharge or discipline of employees for violation of this Article or Section 6.3 shall be subject to the grievance and arbitration procedures of Article 11 of this Agreement.

ARTICLE 6

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES—NORTHERN CALIFORNIA PLAN

- 6.1 The assignment of work will be solely the responsibility of the Contractor performing the work involved and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.
- 6.2 All jurisdictional disputes between or among Building and Construction Trades Unions, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding, and conclusive on the Contractors and Unions parties to this Agreement.
- 6.2.1 For the convenience of the parties, and in recognition of the expense of travel between Northern California and Washington, DC, at the request of any party to a jurisdictional dispute under this Agreement an Arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator’s hearing on the dispute shall be held at the offices of the San Francisco Building and Construction Trades Council. All other procedures shall be as specified in the Plan.
- 6.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slowdown of any nature, and the Contractor’s assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

- 6.4 As provided in Section 8.2, below, Prime Contractor will conduct pre-job conferences for all Contractors with the Unions prior to commencement of work by the Contractors. At these conferences all jurisdictional assignments will be announced. The Council and representatives of BAHA shall be advised in advance of all such conferences and may participate if they wish.

ARTICLE 7

COORDINATOR

- 7.1 BAHA shall appoint a coordinator (“Coordinator”) who is responsible for the administration and application of this Agreement.
- 7.2 The Coordinator shall endeavor to facilitate harmonious relations between the Contractors and Unions signatory hereto and will conduct the periodic joint Labor/Management meeting referred to in Article 8, below. The Coordinator shall not be responsible for the acts of the Contractors or Unions signatory hereto, and will not be a party to any arbitration or litigation arising out of this Agreement.

ARTICLE 8

JOINT LABOR/MANAGEMENT MEETINGS AND PRE-JOB/MARK-UP MEETINGS

- 8.1 A joint Labor/Management meeting will be held on a periodic basis between the Coordinator, the Contractors and the signatory Unions. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications and advance the proficiency and efficiency of the craft workers and the Contractors on the Project. These periodic meetings will also include discussion of the safety, scheduling, productivity and compliance with applicable laws and regulations for the work performed on the Project.
- 8.2 A Pre-Job/Mark-Up meeting shall be held after a construction contract has been let to a Contractor (which includes a subcontractor at any tier) and prior to the commencement of work. The purpose of the Pre-Job/Mark-Up meeting is: (1) to establish the scope of work in each Contractor’s contract; and (2) to have each Contractor make its work assignments in accordance with Section 6.1 of this Agreement for the work within the scope of its construction contract. The work assignments shall be made in writing. Contractors shall be responsible for providing

complete information on their assignments of work. Any craft objecting to the Contractor's proposed assignment of work shall have seven (7) calendar days from the date of the Pre-Job/Mark-Up meeting to submit written objections to the Contractor, the Coordinator and the Council before the Contractor makes the work assignments final.

- 8.4 The Coordinator will schedule and attend all Pre-Job/Mark-Up meetings and participate in discussions as they pertain to the terms and conditions of this Agreement.

ARTICLE 9

MANAGEMENT RIGHTS

- 9.1 The Contractor(s) retain full and exclusive authority for the management of their work forces for all work performed under this Agreement. This authority includes, but is not limited to the right to:
- (a) Plan, direct and control the operation of all the work;
 - (b) Decide the number and types of employees required to perform the work safely and efficiently;
 - (c) Hire, promote and lay off employees as deemed appropriate to meet work requirements and/or skills required;
 - (d) Require all employees to observe the Contractors' Project Rules, Security and Safety Regulations, consistent with the provisions of this Agreement. These Project Rules and Regulations shall be reviewed and mutually agreed upon at the Pre-Job meeting and supplied to all employees and/or posted on the jobsite;
 - (e) Discharge or discipline employees for just cause;
 - (f) Assign and schedule work at its sole discretion and determine when overtime will be worked. There shall be no refusal by a craft to perform work assigned, including overtime work; however, individual craftspeople shall not be required to work overtime unless specifically dispatched for overtime work. Any cases of a craft's refusal to work overtime shall be subject to the grievance procedure under this Agreement; and

- (g) Utilize any work methods, procedures or techniques and select and use any type or kind of materials, apparatus or equipment regardless of source, manufacturer or design, subject to the provisions of Section 2.4 and Article 21 of this Agreement.
- (h) The foregoing listing of management rights shall not be deemed to exclude other functions not specifically set forth herein. The Contractors, therefore, retain all legal rights not specifically enumerated in this Agreement.

ARTICLE 10

WORK RULES

- 10.1 The selection of craft foremen and general foremen shall be entirely the responsibility of the Contractor(s). Foremen and general foremen shall take orders from the designated Contractor(s) representatives.
- 10.2 There shall be no limit on production by employees nor restrictions on the full use of tools or equipment. Craft persons using tools shall perform any of the work of the trade and shall work under the supervision of the craft foremen.
- 10.3 Security procedures for control of tools, equipment and materials are solely the responsibility of Contractor(s).
- 10.4 Employees shall be at their place of work (as designated by the Contractor at the Pre-Job/Mark-Up meeting) and ready to work at the starting time and shall remain at their place of work performing their assigned functions until quitting time. A reasonable time will be allowed for employees to put company and personal tools in secured storage and return to the parking lot by quitting time. The parties reaffirm their policy of a fair day's work for a fair day's wage.
- 10.5 Slowdowns, standby crews and featherbedding practices will not be tolerated.
- 10.6 It is understood by the Contractor(s) and agreed to by the Union(s), that the employees of the Contractor(s) will perform the work requested by the Contractor(s) without having any concern or interference with any other work performed by any employees of BAHA, its member organizations, or others who are not covered by this Agreement.

- 10.7 Contractors shall provide rest periods in accordance with the Schedule A agreements and Industrial Welfare Commission Order No. 16-2001. Any dispute regarding rest and meal periods provided in this Section 10.7 shall be resolved exclusively under the provisions of Article 11 of this Agreement.
- 10.8 There shall be no interference with vendor or supplier deliveries of equipment, apparatus, machinery and construction materials to the jobsite since such deliveries shall not fall under this Agreement. Unloading of the above will be performed by the Contractors' employees.
- 10.9 The Contractor(s) and the Unions recognize the necessity for promoting efficiency and agree that no rules, customs or practices shall be permitted that cause over-manning, limit production or increase the time required to do the work, and no limitation shall be placed upon the amount of work which an employee shall perform, nor shall there be any restrictions against the use of any kind of machinery, tools or labor-saving devices. However, the lawful manning provisions of the applicable craft's Schedule A agreement shall be recognized.

ARTICLE 11

GRIEVANCE PROCEDURE

- 11.1 This Agreement is intended to provide close cooperation between management and labor. The Prime Contractor and the Council shall each assign a representative to the Project for the purpose of assisting the local Unions, together with the Contractors, to complete the construction of the Project economically, efficiently, continuously, and without interruption, delays, and work stoppages.
- 11.2 All disputes involving discipline and/or discharge of employees working on the Project shall be resolved through the grievance and arbitration provision contained in the Schedule A agreement of the applicable craft of the affected employee. No employee working on the Project shall be disciplined or dismissed without just cause.
- 11.3 All Project labor disputes involving the application or interpretation of a Schedule A agreement to which a signatory Contractor and a signatory Union are parties shall be resolved pursuant to the dispute resolution procedures contained in such Schedule A agreement. All disputes relating to the interpretation or application of this Agreement shall be resolved through the grievance and arbitration procedure set forth herein, except an alleged violation of Article 5 or Section 6.3 which shall be resolved through the procedures set forth in Section 5.4 et seq.

11.4 The parties understand and agree that in the event any dispute arises out of the meaning, interpretation, or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein (“Grievance Procedure”). No grievance shall be recognized unless the grieving party (Local Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor on its own behalf, or BAHA on its own behalf) provides notice in writing to the signatory party with whom it has a dispute (with a copy to the Coordinator) within five (5) business days after becoming aware of the dispute, but in no event more than thirty (30) calendar days after it reasonably should have become aware of the event giving rise to the dispute. The time limits in this Section 11.4 may be extended by mutual agreement (oral or written) of the parties.

11.5 Grievances arising out of Section 11.4, above, shall be settled according to the following procedures:

Step 1: Within five (5) business days after receipt of the written notice of the grievance, the parties to the grievance shall confer and attempt to resolve the grievance. In the event that the representatives are unable to resolve the dispute within the five (5) business days after its referral to Step 1, either involved party may refer the dispute to Step 2; or, if neither party is a Union, then to Step 3.

Step 2: The applicable Union International representative and the other party shall meet within seven (7) business days of the referral of a dispute to this second step to arrive at a satisfactory settlement thereof. Meeting minutes shall be kept by the other party. If the parties fail to reach an agreement, then the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) business days thereafter.

Step 3: Within five (5) business days after referral of a dispute to Step 3, the parties shall choose a mutually agreed upon arbitrator for final and binding arbitration. The arbitrator shall be selected from a permanent panel of arbitrators consisting of William Engler, William Riker, Thomas Angelo, John Kagel, and Robert Hirsch, who will hear grievances filed pursuant to this Article. Should the parties be unable to agree mutually on the selection of an Arbitrator from among those on the panel, selection for that given arbitration shall be made by alternately striking names from the list of names on the panel until the parties agree on an Arbitrator or until one (1) name remains. The first party to strike a name from the list shall be the party bringing forth the grievance. In the event the last remaining Arbitrator is not available in a reasonable time to hear the grievance and the parties have not mutually agreed to extend time for arbitration, the last stricken Arbitrator will be selected. A reasonable time is defined as fifteen (15) calendar days where the grievance concerns employment discharge and thirty (30) calendar days for all other grievances.

- 11.6 The decision of the arbitrator shall be binding on all parties. The arbitrator shall have no authority to change, amend, add to, or detract from any of the provisions of the Agreement. The expense of the arbitrator shall be borne equally by both parties.
- 11.7 The arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the arbitrator.
- 11.8 The time limits specified in any step of the grievance procedure set forth in this Article may be extended by mutual agreement of the parties initiated by the written request of one party to the other at the appropriate step of the grievance procedure. Failure to process a grievance, or failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such grievances with prejudice. In order to encourage the resolution of disputes and grievances at Step 1 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

ARTICLE 12

UNION RECOGNITION AND REPRESENTATION

- 12.1 All employees who are employed by the Contractors shall, as a condition of employment, on or before the eighth (8th) day of consecutive or cumulative employment on a construction contract subject to this Agreement, be responsible for the payment of the applicable monthly working dues and any associated fees uniformly required for union membership in the applicable local union which is signatory to this Agreement. Further, there is nothing in this Agreement that would prevent non-union employees from joining the local union.
- 12.2 The Contractors recognize the Unions signatory hereto as the sole and exclusive collective bargaining representatives for its craft employees on the Project.
- 12.3 Authorized representatives of the Unions shall have access to the Project site during established working hours, provided they do not unduly interfere with the work of the employees, and further provided, that such representatives fully comply with the visitor safety and security rules established for the Project.

- 12.4 A Steward shall be a working journeyman appointed by the authorized union representative of the Local Union(s) who shall, in addition to work as a journeyman, be permitted to perform during working hours such Union(s) duties as cannot be performed at other times which consists of those duties assigned by the business manager or business agent. The Union(s) agrees that such duties shall be performed as expeditiously as possible and the affected Contractor agrees to allow the Steward a reasonable amount of time for the performance of such duties. The Steward shall not leave the work area without notifying the appropriate supervisor.
- 12.5 The Steward will be paid at the journeyman wage for the job classification in which the Steward is employed.
- 12.6 The working Steward will be subject to discharge for just cause to the same extent as other employees provided, however, that the Union shall be notified twenty-four (24) hours prior to the discharge.
- 12.7 The Steward shall remain on the job until its completion, or until no more than three (3) employees are left on the job, provided the Steward is qualified to perform the work remaining to be done, unless the Steward is removed by the business manager/senior executive of the applicable Union.

ARTICLE 13

REFERRAL

- 13.1 To the extent permitted by law, the following shall apply: For signatory unions now having a job referral system contained in a Schedule A agreement, the Contractors agree to comply with such a system and it shall be used exclusively by such Contractors, together with the procedures set forth in Section 13.3 below, as appropriate. Such job referral system shall be operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those that require equal employment opportunities and non-discrimination.
- 13.2 The Unions will exert their utmost efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractors.
- 13.3 The parties also recognize and support BAHA's commitment to provide opportunities for participation on the Project to regular, experienced employees (core employees) of a Contractor awarded work on this Project and who do not traditionally work under a local collective bargaining agreement. In furtherance of this commitment, the parties agree that such Contractor awarded work on the Project may employ their regular

local experienced work force, pursuant to the procedures described below, where the employees so designated as a “regular, experienced employee” meet the following qualifications:

- (a) Possesses any license required by state or Federal law for the Project work to be performed; and
- (b) Has been employed by the Contractor for at least five hundred (500) paid work hours during the twelve (12) months immediately preceding the Contractor’s start of Project work.

As its first employee for work on the Project, the Contractor may directly employ one (1) of its qualified regular, experienced employees. Its second employee shall be referred pursuant to Section 13.1, above. As its third employee, the Contractor may directly employ a second of its qualified regular, experienced employees and so on until the fourth “regular, experienced employee” has been employed by the Contractor on the Project. The maximum number of “regular, experienced employees” employed by a Contractor under this procedure shall be four (4). All additional employees shall be requested and referred pursuant to Section 13.1, above. On layoffs, the Contractor shall reverse the alternating process with respect to the employment of “regular, experienced employees” on the Project. The Contractor shall notify the appropriate Union of the name and Social Security number of each regular, experienced employee to work on the Project and each such employee shall register with the Union’s hiring hall before commencing work on the Project. If there is any question regarding an employee’s eligibility under this Subsection 13.3, the Contractor shall provide satisfactory proof of such at a Union’s request.

- 13.4 In the event that a Union is unable to fill any requisition for one (1) or more employees within forty-eight (48) hours after such requisition is made by a Contractor, or (Saturdays, Sundays, and holidays excepted), the Contractor may employ applicants meeting the qualifications sought from any other available source as per the applicable Schedule A agreement. The Contractor shall promptly notify the Union of any applicants from other sources.
- 13.5 In the event that a signatory local union does not have a job referral system as set forth in Section 13.1 above, the Contractor shall give the Union equal opportunity to refer applicants.
- 13.6 The Union security provisions of the applicable Schedule A agreement shall apply to each employee working within the jurisdiction of that craft under this Agreement; *provided*, however, that should such provision(s) require membership in the labor organization, such may be satisfied by the tendering of periodic dues and fees uniformly and non-discriminatorily required to the extent allowed by law.

ARTICLE 14

NON-DISCRIMINATION

- 14.1 The Contractors and the Union agree that they will not discriminate against any employee or applicant for employment because of race, color, ethnic group identification, national origin, ancestry, religion, gender, age, marital status, disability or AIDS/HIV status, medical conditions, sexual orientation, gender identity, domestic partner status, or status as a Vietnam-era veteran, and shall provide equal employment opportunity for all persons in all job categories of employment based only upon job-related bona fide occupational qualifications. The Unions shall cooperate with the Contractor's obligations to ensure that applicants are employed and that employees are treated during employment without regard to such status. Relevant employment actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, suspension or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Any complaints regarding the application of this provision shall be brought to the immediate attention of the involved Contractor for consideration and resolution.

ARTICLE 15

APPRENTICES

- 15.1 The parties recognize the need to maintain continuing support of effective programs designed to develop adequate numbers of competent workers in the construction industry. To that end, the Contractors and Unions shall exert their best efforts to identify and recruit local residents, including women, the economically disadvantaged, young adults and others participating in community-based programs located within the service area of BAHA and its member organizations in order to assist those individuals in qualifying and becoming eligible for apprenticeship programs.
- 15.2 The Contractors agree to employ, and the Unions agree to cooperate in furnishing, apprentices from state certified jointly administered apprenticeship programs. A properly indentured apprentice must be employed under the regulations of the craft or trade at the work of which he/she is indentured and shall be employed only for work of the craft or trade for which he/she is indentured.
- 15.3 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and California prevailing wage rate determination.

ARTICLE 16

WAGE SCALES and FRINGE BENEFITS

- 16.1 All employees covered by this Agreement shall be classified and paid in accordance with the classification and wage and fringe benefit scales contained in the applicable Schedule A agreement and in compliance with the applicable general prevailing wage determination made by the California Director of Industrial Relations pursuant to the California Labor Code.
- 16.2 During the period of construction on this Project, the Contractors agree to recognize and put into effect such increases in wages and recognized fringe benefits as shall be negotiated between the various Unions and the historically recognized local bargaining unit on the effective date as set forth in the applicable Schedule A agreement. The Unions shall notify the Contractors in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.
- 16.3 The Contractors hereby adopt and agree to be bound by the written terms of the legally established local trust agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such appropriately qualified employee fringe benefit funds established by such appropriate local agreements. The Contractors authorize the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds, and hereby ratify and accept the trustees so appointed as if made by the Contractors.
- 16.4 Wages due shall be paid to all employees weekly, not later than on Friday, and not more than three (3) days' wages may be withheld and shall be paid before the end of the work shift. Payment shall be made by check with detachable stub.
- 16.5 Each Contractor shall be required to certify in writing that it has paid all wages and benefit contributions due and owing prior to receipt of its final payment and/or retention. Further, upon timely notification by a Union to the Prime Contractor, the Prime Contractor shall work with any Contractor that is delinquent in payment of benefit contributions or wages to assure that proper benefit and wage payments are made, to the extent of withholding otherwise due payments owed such delinquent Contractor until such payments have been made or otherwise guaranteed.
- 16.6 When an employee is discharged, the employee shall be paid wages due immediately. An employee laid off or terminated shall be given a termination slip immediately upon termination of work. The termination slip shall be completed stating the reason for termination, and the employee's copy shall have, in addition to the firm's name, the

firm's address. If an employee voluntarily terminates, wages due shall be paid in accordance with California State Law.

ARTICLE 17

HOURS OF WORK, OVERTIME and SHIFTS

- 17.1 **Hours or Work:** The work week will start on Monday and conclude on Sunday. Eight (8) hours per day shall constitute a standard work day between the hours of 6:00 a.m. and 5:30 p.m. with one-half (1/2) hour designated for lunch midway through the shift. Forty (40) hours per week, Monday through Friday, shall constitute a regular week's work. The foregoing provisions of this Article are applicable unless otherwise provided in the California general prevailing wage determinations made by the California Director of Industrial Relations pursuant to the California Labor Code. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week.
- 17.2 **Overtime:** Overtime will be in compliance with the applicable California general prevailing wage determination made by the Director of Industrial Relations pursuant to the California Labor Code.
- 17.3 **Shifts:** The Contractor(s) shall have the right to establish shifts for any portion of the work in accordance with this Section.
- 17.3.1 If two (2) or three (3) shifts are worked, the first shift shall consist of eight (8) hours of continuous work exclusive of a one-half (1/2) hour non-paid lunch period, the second shift shall consist of seven and one-half (1/2) hours of continuous work exclusive of a one-half (1/2) hour non-paid lunch period and the third shift shall consist of seven (7) hours of continuous work exclusive of a one-half (1/2) non-paid lunch period for eight (8) hours pay.
- 17.3.2 Shift work may be performed at the option of the Contractor(s) but, when performed, it must continue for a period of not less than five (5) consecutive working days. Saturday and Sunday, if worked, can be used for establishing the five (5) day minimum shift work period. The straight time work week shall be considered to start with the day shift on Monday and end with the conclusion of the second or third shift on the fifth day. In the event the second or third shift of any regular work shall extend into a holiday the employees shall be paid at their regular shift rate.
- 17.3.3 To the extent permitted by the applicable provisions of the California Labor Code, the Contractor(s), with one week's notice to the Union(s), may establish a four (4) day per

week, ten (10) hour per day work shift. The regular work week shall be from Monday through Thursday. Pay for each of these four (4) days shall be ten (10) hours at the straight time hourly rate.

- 17.3.3.1 Friday may be worked as a voluntary make-up day in those cases where the work is shut down due to inclement weather or an emergency situation. If a Friday is worked, the pay shall be one and one-half (1-1/2) times the straight time hourly rate for the first ten (10) hours worked. All work in excess of ten (10) hours shall be paid two (2) times the straight time hourly rate. If a sixth or seventh day is worked, the pay shall be two (2) times the straight time hourly rate.

ARTICLE 18

HOLIDAYS

- 18.1 Holidays will be in compliance with the applicable Schedule A agreements.

ARTICLE 19

REPORTING PAY

- 19.1 Any employee reporting for work and for whom no work is provided, except when given notification not to report to work, shall receive two (2) hours pay at the regular straight time hourly rate. Any employee who starts work shall receive four (4) hours pay at the regular straight time hourly rate. Any employee who works beyond four (4) hours shall be paid for actual hours worked.
- 19.1.1 Whenever minimum reporting pay is provided for employees, they will be required to remain at the Project site available for work for such time as they receive pay, unless released sooner by the principal supervisor of the applicable Contractor or its designated representative.
- 19.1.2 The provisions of this Section are not applicable where the employee voluntarily quits or is out by reason of a strike, in which case the employee shall be paid for the actual time worked.
- 19.2 It will not be a violation of this Agreement when BAHA or Contractors consider it necessary to shut down because of an emergency situation that could endanger life or property. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby BAHA or Contractors

request employees to wait in a designated area available for work, the employees will be compensated for the waiting time.

ARTICLE 20

TRAVEL AND PARKING

- 20.1 BAHA adheres to the City and County of San Francisco Transit-First Policy under Charter Section 8A.115 which promotes travel by public transit as an economically and environmentally-sound alternative to travel by private automobile. Consistent with the Transit-First Policy, no Contractor shall provide employees with parking on or near the Project site, including staging areas. Where an applicable Schedule A agreement provides for parking reimbursement, but not for reimbursement of transit expenses, the Contractor shall make available to employees reimbursement for verifiable commute related transit expenses.
- 20.2 Parking reimbursement procedures established under applicable Schedule A agreements shall apply to this Project. The availability of parking will be discussed by the Prime Contractor at both Pre-bid conference and Pre-job/Mark-up meetings.

ARTICLE 21

HEALTH AND SAFETY

- 21.1 The employees covered by the terms of this Agreement shall at all times, while in the employ of the Contractors, be bound by such safety rules and regulations as may be established by BAHA and Contractors and in accordance with OSHA/Cal-OSHA. These rules and regulations will be published and posted at conspicuous places throughout the Project.
- 21.2 In accordance with the requirements of OSHA/Cal-OSHA, it shall be the exclusive responsibility of each Contractor on the Project to assure safe working conditions for its employees and compliance by them with any safety rules contained herein or established by the Contractors. Nothing in this Agreement will make the Unions(s) liable to any employee or to other persons in the event that injury or accident occurs.
- 21.3 This Project shall be a drug free workplace. Workers shall not possess, use, be under the influence of, provide, dispense, receive, sell, offer to sell alcohol and/or controlled substances as defined by law while on BAHA's property. All employees and applicants for employment shall adhere to the substance testing policy of the applicable Schedule A agreement. Violation of this provision shall subject the employee to discipline up to and including termination.

ARTICLE 22

SECURITY OF MATERIAL, EQUIPMENT and TOOLS

- 22.1 Security procedures for the control of tools, equipment and materials shall be solely the responsibility of the Contractors.
- 22.2 All employees will comply with the security procedures established by the Contractors and BAHA.

ARTICLE 23

CALL-INS

- 23.1 When employees are called in to work at times other than their regularly established shift, they shall be paid not less than four (4) hours at the applicable overtime rate for that day.

ARTICLE 24

HELMETS TO HARDHATS

- 24.1 The Contractors and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veteran's Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.
- 24.2 The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE 25

ENVIRONMENTAL IMPACTS

- 25.1 The Contractors shall conduct all work performed under this Agreement in a manner that minimizes adverse impacts to the surrounding community.

ARTICLE 26

ENTIRE AGREEMENT

- 26.1 The provisions of this Agreement, including the Schedule A agreements which are the local master collective bargaining agreements of the signatory unions having jurisdiction over this Project and which are listed in Exhibit B to this Agreement and incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area, and/or national agreement that may conflict with or differ from the terms of this Agreement, *except* as specifically provided for in Article 1 of this Agreement. Where a subject covered by this Agreement is also covered by a Schedule A agreement, the provisions of this Agreement shall apply and supersede the Schedule A agreement. Where a subject is covered by the provisions of a Schedule A agreement and is not covered by this Agreement, the provisions of the Schedule A agreement shall prevail.
- 26.2 The parties agree that this Agreement, together with the Schedule A agreements, constitute an integrated, self-contained, stand-alone agreement, and that by virtue of having become bound to this Agreement, the Contractors will not be obligated to sign any other local, area or national collective bargaining agreement as a condition of performing work within the scope of this Agreement. In addition, it is understood and agreed that all grievances and disputes involving the interpretation or application of this Agreement, including the Schedule A agreements, shall be resolved according to the procedures set forth in Article 11 of this Agreement; *provided*, however, that should a dispute involve a single Schedule A agreement and a contractor signatory thereto, and not involve the interpretation or application of this Agreement, such dispute shall be processed and resolved pursuant to the dispute resolution procedure of the applicable Schedule A agreement. Should there be a dispute as to whether the provisions of Article 11 apply or the dispute resolution procedures of the Schedule A agreement apply, then the matter shall be presented in writing initially to an arbitrator selected under Article 11 of this Agreement to resolve such issue.

- 26.3 The Unions agree that this Agreement covers all matters affecting wages, hours and other terms and conditions of employment, and that during the terms of this Agreement, neither the Contractors, nor the Union(s) will be required to negotiate on any further matters affecting these or any other subject not specifically set forth in this Agreement except by mutual agreement of the Unions involved and the Coordinator.
- 26.4 Any other agreement or modification of this Agreement must be reduced to writing and signed by the parties.
- 26.5 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages, and when bound together all necessary signatures shall constitute an original. Facsimile or scanned signature pages transmitted to other parties to this Agreement shall be deemed equivalent to original signatures.
- 26.6 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated and each of the parties by signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

ARTICLE 27

GENERAL SAVINGS CLAUSE

- 27.1 It is not the intention of either the Contractors or the Union(s) parties to violate any laws governing the subject matter of this Agreement. If any Article or provision of this Agreement shall be declared invalid, inoperative, or unenforceable by any competent authority of the executive, legislative, judicial or administrative branch of the federal, state or local government, the parties shall suspend the operation of each such article or provision during the period of invalidity. Such suspension shall not affect the operation of any provision covered in this Agreement to which the law or regulation is not applicable. Further, the Contractors and Union(s) agree that if and when any or all provisions of this Agreement are finally held or determined to be illegal or void by Court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of an applicable law and the intent of the parties hereto.

ARTICLE 28

DURATION OF AGREEMENT

28.1 This Agreement shall become effective on the day BAHA awards the first contract covered by the scope of this Agreement and shall continue in full force and effect until completion of the scope of the Project as specifically described in Article 2, Section 2.1, of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the day and year first written above.

**BAY AREA HEADQUARTERS
AUTHORITY**

By: 
Steve Heminger,
Executive Director

**SAN FRANCISCO BUILDING &
CONSTRUCTION TRADES COUNCIL**

By: 
Michael Theriault,
Secretary-Treasurer

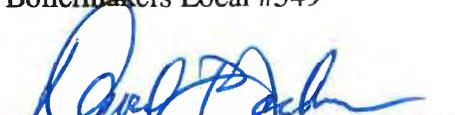
Signatory Unions:


Insulators Local #16


Hod Carriers Local #166


Boilermakers Local #549


Roofers Local #40 *Waterproofers*


Bricklayers Local #3


Iron Workers Local #377


Northern California Regional
Council of Carpenters for and on
behalf of their affiliated crafts

Laborers Local Union #261



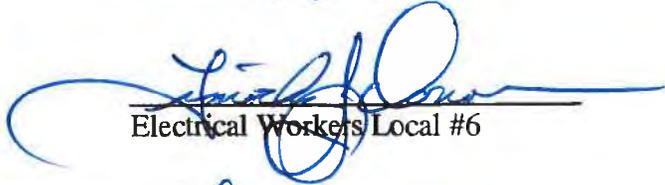
Sheet Metal Workers Local #104



Cement Masons Local #300



Operating Engineers Local #3



Electrical Workers Local #6



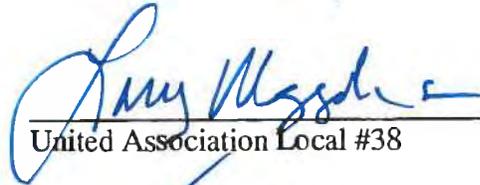
Painters District Council #16



Plasterers Local #66



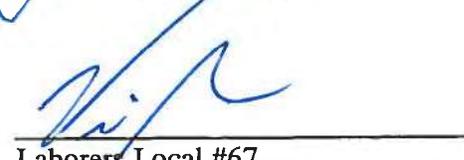
Sprinkler Fitters Local #483



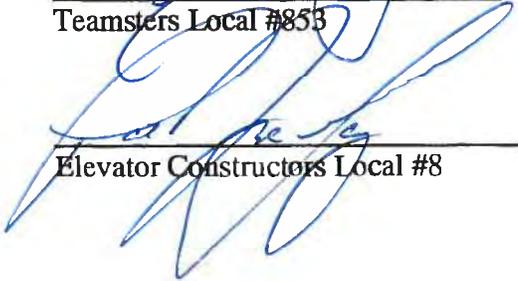
United Association Local #38



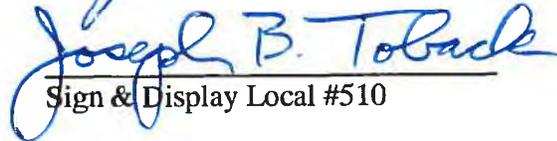
Teamsters Local #853



Laborers Local #67



Elevator Constructors Local #8



Sign & Display Local #510

ARTICLE 28

DURATION OF AGREEMENT

28.1 This Agreement shall become effective on the day BAHA awards the first contract covered by the scope of this Agreement and shall continue in full force and effect until completion of the scope of the Project as specifically described in Article 2, Section 2.1, of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the day and year first written above.

**BAY AREA HEADQUARTERS
AUTHORITY**

**SAN FRANCISCO BUILDING &
CONSTRUCTION TRADES COUNCIL**

By: _____
Steve Heminger,
Executive Director

By: _____
Michael Theriault,
Secretary-Treasurer

Signatory Unions:

Insulators Local #16

Hod Carriers Local #166

Boilermakers Local #549

Roofers Local #40

Bricklayers Local #3

Iron Workers Local #377

Northern California Regional
Council of Carpenters for and on
behalf of their affiliated crafts



Laborers Local Union #261

EXHIBIT A

PROJECT STABILIZATION AGREEMENT
FOR THE
BAY AREA HEADQUARTERS PROJECT
BETWEEN THE
BAY AREA HEADQUARTERS AUTHORITY

And the
SAN FRANCISCO BUILDING & CONSTRUCTION TRADES COUNCIL
AND SIGNATORY UNIONS
AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor, including construction material trucking company/entity, (CONTRACTOR) on the Bay Area Headquarters Project, (hereinafter PROJECT), for and in consideration of the award to it of a contract to perform work on said PROJECT, and in further consideration of the mutual promises made in this "Project Stabilization Agreement" (hereinafter AGREEMENT), a copy of which was received and is acknowledged, hereby:

- (1) Accepts and agrees to be bound by the terms and conditions of the AGREEMENT for this Project, together with any and all amendments and supplements now existing or which are later made thereto:
- (2) The CONTRACTOR agrees to be bound by the legally established local trust agreements as set forth in Article 16 of this AGREEMENT.
- (3) The CONTRACTOR authorizes the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the CONTRACTOR;
- (4) Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said AGREEMENT.
- (5) Agrees to secure from any CONTRACTOR(S) (as defined in said AGREEMENT) which is or becomes a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in form identical to this document.

Date: _____

(Name of Contractor)

(Authorized Officer & Title)

(Name of Prime Contractor or
Higher Level Contractor)

(Address)

(Phone #) (Fax #)

Contractor's License Number

Motor Carrier Permit (CA #)

EXHIBIT B
APPLICABLE SCHEDULE “A” AGREEMENTS

International Association of Heat Frost Insulators and Allied Workers, Local #16
Laborers International Union of North America, Hod Carriers, Local #166
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local #549
United Union of Roofers, Waterproofers and Allied Workers, Local #40
International Union of Bricklayers and Allied Craftworkers, Local #3
International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local #377
46 Northern California Counties Carpenters Master Agreement for Northern California
Laborers Master Agreement for Northern California
Sheet Metal Workers’ International Association, Local #104
Operative Plasterers and Cement Masons, Local #300
Operating Engineers Local #3 Master Agreement for Northern California
International Brotherhood of Electrical Workers, Local #6
Operative Plasterers and Cement Masons International Association, Local #66
United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Sprinkler Fitters, Local #483
United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Local #38
International Brotherhood of Teamsters, Local #853
Laborers International Union of North America, Local #67
International Union of Elevator Constructors, Local #8
International Union of Painters and Allied Trades, District Council #16
International Union of Painters and Allied Trades, Sign & Display, Local #510
United Brotherhood of Carpenters, Pile Drivers Local #34

ATTACHMENT J, NOT USED

ATTACHMENT K, KNOLL DISCOUNTING STRUCTURE

PRODUCT DESCRIPTION	TIER LIST VALUE	CUSTOMER DISCOUNT OFF LIST
Dividends/Series II	1 - 250,000	68.50
	250,001 - 1,000,000	71.00
	1,000,001 - 2,500,000	75.00
	2,500,001+	78.85
Antenna	62,000+	77.00
Reff/Autostrada	36,000+	77.00
Calibre Collection	1 - 250,000	59.50
	250,001 - 1,400,000	62.00
	1,400,001+	67.75
Currents	130,000+	77.00
Anchor	150,000+	71.50
Knoll Extra	136,000+	62.00
Equity	ALL ORDERS	69.50
Upstart	ALL ORDERS	68.50
Template	ALL ORDERS	68.50
Interaction	ALL ORDERS	59.50
Crinion Open Table	ALL ORDERS	59.50
Office Seating including Toboggan (except Moment)	ALL ORDERS	59.50
Moment	ALL ORDERS	52.00
Graham Collection	ALL ORDERS	59.50
Studio	ALL ORDERS	52.50
Renewal Parts	ALL ORDERS	40.00

1. Project pricing is based on the Knoll Price List dated February 15, 2014 with order entry by August 31, 2015 and shipping by November 30, 2015.
2. For orders placed on or after September 1, 2015, the Knoll Price List in effect at time of order entry will apply.
3. For KnollStudio, project pricing is based on the Knoll Price List in effect July 15, 2014.
4. Knoll will allow a blanket purchase order, consisting of up to three (3) orders with list price greater than \$500,000.00 each, to be combined to achieve the product discounting price tiers shown above.
5. Hogue and Knoll will hold the discounting schedule, mark-up (14.10 mark-up for a 12.30% GP for Knoll product) and service costs for any add-on orders to the initial project received prior to June 30, 2017 and with a minimum list value of \$100,000.00 per order. For orders less than \$100,000.00 list value and for orders placed on or after July 1, 2017, pricing is negotiable.
6. Pricing is per product/per tier. Product lines cannot be combined to achieve a higher tier.
7. Total Project pricing includes delivery and installation, sales tax, and systems planning and project management services.

Open Lines

1. Hogue will maintain a 12.5 mark-up (11.11% GP) for open-line agreements for all orders through June 30, 2017. For orders placed on or after July 1, 2017, pricing is negotiable.
2. Total Project pricing includes delivery and installation, sales tax, and systems planning and project management services.

Agenda Item 5

TO: Bay Area Headquarters Authority

DATE: June 18, 2014

FR: Executive Director

W. I. 9130

RE: Contract - Furniture Procurement Services: Hogue and Associates (\$500,000)

This item would authorize the Executive Director or designee to negotiate and enter into a long-term contact with Hogue and Associates to design, procure and install office, public space and other ancillary furniture for the Regional Agency Headquarters Facility at 375 Beale Street, San Francisco. The scope includes approximately 550 office/workstations and 50 conference rooms/collaboration areas at an estimated total furniture cost of \$4.0 Million. The contract for the initial scope is for an amount not to exceed \$500,000 which allows the furniture design process to commence. When completed in the fall, staff will request authorization to issue purchase order(s) for furniture purchases and installation.

Background

As part of an agreement with the partner agencies, BAHA is obligated to provide furniture for agency (ABAG, Air District and MTC) spaces at move-in. BAHA will handle all matters related to this initial procurement and transfer assets to each agency according to its ownership interests.

On January 17, 2014, BAHA issued a Request for Proposals (RFP) and received proposals from four (4) Dealer and Manufacturer Teams (“Dealer Team”). The selected Dealer Team is expected to furnish all services over the next 10+ years, as described in Attachment A. The RFP also requires that the Dealer Team extend pricing for additional purchases that MTC, ABAG or the Air District would make under separate agency purchase orders for any new requirements.

Evaluation Results

More detailed information on the evaluation process is included in Attachment B with the Dealer Team’s overall final scores based on their written proposals, Mock-up solutions and BAFOs summarized as follows:

Proposer	Hogue/ Knoll	One Work Place Steelcase	Pivot/Herma Miller	Sidemark/ Teknion
Pricing (max 215 points)	185	181	159	193
Solution (max 150 points)	137	80	106	128
Key Personnel (max 75 points)	63	64	59	36
Other Factors (max 60 points)	60	60	57	55
Total (max 500 points)	445	385	381	412
Solution Pricing (Estimated Budget \$1.7 Million)*	\$1,526,663	\$1,416,688	\$1,580,838	\$1,426,556

**The pricing excludes professional services fees, delivery, installation, sales tax and bid bonding*

Panel Recommendation

The five member evaluation panel included representatives from BAHA, MTC, ABAG, the Air District and Tom Eliot Fisch (Interior Designers), recommends Hogue and Associates/Knoll Inc. as the Dealer most advantageous to BAHA based on the evaluation criteria stated in the RFP for the following reasons:

- Founded in 1974, Hogue and Associates is a commercial furniture dealership and project management firm and the preferred dealer representing Knoll Inc., both with offices in San Francisco for the past 40 years.
- The proposed furniture line was introduced in 1998 and has an installed base exceeding \$5.0 billion. Based on the review of the on-site mock-ups, the furniture sets a bar for quality in design and materials and exemplifies a professional look and feel.
- The Project Team includes experienced professionals with a portfolio of similar projects over \$1.0 million including Dreamworks (\$3.8 million), Stanford University (\$6.0 million) and Medivation (\$2.8 million).
- While the solution pricing fits within the BAHA budget, staff expects to review and refine the discounting schedules/mark-ups during the contract negotiations to ensure BAHA is indeed getting the best pricing structure for this project.

If contract negotiations are not successful with Hogue and Associates, staff recommends authorization to commence negotiations with Sidemark Corporation Furniture, a preferred dealer representing Teknion LLC; both with offices in San Francisco. Sidemark Corporation Furniture received comparable scores in pricing and the proposed solution, but lower team experience scores as there were major changes to the key personnel assigned to the BAHA project during the evaluation period.

Next Steps

Upon approval of the contract award, staff will enter into negotiations with the recommended Dealer Team to finalize the scope of work, project plan, furniture designs including finishes and pricing. Once completed, staff will seek BAHA approval to fund and issue purchase order(s) for the furniture purchases and installation.

Recommendation

Staff recommends Authority approval authorizing the Executive Director or his designee for the following:

1. To negotiate and enter into a 10 year professional services agreement with Hogue and Associates to provide services related to the design, procurement, coordination and installation of office and other ancillary furniture for the 375 Beale Street building, with an option to extend the contract up to two (2) additional five-year periods, subject to mutually agreeable pricing/discounting schedules and the allocation of funding in the BAHA annual operating budget. The initial contract for Phase I services is not to exceed \$500,000 for such contract.
2. If contract negotiations are not successful, BAHA requests authorization to commence negotiations and enter into an agreement, as stated above, with Sidemark Corporate Furniture which received the second highest evaluation.



Steve Heminger

SH:tg

Attachments

J:\COMMITTEE\BAHA\2014\06_June 2014\5_Furniture Dealer Recommendation.doc

REQUEST FOR AUTHORITY APPROVAL

Summary of Proposed Consultant Contract

Consultant: Hogue and Associates (San Francisco)

Work Project Title: 375 Beale Street Furniture Dealer/Manufacturer Services

Purpose of Project: Provide services to design, procure and install office, public space and other ancillary furniture for 375 Beale Street

Brief Scope of Work: Provide services related to the procurement of new office and other ancillary furniture for the 375 Beale Street building.

Project Cost Not to Exceed: \$500,000 for Phase I professional services costs related to the design of new office furniture for the Agency offices

Funding Source: BAHA FY 13-14 Budget

Fiscal Impact: Funding is included in BAHA's FY 2013-14 Budget

Motion by Committee: That the Executive Director, or his designee, is authorized to negotiate and enter into a 10 year professional services agreement with Hogue and Associates to provide services related to the design, procurement, coordination and installation of office and other ancillary furniture for the 375 Beale Street building, with an option to extend the contract up to two (2) additional five year periods, subject to mutually agreeable pricing/discounting schedules and the allocation of funding in the BAHA annual operating budget, as described in the Executive Director's memorandum dated June 11, 2014 and the Treasurer and Auditor is directed to set aside Phase I funding in the amount of \$500,000 for such contract.

If BAHA is unable to enter into a contract with Hogue and Associates, the Executive Director, or his designee, is authorized to negotiate and enter into a 10 year professional services agreement with Sidemark Corporate Furniture, as stated above, and the Treasurer and Auditor is directed to set aside Phase I funding in the amount of \$500,000 for such contract.

BAHA Chair:

Amy Rein Worth

Approved:

Date: June 25, 2014

Agenda Item 5 - Attachment A

PRELIMINARY SCOPE OF WORK

The preliminary project tasks are expected to include, but are not limited to, the following:

General:

- Provide project administration, supervision and ongoing support services needed for initial purchase and any future orders or upgrades. Maintain current project schedules to track all processes involved in design, manufacturing and installation of furniture.
- Coordinate with General Contractor, its subcontractors and BAHA service providers as required.
- Maintain complete documentation of purchased orders, purchased inventory and current installation plans for use when future orders or upgrades are undertaken.

During the Design Phase:

- Meet with BAHA and BAHA's representatives weekly to review plans, specifications and all other tasks required to develop furniture orders. Prepare furniture plans for all floors based on backgrounds provided by Architect.
- Test-fit and verify critical dimensions of walls, power/data outlets and other related items at 375 Beale Street and coordinate with the General Contractor and other contractors/dealers.

During the Manufacturing Phase:

- Track and coordinate all furniture orders/deposits and provide a bi-monthly schedule update. Coordinate all submittals and other required approvals with Architect. Attend weekly construction meetings on an on-call basis. Secure all necessary permits required by the Local Code Jurisdiction.

During the Installation Phase:

- Provide an on-site project manager during the installation to supervise installation activities, including any subcontracted work. Perform as needed punch-lists and provide a schedule for the completion of the punch list items to the satisfaction of BAHA.

During the Post-Installation Phase:

- Lead a furniture punch-list review with BAHA and BAHA's representative and resolve all items within two weeks or as soon as practical for long-lead replacement items. Prepare as-built drawings and provide them in both electronic and hard-copy formats. Provide orientation and training for staff assigned to maintain new furniture. Provide a post-occupancy review within one (1) month of installation finish to address any outstanding issues.

Ongoing Support:

- Manufacturer/Dealer team will be expected to provide services and product when future orders or upgrades are undertaken.

Agenda Item 5 - Attachment B

PROCUREMENT AND EVALUTION PROCESS

Procurement Process

On January 17, 2014, BAHA issued a Request for Proposal (RFP) with the goal of entering into a professional services agreement with a Dealer, that represents a major furniture manufacturer, based on a pricing/discounting structure that can be applied to products drawn from the manufacturer's major lines, as well as establishing a fixed gross profit mark-up for other ancillary furniture drawn from "open line" products provided by other furniture manufacturers.

The RFP included a prototype detailing BAHA's requirements (e.g. panel height, surfaces, shelving and guest seating) for a pair of 8-foot by 10-foot workstations and one typical 100 square-foot private office.

By the proposal due date of February 5, 2014, BAHA received four proposals from the following Dealer Teams: Hogue and Associates/Knoll Inc., One Work Place L. Ferrari/Steelcase, Pivot Interiors, Inc./Herman Miller and Sidemark Corporate Furniture/Teknion LLC.

Initial Evaluation and Shortlisting

The five member evaluation panel included representatives from BAHA, MTC, ABAG, the Air District and Tom Eliot Fisch (Interior Designers). The evaluation panel provided written comments to the Dealers on a portion of their proposals which included their solutions and pricing submittals. Dealer responses to these comments were evaluated based on the following initial evaluation factors:

- Effectiveness of proposed solution, including aesthetics; and
- Pricing of proposed solution.

All four of the Dealers were shortlisted to proceed to the next phase.

Evaluation Process

The Dealer Teams were then invited to install one office and two workstation mock-ups onsite at 375 Beale Street. The mock-ups provided the evaluation panel an opportunity to further review the effectiveness of the proposed solution (i.e. design, functionality, comfort and other aesthetics).

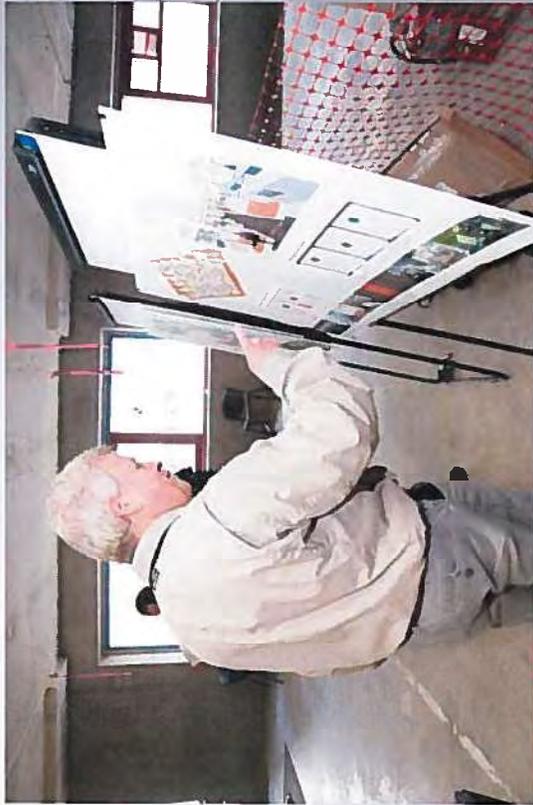
On April 1st and 2nd, Agency staff attended a Furniture Fair to provide feedback on functionality, comfort, storage, visual privacy and meeting space. The fair was attended by 238 employees, representing 46% of the combined agency staff. Staff feedback included desires for more "visual privacy" by incorporating opaque/patterned (rather than clear) glass on top of the panels separating the workstations. This will be weighed against the need to bring light into the deep floor plate. Staff feedback for the selected furniture line will be analyzed during the design phase and incorporated into the final plans. Attachment C includes pictures of the furniture fair at 375 Beale Street.

Following the mock-up presentations by the Dealer Teams, BAHA issued a Request for Best and Final Offers (BAFOs) on May 1, 2014 to all four proposers, who were given the opportunity to revise their written proposals to address the concerns identified by the evaluation panel about the written proposals and proposed mock-up solutions, or to make any other changes. Following receipt of the BAFOs and clarifications, the evaluation panel completed its final evaluation based on the following criteria, in order of relative importance.

A maximum total of 100 points (per evaluator) or 500 combined points (five evaluators combined) could be assigned:

Category	Max. Points	Evaluation Criteria
Pricing	43	<ul style="list-style-type: none"> • Pricing of proposed solution (max. 25 points); • Discounting schedule for primary lines (max. 11 points); • Gross profit markup for open line ancillary products (max. 7 points).
Solution	30	<ul style="list-style-type: none"> • Effectiveness of proposed solution, including aesthetics (max. 30 points).
Key Personnel	15	<ul style="list-style-type: none"> • Team experience and approach to partnering with BAHA (max. 15 points).
Other Factors	12	<ul style="list-style-type: none"> • Product stability (max. 5 points); • Warranty (max. 4 points); • Sustainability (max. 3 points).
Maximum Total Points	100	

Furniture Fair



Staff Feedback



Office Option



Attachment B

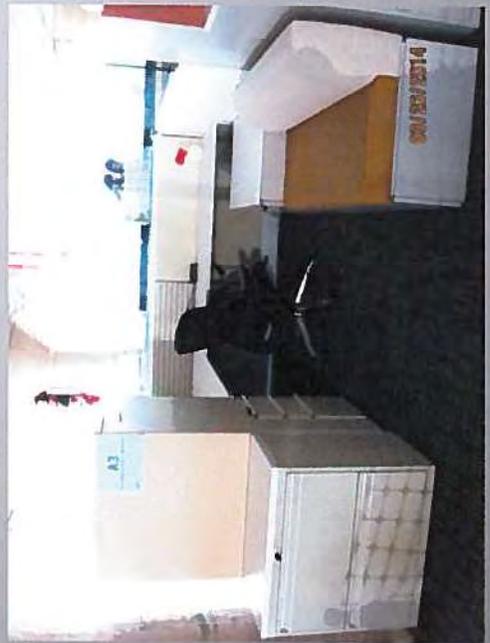
Workstation Options



Filing versus Seating



Clear versus Opaque Glass



AMENDMENT NO. 8
To PROFESSIONAL SERVICES AGREEMENT
Between BAY AREA HEADQUARTERS AUTHORITY
And KBM OFFICE EQUIPMENT INC., DBA KBM-HOGUE
For WORKSTATION, OFFICE, PUBLIC SPACE AND ANCILLARY FURNITURE
AND INSTALLATION LABOR

THIS AMENDMENT, effective as of June 1, 2024, is Amendment No. 8 to the Agreement by and between the Bay Area Headquarters Authority (“BAHA”), a joint powers authority established pursuant to a joint exercise of powers agreement between the Metropolitan Transportation Commission (“MTC”) and the Bay Area Toll Authority (“BATA”) entered into pursuant to Government Code Sections 6500 *et. seq.* and KBM Office Equipment Inc. dba KBM-Hogue (“DEALER”), dated September 22, 2014, as amended on May 15, 2015, September 1, 2015, June 5, 2017, September 1, 2019, June 28, 2023, August 14, 2023, and February 1, 2024 (collectively “Agreement”).

NOW, THEREFORE, the parties agree to modify the subject Agreement as follows:

1. Article 2. PERIOD OF PERFORMANCE, is revised in part to exercise the first option to extend for an additional five-year term and extend the term of the Agreement through September 21, 2029.
2. Attachment D. KEY PERSONNEL ASSIGNMENTS, is revised as attached hereto and incorporated herein by this reference.
3. Retention of Contract Provisions. Except as provided herein, all other terms and conditions of the Agreement remain unchanged.

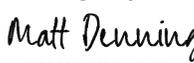
IN WITNESS WHEREOF, this Amendment has been executed by the parties hereto as of the day and year first written above.

BAY AREA HEADQUARTERS AUTHORITY

KBM OFFICE EQUIPMENT INC. DBA
KBM-HOGUE

DocuSigned by:

8584B49D6DE64E9...

DocuSigned by:

E5C6ABA3BB4A41A...

Andrew B. Fremier
Executive Director

Matt Denning
Vice President, General Manager

ATTACHMENT D, KEY PERSONNEL ASSIGNMENTS

(revised via Amendment No. 8)

Key Personnel Assignments & Rates for the Period of September 22, 2014 through September 21, 2024:

	<u>Name</u>	<u>Rate/hour*</u>	<u>Position/Description</u>
1.	Matt Denning	N/A	Project Principal and Vice President of KBM-Hogue
2.	Olivia Gorfain	\$80/hr	Account Manager/Senior Account Executive
3.	Paul Razo	\$80/hr	Account Manager/Senior Project Manager
4.	Jessica Midden	\$80/hr	Project Coordinator/Project Manager
5.	Ann Eicher	\$80/hr	Project Designer/Senior Designer
6.	Jay Williams	\$80/hr	Field Project Manager
7.	Neda Thiele	N/A	Architecture and Design Representative
8.	Gary Zowada	N/A	Senior Sales Associate
9.	Hogue Designer	\$80/hr	Assisting Ann Eicher

Key Personnel Assignments & Rates for the Period of September 22, 2024 through September 21, 2029:

	<u>Name</u>	<u>Rate/hour*</u>	<u>Position/Description</u>
1.	Matt Denning	N/A	Project Principal and Vice President of KBM-Hogue
2.	Olivia Gorfain	\$90/hr	Account Manager/Senior Account Executive
3.	Paul Razo	\$90/hr	Account Manager/Senior Project Manager
4.	Jessica Midden	\$90/hr	Project Coordinator/Project Manager
5.	Ann Eicher	\$90/hr	Project Designer/Senior Designer
6.	Jay Williams	\$90/hr	Field Project Manager
7.	Neda Thiele	N/A	Architecture and Design Representative
8.	Gary Zowada	N/A	Senior Sales Associate
9.	Hogue Designer	\$90/hr	Assisting Ann Eicher

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Reappointment of Three Incumbent Members of the Air District's Hearing
Board

RECOMMENDED ACTION

Recommend the Board of Directors reappoint the following incumbent members to the Air District's Hearing Board:

- Valerie Armento – Principal Member (Attorney Category)
- Peter Chiu – Principal Member (Medical Category)
- Amelia Timbers – Principal Member A (Public Category)

The Finance and Administration Committee recommended the reappointment of the three incumbent members at its meeting on March 19, 2025.

BACKGROUND

Pursuant to Section 40801 of the California Health and Safety Code, the Air District is required to maintain a Hearing Board consisting of five members including:

- One (1) member who is a professional engineer registered as such pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code)
- One (1) member from the medical profession whose specialized skills, training, or interests are in the fields of environmental medicine, community medicine, or occupational/toxicologic medicine
- One (1) member admitted to the practice of law in this state, and,
- Two (2) public members.

The Air District Board of Directors may also appoint one alternate for each member. The alternate shall have the same qualifications, specified in Section 40801, as the member for whom such person is the alternate. The alternate may serve only in the absence of the member, and for the same term as the member. 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.

DISCUSSION

Terms and Vacancies

The terms of four current Hearing Board members will expire on April 6, 2025:

- Principal Member A (Public Category)
- Principal Member (Attorney Category)
- Principal Member (Medical Category)
- Alternate Member (Attorney Category)

In addition, there is one vacant seat, Alternate Member A (Public Category).

Recommendation of the March 19, 2025, Finance and Administration Committee

The current incumbents in the Principal Member A (Public Category), Principal Member (Attorney Category), and Principal Member (Medical Category) applied to continue serving for an additional term. The Alternate Member (Attorney Category) did not seek re-appointment.

At the March 19, 2025, Finance and Administration Committee meeting, the Committee recommended that the Board of Directors reappoint the following three currently serving Hearing Board members for an additional term:

- Valerie Armento – Principal Member (Attorney Category)
- Peter Chiu – Principal Member (Medical Category)
- Amelia Timbers – Principal Member A (Public Category)

The Committee also interviewed four out of six applicants for the Alternate Member (Attorney Category) and Alternate Member A (Public Category) seats. Due to a scheduling error, one applicant was unable to attend the March 19, 2025, meeting.

Next Steps

The Finance and Administration Committee agreed to interview the remaining applicant and consider recommendations for the Alternate Member (Attorney Category) and Alternate Member A (Public Category) at its April 16, 2025, meeting. An additional recommendation will then be submitted to the Board of Directors for consideration at its May 7, 2025 meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Joseph Huynh
Reviewed by: Hyacinth Hinojosa

ATTACHMENT(S):

None

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Authorization to Execute Lease Extension for Oakland East Air Monitoring
Site

RECOMMENDED ACTION

Recommend the Board of Directors authorize the Executive Officer/Air Pollution Control Officer (APCO) to execute an amendment to the Air District's lease agreement with Western Pacific Property, LLC, to extend the term of the lease by ten years, from February 1, 2025, through January 31, 2035. This amendment would result in an estimated cost of \$1,350,554.11 over the ten-year duration of the lease extension.

BACKGROUND

The Air District collects and analyzes emissions and air quality data to support multiple programs and decisions at the Air District. Oakland East is one of three unique locations conducting air monitoring. Oakland East is located at 9925 International Boulevard, Oakland, CA, 94603, with one air monitoring station containing two conjoined suites (suites #10-11). The lease agreement for this air monitoring station was initially signed on March 21, 2007.

DISCUSSION

The Air District entered into the lease agreement with Western Pacific Property, LLC on March 21, 2007 (Attachment 1). The existing lease agreement expired on January 31, 2025 (Attachment 2). The Board is requested to authorize the Executive Officer/APCO to execute a ten-year lease extension, effective January 31, 2025, through January 31, 2035 (Attachment 3). The monthly rent; estimated monthly costs for taxes, insurance, and maintenance; and estimated annual costs are listed in Table 1. The total estimated cost over this timeframe, Fiscal Year Ending (FYE) 2025-FYE 2035, is anticipated to be \$1,350,554.11.

Table 1: Rent and other costs (monthly and annual) January 31, 2025 – January 31, 2035 for 9925 International Boulevard, Suite 10 and 11, Oakland, CA

Fiscal Year Ending	Monthly Rents	Other Costs – Utilities (Est.)	Total Monthly Cost (Est.)	Total Annual Costs (by Fiscal)
FYE 2025	\$8,309.92	\$700.00	\$9,009.92	\$108,119.04
FYE 2026	\$8,725.42	\$721.00	\$9,446.42	\$113,357.04
FYE 2027	\$9,161.70	\$742.63	\$9,904.33	\$118,851.96
FYE 2028	\$9,619.78	\$764.91	\$10,384.69	\$124,616.27
FYE 2029	\$10,100.78	\$787.86	\$10,888.64	\$130,663.63
FYE 2030	\$10,605.82	\$811.49	\$11,417.31	\$137,007.74
FYE 2031	\$11,136.12	\$835.84	\$11,971.96	\$143,663.48
FYE 2032	\$11,692.92	\$860.91	\$12,553.83	\$150,645.98
FYE 2033	\$12,277.56	\$886.74	\$13,164.30	\$157,971.59
FYE 2034	\$12,891.44	\$913.34	\$13,804.78	\$165,657.37
			Total Costs over Life of Lease	\$1,350,554.11

BUDGET CONSIDERATION/FINANCIAL IMPACT

The operating costs for FYE 2025 are in the approved budget for Program Code 802 (Air Monitoring – Operations). Costs for FYE 2026 are proposed in the FYE 2026 budget for Program Code 802 (Air Monitoring - Operations). Operational costs for future years will continue to be included in future proposed budgets.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Ila Perkins
Reviewed by: Ranyee Chiang and Greg Nudd

ATTACHMENT(S):

1. Lease Agreement 9925 International Blvd, Oakland East Air Station- 2007
2. Lease Agreement Extension 9925 International Blvd, Oakland East Air Monitoring Station- 2020
3. Proposed Lease Agreement Extension 9925 International Blvd. Oakland East- 2025

COMMERCIAL LEASE

On March 21, 2007 THIS LEASE is entered into by and between Western Pacific Property, LLC (hereinafter "Landlord") and Bay Area Air Quality Management District (hereinafter "Tenant"), for the term, at the rental and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

1. PREMISES

Landlord hereby leases to Tenant and Tenant hereby rents from Landlord those certain Premises situated in the City of Oakland, County of Alameda, State of California commonly referred to 9925 International Blvd. Suite #11

2. TERM

The lease term shall be SIX years, commencing on April 1, 2007 and ending on March 31, 2013.

3. RENT

Tenant agrees to pay to Landlord as Rent, at P.O. Box 241 San Lorenzo, CA 94580 or such other place Landlord may designate, without notice or demand, the monthly sum of Two Thousand Dollars (\$ 2,000.00) in advance, on or before the first day of each and every month during the term hereof, except that the first month's rent shall be paid upon the execution of this Lease. The Rental shall be increased by four percent of the previous year annually. If rent payment from the Tenant shall not be received by Landlord or Landlord's designee, within five days after such amount shall be due, Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such overdue amount. Acceptance of such charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent landlord from exercising any of other rights and remedies granted hereunder.

4. SECURITY DEPOSIT

Concurrently with Tenant's execution of this Lease, Tenant shall deposit with Landlord the sum of Four Thousand Dollars (\$ 4,000.00). Said sum shall be held by Landlord as a non-interest bearing Security Deposit for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the term hereof. If Tenant defaults with respect to any provision of this Lease, including but not limited to the provisions relating to payment of rent or any monetary sums due thereunder, Landlord may (but shall not be required to) use, apply or retain all or any part of this Security Deposit for the payment of any rent or any such monetary sum in default or any other amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of said Deposit is so used or applied, Tenant shall, within ten (10) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount; Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep this Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such Deposit. If Tenant shall, fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant (or, at Landlord's, option, to the last assignee of Tenant's interest hereunder) at the expiration of the lease term and after Tenant has vacated the Premises. In the event of termination of Landlord's interest in this Lease, Landlord shall transfer said Deposit to Landlord's successor in interest, whereupon Tenant agrees to release Landlord from all liability for the return of such Deposit or the accounting therefor.

5. UTILITIES

Tenant agrees to pay for all gas, electric, water, garbage and all other utilities supplied to the Premises.

6. PERSONAL PROPERTY TAXES

Tenant shall pay before delinquency all taxes, assessments, license fees and public charges levied, assessed or imposed upon or measured by the value of its business operation or its furniture, fixtures, leasehold improvements, equipment and other property of Tenant at any time situated on or installed in the Premises by Tenant. If at any time during the term of this Lease any of the foregoing are assessed as a part of the real property of which the Premises are a part, Tenant shall pay to Landlord upon demand the amount of such additional taxes as may be levied against said real property by reason thereof as reasonably apportioned by Landlord.

7. USE

7.1 Use. Tenant shall use the Premises for Bay Area Air Quality Management and for no other purpose without the prior written consent of Landlord. Normal business hours shall be Monday through Friday except special event with Landlord's consent.

7.2 Suitability. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Premises or the suitability of the Premises or the Building for the conduct of Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvement to the Premises except as provided in this Lease. The taking of possession of the Premises by Tenant shall conclusively establish that the Premises were at such time in satisfactory "AS IS" condition.

7.3 Uses Prohibited.

A. Tenant agrees that it will not use or permit any person to use the Premises for a second-hand store, auction, distress or fire sale or bankruptcy or going-out-of-business sale (whether or not pursuant to any insolvency proceedings), or for any use or purpose in violation of any governmental law or authority and that Tenant shall at its sole cost and expense promptly comply with all laws, statutes, ordinances and governmental rules, regulations and requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters or other similar body now or hereafter constituted relating to or affecting the condition, use or occupancy of the Premises, excluding structural changes not relating to or affecting the condition, use of occupancy of the Premises, or not related or afforded by Tenant's improvements or acts. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant.

B. Tenant may not display or sell merchandise or allow carts, portable signs, devices or any other objects to be stored or to remain outside the defined exterior walls and permanent doorways of the Premises. Tenant further agrees not to install any exterior lighting, amplifiers or similar devices or use in or about the Premises any advertising medium which may be heard or seen outside the Premises, such as flashing lights, searchlights, loudspeakers, phonographs or radio broadcasts.

11. LIENS

Tenant shall keep the Premises and the property in which the Premises are situated free of any liens arising out of any work performed, materials used or obligations incurred by or on behalf of Tenant. Landlord may require, at Landlord's sole option, that Tenant provide to Landlord, at Tenant's sole cost and expense, a lien and completion bond in an amount equal to one and one-half (1-1/2) times the estimated cost of any improvements, additions, or alterations in the Premises which Tenant desires to make, to insure Landlord against any liability for mechanics' or materialmen's liens and to insure completion of the work.

12. INDEMNITY

12.1 Indemnity. Tenant shall indemnify and hold harmless Landlord from and against any and all claims arising from Tenant's use of the Premises or the conduct of its business or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Premises, and shall further indemnify and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of Tenant or any of its agents, employees, guests or invitees, and from and against all costs, attorney's fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause other than Landlord's gross negligence or willful misconduct, and Tenant hereby waives all claims in respect thereof against Landlord.

12.2 Exemption of Landlord from Liability. Landlord shall not be liable for injury or damage which may be sustained by the person, goods, wares, merchandise or property of Tenant, its employees, invitees or customers, or any other person in or about the Premises, caused by or resulting from fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, whether the damage or injury results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from any other source. Landlord shall not be liable for any damage arising from any act or neglect of any other tenant of the Building.

13. INSURANCE

Liability Insurance. Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises, common areas, parking lot or side-walk in a combined single limit of not less than \$1,000,000 for bodily injury and/or property damage. The limits of such insurance shall not limit the liability of Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to, procure and maintain same, but at the expense of Tenant. Insurance required hereunder shall be in companies rated A+AAA or better in "Best's Insurance Guide". Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein or certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to Landlord. No policy shall be cancelable or subject to reduction of coverage. All such policies shall be written as primary policies not contributing with and not in excess of coverage which Landlord may carry.

14. DAMAGE OR DESTRUCTION

In the event the Premises are damaged by fire or other perils covered by extended coverage insurance, Landlord agrees forthwith to repair them, and this Lease shall remain in full force and effect, except that Tenant shall be entitled to a proportionate reduction of the Minimum Rent from the date of damage and while such repairs are being made, such proportionate reduction to be based upon the extent to which the damage and making of such repairs shall reasonably interfere with the business carried on by Tenant in the Premises. If the damage is due to the fault or neglect of Tenant, its agents or employees, there shall be no abatement of rent.

In the event the Premises are damaged as a result of any cause other than the perils covered by fire and extended coverage insurance, then Landlord shall forthwith repair them provided the extent of the destruction is less than ten percent (10%) of the then full replacement cost of the Premises. In the event the destruction of the Premises is to an extent of ten percent (10%) or more of the then full replacement cost, Landlord shall have the option either (1) to repair or restore such damage, this Lease continuing in full force and effect but the Minimum Rent to be proportionately reduced as above stated, or (2) to give notice to Tenant at any time within sixty (60) days after such damage, terminating this Lease as of the date specified in such notice, which date shall be no more than thirty (30) days after the giving of such notice. In the event of giving such notice, this Lease shall expire and all interest of Tenant in the Premises shall terminate on the date so specified in such notice and the Minimum Rent, reduced by a proportionate reduction as above stated, shall be paid to the date of such termination.

Notwithstanding anything to the contrary contained in this Article, Landlord shall have no obligation to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this Article occurs during the last twenty-four (24) months of the term of this Lease or any extension thereof. If fifty percent (50%) or more of the Building is damaged by any cause even though the Premises may not be affected, Landlord may give notice to Tenant at any time within sixty (60) days after such damage, terminating this Lease as of the date specified in such notice, which date shall be no more than thirty (30) days after the giving of such notice. Landlord shall not be required to repair any injury or damage by fire or other cause, or to make any repairs or replacements of any leasehold improvements, fixtures, or other personal property of Tenant.

15. CONDEMNATION

If twenty-five percent (25%) or more of the Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, either party hereto shall have the right, at its option, within sixty (60) days after such taking or appropriation, to terminate this Lease upon thirty (30) days' written notice to the other. If any part of the Premises is so taken (and neither party elects to terminate as herein provided), the Minimum Rent thereafter to be paid shall be equitably reduced. If any part of the Building other than the Premises is so taken, Landlord shall have the right, at its option, within sixty (60) days of said taking, to terminate this Lease upon written notice to Tenant. In the event of any taking or appropriation whatsoever, Landlord shall be entitled to any and all awards and/or settlements, which may be given, and Tenant shall have no claim against Landlord for the value of any remaining term of this Lease. Nothing contained herein, however, shall be deemed to preclude Tenant from obtaining, or to give Landlord any interest in, any award to Tenant for loss of or damage to Tenant's trade fixtures and removable personal property or for damage for cessation or interruption of Tenant's business.

C. Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way increase the existing or affect any fire or other insurance upon the Premises or any building of which the Premises may be a part or any of its contents (unless Tenant shall pay any increased premium as a result of such use or acts), or cause a cancellation of any insurance policy covering the Premises or any building of which the Premises may be a part or any of its contents, nor shall Tenant sell or permit to be kept, used or sold in or about the Premises any articles which may be prohibited by a standard form policy of fire insurance.

D. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the building of which the Premises may be a part or any other building in the Center, or injure or annoy them, or use or allow the Premises to be used for any unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or allow to be committed any waste in or upon the Premises. Tenant shall keep the Premises in a clean and wholesome condition, free of any objectionable noises, odors or nuisances.

7.4 Covenants to Operate

Tenant agrees that all trash and rubbish of Tenant shall be deposited within receptacles and that there shall be no trash receptacles permitted to remain outside of the building. Tenant further agrees to cause such receptacles to be emptied and trash removed at its own cost and expense. Tenant shall also remove its hazardous and medical waste at its own expense. Tenant further agrees to lock up the building and parking lot in the event that tenant is the last one to leave the building.

8. RENTAL ADJUSTMENTS

~~Tenant shall pay its pro-rated share of all costs to maintain, repair and replace common areas used by or available for use by Tenant. Common areas shall include without limitation to parking areas, driveways, retaining walls, landscaped areas, courts, stairways, ramps and sidewalks, washrooms and trash pickup areas. "All costs to maintain, repair, and replace common areas" shall include, but are not limited to, gardening and landscaping, the cost of public and property damage insurance, repairs, line painting, lighting, sanitary control, removal of trash, rubbish, garbage, and other refuse reasonable reserves for replacements and repairs, management, and the cost of personnel to implement such services. That percentage of the total cost of the following items as Tenant's total floor area bears to the total floor area of the Building, which is percent (%):~~ EOS

9. MAINTENANCE AND REPAIRS; ALTERATIONS AND ADDITIONS; FIXTURES

9.1 Maintenance and Repairs

A. Repairs by Tenant. Tenants taking possession of the Premises shall conclusively be deemed acknowledgement by Tenant that the premises are in good order and repair. Tenant shall, at his expense and at all times, maintain, repair or replace any fixture or equipment including windows, plate glass, doors electrical wiring, plumbing, heating and cooling (HVAC) installations and any other systems, equipment or leasehold improvement upon the premises and shall surrender the same, at termination hereof, in as good condition as received, ordinary wear and tear excepted. Unless otherwise specifically provided in this Lease, there shall be no abatement of rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Premises, the building. Tenant waives the provisions of any law-permitting Tenant to make repairs at Landlord's expense.

B. Tenant's Failure to Maintain. In the event Tenant fails to maintain the Premises in good order, condition and repair, Landlord shall give Tenant notice to do such acts as are reasonably required so to maintain the Premises. In the event Tenant fails promptly to commence such work or diligently prosecute the same to completion, Landlord may but is not obligated to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant promptly after demand with interest at ten percent (10%) per annum from the date of such work. Landlord shall have no liability to Tenant for any damage, inconvenience or interference with the use of the Premises by Tenant as a result of performing any such work or by reason of undertaking the repairs required by Section 9.1A above.

C. Condition Upon Expiration of Term. Upon the expiration or earlier termination of this Lease, Tenant shall surrender the Premises in good condition, ordinary wear and tear excepted. Tenant shall indemnify Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Premises, including without limitation any claims made by any succeeding tenant founded on such delay.

9.2 Alterations and Additions

A. Tenant shall not make any alterations or additions to the Premises without Landlord's prior written consent. All alterations, additions, and improvements made by Tenant to or upon the Premises, except counters or other removable trade fixtures, shall at once when made or installed be deemed to have attached to the freehold and to have become the property of Landlord; provided, however, if prior to termination of this Lease, or within fifteen (15) days thereafter, Landlord so directs by written notice to Tenant, Tenant shall promptly remove the additions, improvements, fixtures, trade fixtures and installations which were placed in the Premises by Tenant and which are designated in said notice and shall repair any damage occasioned by such removal to restore back to the original condition and in default thereof Landlord may effect said removal and repairs at Tenant's expense.

B. Before commencing any such work or construction in or about the Premises, Tenant shall notify Landlord in writing of the expected date of commencement thereof. Landlord shall have the right at any time and from time to time to post and maintain on the Premises such notices as Landlord deems necessary to protect the Premises and Landlord from mechanics' liens, materialmen's liens, or any other liens.

10. ENTRY BY LANDLORD

Landlord, its agents and employees, may enter the Premises at all reasonable times for the purpose of exhibiting the same to prospective purchasers or tenants. Tenant hereby grants to Landlord such licenses or easements in and over the Premises or any portion thereof as shall be reasonably required for the installation or maintenance of mains, conduits, pipes or other facilities to serve the Building or any part thereof. Landlord, its agents and employees, shall have free access to the Premises during all reasonable hours for the purpose of examining the same to ascertain if they are in good repair and to make reasonable repairs which Landlord may be required or permitted to make hereunder.

JB

16. ASSIGNMENT AND SUBLEASE

Tenant shall not voluntarily by operation of law assign, transfer, mortgage or otherwise encumber all or any part of Tenant's interest in this Lease in the Premises, and shall not sublet or license all or any part of the Premises, without the prior written consent of Landlord in each instance, and an attempted assignment, transfer, mortgage, encumbrance, subletting or license without such consent shall be wholly void. Without in any way limiting Landlord's right to refuse to give such consent for any other reason or reasons, Landlord reserves the right to refuse to give such consent if in Landlord's sole discretion and opinion the quality of business operation is or may be in any way adversely affected during the term of this Lease or the financial worth of the proposed new tenant is less than that of the Tenant executing this Lease at the time of such execution.

No subletting or assignment, even with the consent of Landlord, shall relieve Tenant of its obligation to pay the rent and to perform all of the other obligations to be performed by Tenant hereunder. The acceptance of rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any assignment, subletting or other transfer. Consent to one assignment, subletting or other transfer shall not be deemed to constitute consent to any subsequent assignment, subletting or other transfer.

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators and assigns of Tenant.

17. WAIVER OF SUBROGATION

Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage and other property insurance policies existing for the benefit of the respective parties. Each party shall apply to its insurer to obtain said waivers and shall secure any special endorsements if required by its insurer to comply with this provision.

18. SUBORDINATION; ATTORNMEN; QUIET ENJOYMENT

18.1 Subordination. This Lease at Landlord's option shall be subordinate to all ground or underlying leases which now exist or may hereafter be executed affecting the Premises or the land upon which the Premises are situated or both, and to the lien of any mortgages or deeds of trust in any amount or amounts whatsoever now or hereafter placed on or against the land or improvements or either thereof, of which the Premises are a part, or on or against Landlord's interest or estate therein, or on or against any ground or underlying leases. Tenant agrees to execute any further instruments, which may be requested or required to evidence such subordination. If any mortgagee, trustee or ground Landlord shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of the recording thereof.

18.2 Attornment. In the event any proceedings are brought for default under any ground or underlying lease or in the event of foreclosure or the exercise of the power of sale under any mortgage or deed of trust covering the Premises, Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease, provided said purchaser expressly agrees in writing to be bound by the terms of this Lease.

18.3 Quiet Enjoyment. Upon Tenant paying the rent reserved herein and observing and performing all of the provisions on Tenant's part to be observed and performed hereunder, including compliance with any Covenants, Conditions or Restrictions affecting the Premises or the Building, Tenant shall have quiet possession of the Premises during the entire term of this Lease, subject to all provisions hereof and of any such Covenants, Conditions or Restrictions, and to the terms of any said ground or underlying lease, mortgage or deed of trust.

19. DEFAULT; REMEDIES

19.1 Default. The occurrence of any of the following shall constitute a default and breach of this Lease by Tenant:

A. Any failure by Tenant to pay the rent or any other monetary sums required to be paid hereunder (where such failure continues for three (3) days after written notice by Landlord to Tenant);

B. The abandonment or vacating of the Premises by Tenant;

C. A failure by Tenant to observe or perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues to thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of the default is such that the same cannot reasonably be cured within said thirty (30) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion;

D. The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

19.2 Remedies. In the event of any such default or breach by Tenant, Landlord may at any time thereafter, without limiting Landlord in the exercise of any right or remedy at law or in equity, which Landlord may have by reason of such default or breach:

A) Maintain this Lease in full force and effect and recover the rent and other monetary charges as they become due, without terminating Tenant's right to possession, irrespective of whether Tenant shall have abandoned the Premises. In the event Landlord elects not to terminate this Lease, Landlord shall have the right to attempt to re-let the Premises at such rent and upon such conditions and for such a term, and to do all acts necessary to maintain or preserve the Premises, as Landlord deems reasonable and necessary, without being deemed to have elected to terminate this Lease, including removal of all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. In the event any such re-letting occurs, this Lease shall terminate automatically upon the new tenant taking possession of the Premises. Notwithstanding that Landlord fails to elect to terminate this Lease initially, Landlord at any time during the term of this Lease may elect to terminate this Lease by virtue of such previous default of Tenant.

B) Terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including without limitation the following: (i) The

worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned at termination until the time of award exceeds the amount by which rental loss that is proved could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that is proved could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligations under this Lease or which in the ordinary course of events would be likely to result there from; plus (v) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable State law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which Landlord in its sole discretion deems reasonable and necessary. As used in (i) above, the "worth at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum from the date of default. As used in (ii) and (iii) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the U.S. Federal Reserve Bank at the time of award plus one percent (1 %). The term "rent", as used in this Section 19, shall be deemed to be the rent to be paid pursuant to Section 3 and all other monetary sums required to be paid by Tenant pursuant to the terms of this Lease.

19.3 Late Charges. Tenant hereby acknowledges that late payment by Tenant to Landlord of rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting expenses and late charges, which may be imposed on Landlord by the terms of any mortgage or deed of trust covering the Premises. Accordingly, if any installment of rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within ten (5) days after such amount shall be due, Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs that Landlord would incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

19.4 Default by Landlord. Landlord shall not be in default unless Landlord fails to perform obligations required of it within a reasonable time.

20. PARKING AND COMMON AREAS

20.1 Landlord covenants that certain parking areas shall be at all times available for the non-exclusive use of Tenant during the full term of this Lease, provided that the condemnation or other taking by any public authority, or sale in lieu of condemnation, of any or all of such common and parking areas shall not constitute a violation of this covenant, and Landlord reserves the right to close, if necessary, all or any portion of such common or parking areas to such extent as may in the opinion of Landlord's counsel be legally necessary to prevent a dedication thereof or the accrual of any rights of any person or of the public therein; to close temporarily all or any portion of the common areas to discourage non-customer use; to use portions of the common areas while engaged in making additional improvements or repairs or alterations to the Building; and to do and perform such other acts in, to, and with respect to the common areas as Landlord shall reasonably determine to be appropriate for the Building. Landlord further reserves the right to increase or reduce the common areas and to change the entrances, exits, traffic lanes and the boundaries and locations of such common and parking areas, provided that no such modifications or changes shall materially reduce the total amount of the common or parking areas available under this Section.

20.2 Tenant, for the use and benefit of Tenant, its agents, employees, customers, licensees and sub-tenants, shall have the non-exclusive right in common with Landlord, and other present and future owners and tenants and their agents, employees, customers, licensees and sub-tenants, to use said common and parking areas during the entire term of this Lease.

20.3 Tenant, in the use of said common and parking areas, agrees to comply with such reasonable rules and regulations for parking as Landlord may adopt from time to time for the orderly and proper operation of said common and parking areas. Such rules may include but shall not be limited to the following: (1) Restriction of employee parking to a limited, designated area or areas; and (2) Regulation of the removal, storage and disposal of Tenant's refuse and other rubbish at the sole cost and expense of Tenant.

21. ORDINANCES AND STATUTES.

Tenant shall, at its sole cost and expense, comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by Tenant.

22. SIGNS

Tenant shall not affix any sign to the roof or the exterior wall of the Building. Tenant shall, however, erect one sign, at tenant's expense, on the front of the Premises, in accordance with a design to be prepared by Tenant and approved in writing by Landlord.

23. MISCELLANEOUS

23.1 Rules and Regulations. Tenant shall faithfully observe and comply with the rules and regulations that Landlord shall from time to time promulgate and/or modify. Landlord shall not be responsible to Tenant for the non-performance of any of said rules and regulations by any other tenants or occupants.

23.2 Estoppel Certificates. Tenant shall at any time and from time to time, upon not less than three (3) days' prior written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect), and the date to which the rental and other charges are paid in advance, if any, and (b) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and (c) setting forth the date of commencement of rents and expiration of the term hereof. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the real property of which the Premises are a part.

23.3 Transfer of Landlord's Interest. In the event of a sale or conveyance by Landlord of Landlord's interest in the Premises or the Building, other than a transfer for security purposes only, Landlord shall be relieved of all obligations and liabilities accruing thereafter on the part of Landlord provided that any funds in the hands of Landlord at the time of transfer in which Tenant has an interest shall be delivered to Landlord's successor.

23.4 Captions; Attachments; Defined Terms.

A. The captions of the paragraphs of this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Lease.

B. Exhibits and addenda attached or affixed hereto are deemed a part of this Lease and are incorporated herein by reference.

C. If there be more than one Tenant, the obligations hereunder imposed shall be joint and several; as to a Tenant which consists of husband and wife, the obligations shall extend individually to their sole and separate property as well as community property. The term "Landlord" shall mean only the owner or owners at the time in question of the fee title or a tenant's interest in a ground lease of the Premises or the Building. The obligations contained in this Lease to be performed by Landlord shall be binding on Landlord's successors and assigns only during their respective periods of ownership.

23.5 Entire Agreement. This Lease constitutes the entire agreement between Landlord and Tenant relative to the Premises and supersedes any prior agreements, brochures or representations, whether written or oral. This Lease may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. This Lease shall not be effective or binding on any party until fully executed by both parties hereto.

23.6 Severability. If any provision of this Lease shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

23.7 Costs of Suit. If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of rent or possession of the Premises, the losing party shall pay the successful party a reasonable sum for attorneys' fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment.

23.8 Time. Time is of the essence of this Lease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the Premises to Tenant.

23.9 Binding Effect; Choice of Law. The parties hereto agree that all the provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate paragraph hereof, and all rights and remedies of the parties shall be cumulative and non-exclusive of any other remedy at law or in equity.

This Agreement shall be governed by the law of the State of California, Alameda County is the stipulated jurisdiction and venue for all proceedings brought to interpret or enforce the Lease.

23.10 Waiver. No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.

23.11 Acceptance and Surrender of Premises. Tenant's taking of possession of the Premises shall conclusively be deemed acknowledgment by Tenant that the Premises are in good and sanitary working order, condition, and repair. Tenant agrees on or before the last day of the term of this Lease, or upon the sooner termination hereof, to surrender the Premises to Landlord in good condition, ordinary wear and tear accepted. The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall at the option of Landlord terminate all or any existing subleases or may at the option of Landlord operate as an assignment to it of any or all such subleases.

23.12 Holding Over. If Tenant remains in possession of the Premises after the expiration of the term hereof with the written consent of Landlord, such occupancy shall be from year to year only, and not a renewal hereof or an extension for any further term, and in such case rent and other monetary sums due hereunder shall be payable in the amount and at the time specified in this Lease, and such tenancy shall be subject to every other term, covenant and agreement contained herein.

23.13 Inability to Perform. If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of strike, labor trouble, acts of God or any other cause beyond the reasonable control of such party (financial inability excepted), and such party is otherwise without fault, then performance of such act shall be excused for the period of the delay, provided that the foregoing shall not excuse Tenant from the prompt payment of any rental or other charge required of Tenant hereunder unless otherwise specifically so stated in this Lease.

23.14 Reasonable consent. Wherever in this Lease Tenant is required to give its consent or approval to any action on the part of the Landlord, such consent or approval shall not be unreasonably withheld.

23.15 Interest on Past Due Obligation. Except as expressly herein provided, any amount not paid to Landlord when due shall bear interest at ten percent (10%) per annum from the due date. Payment of such interest shall not excuse or cure any default by Tenant under this Lease.

23.16a Default by Tenant; Notices. In the event that Tenant shall fail to make any installment of rent when same comes due or shall, in any other manner, fail to keep and observe each and every term and condition of the Lease, Landlord may proceed against Tenant, without the necessity of any additional notice or warning. Tenant agrees that any notice served upon them may be served upon them at the Premises. In addition, Tenant shall supply, beneath his or her signature hereunto, an address at which he or she desires to receive notices and shall keep Landlord apprised of any changes in such address and Landlord may, but need not, send notices to that address instead or in addition to the Premises. Any such notice shall be deemed served on the second day after deposit with the United States Postal Service, postage prepaid, certified mail, return receipt requested, regardless of the date actually delivered or even if never delivered due to the fact that the addressee has moved and failed to notify Landlord or should the addressee refuse to accept delivery.

23.16b Notices to the Landlord. Any notice the Tenant may desire to serve upon the Landlord shall be in writing and shall not be deemed to have been duly given or served unless sent by certified or registered mail, addressed to the Landlord at the address specified below. Landlord may change such address by written notice to the other parties hereto.

To: Landlord at: Western Pacific Property LLC
P.O. Box 241
San Lorenzo, CA 94580

23.17 Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with the By-Laws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms.

23.18 Recordation. Neither Landlord nor Tenant shall record this Lease. If Landlord so elects, it may record a short form hereof, in which case Tenant agrees to execute and deliver to Landlord a notarized copy of the memorandum of such short form.

23.19 Brokers. Tenant warrants that it has had no dealings with any real estate broker or agents in connection with the negotiation of this Lease and it knows of no real estate broker or agent who is entitled to a commission in connection with this Lease.

//
//

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Approval of an Amendment to the Employment Agreement for General
Counsel

RECOMMENDED ACTION

Recommend the Board of Directors consider approving the attached amendment to the Employment Agreement for General Counsel for an additional three (3) years ending on May 22, 2028.

BACKGROUND

Alexander G. Crockett, was appointed to the position of General Counsel for period of three (3) years commencing on May 23, 2022 and ending on May 22, 2025.

DISCUSSION

The Board will consider amending the employment contract for General Counsel for a period of three years through May 22, 2028 at terms consistent with General Counsel's current employment agreement. The proposed amendment is included as Attachment 3.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. This salary is included in the 2025 and 2026 budgets under program 102.

Respectfully submitted,

Lynda Hopkins
Board Chairperson

Prepared by: Hyacinth Hinojosa

ATTACHMENT(S):

1. Crockett Employment Agreement District Counsel 2022-05-19
2. Crockett Amended Employment Agreement District Counsel 2023-06-11
3. Crockett Draft Amended Employment Agreement No. 3

EMPLOYMENT AGREEMENT

District Counsel

This Employment Agreement (“Agreement”) is made and entered into on this 19th day of May 2022, by and between the **Bay Area Air Quality Management District** (the “District”) and **Alexander Crockett** (“Employee”) for services to be performed by Employee in the position of District Counsel. District and Employee are collectively hereinafter referred to as “Parties.”

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the Parties agree as follows:

1. **Term.**

The District hereby employs Employee as District Counsel of the District and Employee hereby accepts employment for a period of three (3) years commencing on May 23, 2022, and ending on May 22, 2025, subject to the limitations of this Agreement.

2. **Duties.**

District Counsel shall manage the legal affairs of the District under the general direction and authority of the District Board of Directors (“Board”), or the Chief Executive Officer of the District, as the Board in its discretion may elect. Typical responsibilities include those detailed in the class specification of “Counsel” attached hereto as Exhibit A. Employee understands and agrees that these responsibilities are illustrative only and that the District may add, subtract, or change them in its discretion. Employee shall devote himself on a full-time basis to fulfillment of his responsibilities and shall devote such time as may be reasonably necessary for satisfactory performance of his obligations under this Agreement. Employee shall undertake no other professional employment during the term of this Agreement.

3. **Work Product/Attorney-Client Privilege**

Employee agrees that all files, notes, documents, data, specifications, correspondence, drawings, reports and other material prepared by or furnished to Employee in connection with his District employment shall be and remain the sole and exclusive property of the District. Employee acknowledges and agrees to maintain the District’s attorney-client confidences during and after the termination of this Agreement, in accord with the California Rules of Professional Conduct.

4. **Compensation and Benefits.**

a. **Salary**

For services rendered pursuant to this Agreement the District shall pay Employee an annual base salary of \$291,750. Said salary shall be paid on the dates and in the manner consistent with the payroll procedures of the District.

b. **Cost of Living Adjustments**

Employee shall receive an automatic cost of living adjustment on each July 1 during the term of employment equal to the California Consumer Price Index for Urban Wage

Initialed District  _
Initialed Employee  _

Earners and Clerical Workers as calculated for the prior calendar year (“Annual Average”) by the Department of Industrial Relations for the San Francisco Bay Area.

c. Fringe Benefits

Except as otherwise provided in this Agreement, and except for an automobile allowance not to be included, Employee shall receive such employee benefits, including but not limited to pension, health insurance, and vacation benefits, as are payable to that class of District employees designated non-represented District Executive Management Staff. Employee shall be entitled to carry forward his accrued but unused District leave balances (sick leave, vacation, etc.) which existed on the effective date of this Agreement.

d. Life Insurance

In addition to any life insurance benefit provided under Paragraph 4(c) above, the District shall, during the term of this Agreement, provide Employee a portable \$500,000 (five hundred thousand dollar) term life insurance policy, if Employee demonstrates such good health insurability as the insurer may require.

e. Income Tax Liabilities

Employee shall be responsible for all income tax liability assessed under law on account of his Compensation under this Agreement

5. Annual Goals.

Employee shall develop an annual statement of goals and objectives and a progress report for the District and shall present such goals at a regularly called meeting of the Board to be selected each year by the Board Chair in coordination with District Counsel.

6. Annual Performance Evaluation.

Employee shall receive a one-year performance evaluation where the District will consider a salary increase up to five percent (5%). A two-year performance evaluation will be conducted by the District where the District will consider another salary increase up to five percent (5%). The District may, in its sole discretion, use any professional assistance in establishing standards for performance assessment. Nothing in this section shall be construed to require District to grant Employee any pay increases based on the performance standards, if any, mentioned above nor to limit in any manner the discretion of District to grant or not pay increases. Nor shall anything in this Agreement be interpreted to require District to evaluate Employee solely upon the performance standards, nor to limit the discretion of the District to evaluate Employee as it deems necessary in the sole discretion of the District.

7. Termination and Severance.

a. Employee’s tenure as District Counsel under this Agreement is limited to the contractual term of three (3) years and Employee’s employment as District Counsel will terminate on May 22, 2025 unless the parties agree to extend this Agreement on or before that date.

Initialed District  _
Initialed Employee  _

The Parties agree to meet and confer four (4) months prior to the termination date to discuss whether to extend this Agreement, and if so on what terms.

- b. Moreover, due to the duties of the position and nature of the services provided by Employee to District, the Employee serves at-will at the pleasure of the Board, and nothing herein shall prevent, limit, or otherwise interfere with the right of the Board to terminate Employee with or without cause. Except where the termination is for cause, the District will provide written notice thirty (30) days prior to the termination date. The District may, at its option, relieve Employee of his duties with pay during the notice period. Employee shall have no right to a termination hearing. Employee shall have no "return rights" to any position previously held at the District and shall not be entitled to employment in any other District position upon termination of employment pursuant to this Agreement.
- c. If Employee's employment is terminated, either through expiration of the contractual term pursuant to section 7(a) or through earlier termination by the District pursuant to section 7(b), the District and Employee shall treat such termination as a retirement from District service for purposes of pension, health insurance, and other retirement benefits, unless Employee elects in writing not to have such termination treated as a retirement.
- d. Notwithstanding any other provision of this Agreement, and as required by Government Code Sections 3511.2 and 53260, if Employee is terminated by the District while the Employee is still willing and able to perform the duties of District Counsel, the District agrees to pay Employee a lump sum payment as follows: a cash settlement equal to Employee's monthly Base Salary, as adjusted, multiplied by the number of months left on the unexpired term of the Agreement, up to a maximum of twelve (12) months. Payment of this cash settlement shall not affect any retirement or other post-employment benefits employee may be entitled to under this Agreement or otherwise.
- e. Any severance payment made by the District pursuant to this section shall be contingent on Employee executing and delivering to the District a release in substantially the same form as that attached hereto as Exhibit B.
- f. Notwithstanding section 7(d) above, the District shall not be obligated to pay, and shall not pay any amounts to Employee if Employee is terminated because of:
 - i. the conviction of felony or misdemeanor or plea of nolo contendere to a crime,
 - ii. the conviction of any felony or misdemeanor involving moral turpitude,
 - iii. the willful or persistent material breach of duties or inattention to duties,
 - iv. a violation of statute or law constituting misconduct in office, or
 - v. willful misconduct.
- g. The District shall not be obligated to pay Employee any severance amount under this Agreement if Employee voluntarily retires or resigns in writing prior to termination, or if

employee is terminated at expiration of this agreement. In the event Employee voluntarily retires or resigns, Employee shall provide advance written notice to the District of at least thirty (30) calendar days.

h. This Agreement shall be immediately terminated upon Employee’s death or legal incapacity by operation of Labor Code section 2920.

8. **Indemnification and Defense.**

District shall indemnify, defend, and hold Employee harmless from and against all demands, claims, suits, actions, and legal proceedings brought against Employee and arising out of events within the scope of Employee’s employment and performance of professional duties as District Counsel, except to the extent that Employee’s actions are the result of gross negligence or willful misconduct. Employee shall cooperate in good faith with the District with respect to defense of such claims, demands, or legal actions.

9. **Abuse of Office.**

Any salary provided Employee during an investigation shall be fully reimbursed if the Employee is convicted of a crime involving an abuse of her office or position, as set forth in Government Code sections 53243 and 53243.4, resulting from the investigation. Any funds for the legal criminal defense of the Employee provided by the District shall be fully reimbursed to the District if the Employee is convicted of an abuse of her office or position, as set forth in Government Code sections 53243.1 and 53243.4. Further, regardless of the term of this Agreement, if this Agreement is terminated, any cash settlement or severance related to the termination that the Employee receives from the District shall be fully reimbursed to the District if the Employee is convicted of a crime involving an abuse of her office or position, as set forth in Government Code sections 53243.2 and 53243.4.

10. **Severability.**

If any term of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the District and Employee, the remainder of this Agreement shall remain in full force and effect unless the term or terms held to be illegal or void are wholly inseparable from the remaining provisions of the Agreement.

11. **Governing Law.**

This Agreement shall be governed by the laws of the State of California.

12. **Counterparts.**

This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

13. **Entire Agreement.**

This Agreement is the entire agreement between the parties regarding District’s employment of Employee and supersedes all prior oral or written understandings. This Agreement cannot be modified except by a written amendment signed by both Parties.

Initialed District  _
Initialed Employee  _

IN WITNESS WHEREOF, the Parties have executed this Agreement which shall be effective upon the commencement date specified in Section 1 herein.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

DocuSigned by:

John Banters _____

C7389B49E2C9458...
John Banters, Chairperson
Board of Directors

EMPLOYEE

DocuSigned by:

Alexander Crockett _____

B5AE1A26FCA4453...
ALEXANDER CROCKETT

AMENDMENT TO EMPLOYMENT AGREEMENT

District Counsel

This Amendment To Employment Agreement (“Agreement”) is made and entered into on this 21st day of June, 2023, by and between the **Bay Area Air Quality Management District** (the “District”) and District Counsel **Alexander Crockett** (“Employee”).

WHEREAS, the District and Employee are parties to an Agreement setting forth the terms and conditions of Employee’s employment as District Counsel, dated May 19, 2022 (“Employment Agreement”);

WHEREAS, Employee has been employed as District Counsel pursuant to the Employment Agreement since May 23, 2022;

WHEREAS, the Employment Agreement provides that Employee shall receive a one-year performance evaluation whereby the District Board will consider a salary increase of up to five percent (5%);

WHEREAS, the District Board conducted a performance evaluation of Employee which included a closed session review on June 7, 2023; and

WHEREAS, the District desires to provide Employee a five percent (5%) salary increase consistent with the favorable performance evaluation and the provisions of the Employment Agreement.

NOW, THEREFORE, the District and Employee agree to modify the Employment Agreement as follows:

1. Employee’s annual base salary is increased five percent (5%) from Employee’s current yearly salary effective May 23, 2023. Section 4.a. of the Employment Agreement is hereby amended to reflect the new annual base salary of \$318,897.23 effective May 23, 2023.
2. All other provisions of Employee’s Employment Agreement remain in full force and effect without amendment.

IN WITNESS WHEREOF, the Parties have executed this Amendment to Employment Agreement which shall be effective upon the commencement date specified above.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

EMPLOYEE

DocuSigned by:

 C7389B49E2C9458...
 JOHN J. BAUTERS
 Board Chair

DocuSigned by:

 6DC7110552B5451...
 ALEXANDER CROCKETT
 District Counsel

AMENDMENT NO. 3 TO EMPLOYMENT AGREEMENT

General Counsel

This Amendment To Employment Agreement (“Amendment”) is made and entered into on this ___ day of April, 2025, by and between the **Bay Area Air Quality Management District** (the “Air District”) and its General Counsel **Alexander Crockett** (“Employee”).

WHEREAS, the Air District and Employee are parties to an Agreement setting forth the terms and conditions of Employee’s employment as General Counsel (f/k/a District Counsel), dated May 19, 2022 (“Employment Agreement”);

WHEREAS, Employee has been employed as General Counsel (f/k/a District Counsel) pursuant to the Employment Agreement since May 23, 2022;

WHEREAS, the Employment Agreement provides that the Parties shall meet and confer four months prior to the expiration of the Employment Agreement regarding whether to extend the Employment Agreement, and if so on what terms;

WHEREAS, the Parties have met and conferred and mutually desire to extend the Employment Agreement for an additional three (3) years as provided for in this Amendment; and

NOW, THEREFORE, the Air District and Employee agree to amend the Employment Agreement as follows:

1. Paragraph 1 (Term) is amended to extend the term of the Employment Agreement for an additional three (3) years, such that Employee’s period of employment shall end on May 22, 2028, subject to the limitations of the Agreement.
2. Paragraph 7 (Termination and Severance), subparagraph (a), is similarly amended to extend the contractual term for an additional three (3) years, such that Employee’s employment as General Counsel will terminate on May 22, 2028, unless the parties agree to further extend the Employment Agreement on or before that date.
3. Paragraph 8 (Indemnification and Defense) is amended to add a new second paragraph, in addition to the existing paragraph that shall remain a part of the Employment Agreement, as follows:

“After termination of the Employment Agreement, should a need arise for Employee to respond to any subpoena or discovery, to provide testimony at deposition, trial, arbitration, or at an administrative hearing, or to otherwise perform services with respect to any matter relating to or arising out of Employee’s services rendered under the Employment Agreement, the Air District shall compensate Employee for time spent in doing so, including any required preparation time, at an hourly rate of two hundred fifty dollars (\$250) per hour. The Air District further agrees to reimburse Employee for all reasonable and necessary expenses incurred in connection with such work, subject to Employee providing proper documentation within sixty (60) days of the expense(s). Should Employee require separate legal representation as prescribed under California Government Code section 995.9, the Air District agrees to provide such representation.”

4. All references in the Employment Agreement to the position title "District Counsel" are amended to refer to the new position title "General Counsel."

All other provisions of the Employment Agreement remain in full force and effect without amendment.

IN WITNESS WHEREOF, the Parties have executed this Amendment to Employment Agreement, which shall be effective upon the commencement date specified above.

**BAY AREA AIR QUALITY MANAGEMENT
DISTRICT**

EMPLOYEE

Lynda Hopkins
Board Chair

Alexander Crockett
General Counsel

DRAFT

BOARD MEETING DATE: April 2, 2025

REPORT: Stationary Source Committee

SYNOPSIS: The Stationary Source Committee (Committee) held a meeting on Wednesday, March 12, 2025. The following is a summary of the meeting.

RECOMMENDED ACTION:

Receive and file.

Ken Carlson, Chair
Stationary Source Committee

KC:mh

Call to Order

Stationary Source Committee (Committee) Chairperson, Ken Carlson, called the meeting to order at 10:01 a.m.

Roll Call:

Present, In-Person (Bay Area Metro Center, 375 Beale Street, 1st Floor Yerba Buena Room, San Francisco, California, 94105): Chairperson Ken Carlson; and Directors. John Gioia, and Rico Medina.

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

Present, In-Person Satellite Location: (Office of Alameda County Supervisor Lena Tam, 103 Callan Ave., Suite #103, San Leandro, CA 94577): Director Lena Tam.

Present, In-Person Satellite Location: (Santa Rosa Junior College Campus, Doyle Library, Room 148, 1501 Mendocino Ave., Santa Rosa, CA 95401): Vice Chairperson Lynda Hopkins.

Present, In-Person Satellite Location: (Office of Marin County Supervisor Brian Colbert, 3501 Civic Center Drive, Suite 326, San Rafael, CA 94903): Director Brian Colbert.

Present, In-Person Satellite Location: (Pittsburg City Hall, 301A City Manager's Office, Mayor/Council Conference Room, 65 Civic Ave. – 3rd Floor, Pittsburg, CA 94565): Director Dionne Adams.

Absent: Director Gabe Quinto.

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

CONSENT CALENDAR

3. APPROVAL OF THE DRAFT MINUTES OF THE STATIONARY SOURCE COMMITTEE MEETING OF FEBRUARY 19, 2025

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Director Gioia made a motion, seconded by Director Tam, to **approve** the Draft Minutes of the Stationary Source Committee meeting of February 19, 2025; and the motion **carried** by the following vote of the Committee:

AYES:	Adams, Carlson, Colbert, Gioia, Hopkins, Tam, Young.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Medina, Quinto.

INFORMATIONAL ITEMS

4. WAREHOUSE INDIRECT SOURCE RULE (ISR) CONSIDERATIONS

Christopher Easter, Senior Air Quality Specialist, gave the staff presentation *Warehouse Indirect Source Rule Considerations*, including: outline; background; Goods Movement background; growth in electronic commerce; warehouses in the Bay Area; ISRs in other California air districts; warehouses greater than 100,000 square feet; potential nitrogen oxides and Particulate Matter (PM) reductions in the Bay Area; relevant regulatory activities; and considerations for next steps.

Public Comments

Public comments were given by Jan Warren, Interfaith Climate Action Network of Contra Costa County; Mars Keith, Sierra Club; and Sarah Chen Small, Communities for a Better Environment.

Committee Comments

The Committee and staff discussed the request for a chart that shows estimated benefits (including reductions in PM_{2.5} emissions) for those living on the fenceline of indirect sources; facilities that are anticipated to be impacted (warehouses, rail, or ports); the fact that California has withdrawn its request for a waiver and authorization for the addition of the Advanced Clean Fleets Regulation to its emissions control program; whether both new and existing warehouses are being considered; whether the South Coast Air Quality Management District partnered with existing warehouses when they developed their ISR; concerns about expending staff resources, time, and money on this potential rulemaking during a time of federal uncertainty, as well as reasons to proceed now; the development and current status of the North Richmond FedEx distribution center that was designed to have zero truck emissions within five years of operation; how to prioritize this rule with other rulemakings (which can be achieved first with the least amount of effort); the desire for the Air District to provide model land use provisions when cities and counties permit new facilities; and the desire to incorporate this potential rulemaking into future budget discussions.

NOTED PRESENT: Director Medina was noted present at 10:24 a.m.

Committee Action

No action taken.

5. STRATEGIC PLAN RULE DEVELOPMENT SCHEDULE

Victor Douglas, Director of Rules and Strategic Policy, gave the staff presentation *Strategic Plan Rule Development Schedule*, including outline; background; Strategic Plan goals; Strategic Plan goals and strategies; current and planned rule development; considered rule development; other potential rule development efforts; prioritization criteria; and next steps.

Public Comments

Public comments were given by Tony Fisher, Coalition for Clean Air; Vanessa Rivas Villanueva, Earthjustice; Sameer Ameen; Jan Warren, Interfaith Climate Action Network of Contra Costa County; Dr. Stephen Rosenblum, Palo Alto resident; and Jacob Klein, Industrious Labs.

Committee Comments

The Committee and staff discussed the desire for quicker impacts from the Air District's rulemakings; whether there are flaring rules in a settlement with Chevron; the request that future presentations show anticipated benefits associated with each proposed rulemaking, as well as the current status of each rule; the suggestion of prioritizing rulemakings that would address facilities with the greatest health burden on the community; and the desire for improved metrics for the Air District's rules.

Committee Action

No action taken.

OTHER BUSINESS

6. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

7. COMMITTEE MEMBER COMMENTS

None.

8. TIME AND PLACE OF NEXT MEETING

Wednesday, April 9, 2025, at 10:00 a.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Stationary Source Committee members and members of the public will be able to either join in-person or via webcast.

Adjournment

The meeting was adjourned at 11:24 a.m.

Attachments

#3 – Approval of the Draft Minutes of the Stationary Source Committee Meeting of February 19, 2025

#4 – Warehouse Indirect Source Rule Considerations

#5 – Strategic Plan Rule Development Schedule

BOARD MEETING DATE: April 2, 2025

REPORT: Community Equity, Health, and Justice Committee

SYNOPSIS: The Community Equity, Health, and Justice Committee (Committee) held a meeting on Wednesday, March 12, 2025. The following is a summary of the meeting.

RECOMMENDED ACTION:

Receive and file.

Noelia Corzo, Chair
Community Equity, Health, and Justice Committee

NC:mh

Community Equity, Health, and Justice Committee (Committee) Vice Chairperson, John Gioia, called the meeting to order at 1:00 p.m.

Roll Call:

Present, In-Person (Bay Area Metro Center, 375 Beale Street, 1st Yerba Buena Room, San Francisco, CA, 94105): Vice Chairperson John Gioia; and Directors Mark Salinas and Shamann Walton.

Present, In-Person Satellite Location: (Napa County Administration Building, 1195 Third Street, Suite 310, Crystal Conference Room, Napa, CA 94559): Director Joelle Gallagher.

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

Present, In-Person Satellite Location: (Pittsburg City Hall 301A City Manager's Office Mayor/Council Conference Room 65 Civic Ave. – 3rd Floor Pittsburg, CA 94565): Director Dionne Adams.

Absent: Chairperson Noelia Corzo; and Directors Brian Barnacle, Monica Brown, Brian Colbert, and Ray Mueller.

For additional details of the Community Equity, Health, and Justice Committee Meeting, please refer to the webcast, [which can be found here](#). Please use the webcast's index to view specific agenda items.

CONSENT CALENDAR

3. **APPROVAL OF THE DRAFT MINUTES OF THE COMMUNITY EQUITY, HEALTH, AND JUSTICE COMMITTEE MEETING OF FEBRUARY 29, 2025**

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Director Walton made a motion, seconded by Director Salinas, to approve the Draft Minutes of the Community Equity, Health, and Justice Committee Meeting of February 19, 2025; and the motion carried by the following vote of the Committee:

AYES: Adams, Gallagher, Gioia, Salinas, Walton, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Barnacle, Brown, Colbert, Corzo, Mueller.

INFORMATIONAL ITEMS

4. **DEVELOPMENT OF A TARGETED INSPECTION PROGRAM & POLICY**

Dennis Quach, Air Quality Specialist, gave the staff presentation *Development of a Targeted Inspection Program and Policy* including: outline; Strategic Plan framework; Targeted Inspection Program and Policy: goals and objectives; overview of Targeted Inspection Program and Policy; compliance inspection types; routine inspections by source types; enhanced inspection priorities in overburdened communities; analyze compliance data to target inspections; community engagement and partnership; additional strategies associated with policy changes; and next steps.

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 pilot version of the Targeted Inspection Program in Bayview Hunters Point in March 2025 (roll out and the types of facilities will be included); the ways in which communities discover unpermitted (by the Air District) facilities; whether power plants are considered "Title V and synthetic minor facilities"; the minimum number of inspections at an individual permitted facility per Fiscal Year; which

entities are notified when violations are identified (local jurisdictions?); differences between the Air District's level of engagement with non-Assembly Bill (AB) 617 communities and AB 617 communities; and potential utilization of the Board members to encourage participation.

Committee Action

No action taken.

5. DIVERSITY, EQUITY, AND INCLUSION (DEI) INITIATIVES AND ACTION PLAN UPDATE

Tim Williams, Director of DEI, and Nunu Phengphanh, Supervising Staff Specialist, gave the staff presentation *DEI Action Plan*, including: about the DEI Office; DEI Action Plan's purpose and scope; DEI updates from September 2024 to February 2025: heritage celebrations and cultural events, professional development webinars, Workplace Allyship Program, Air District's Mentorship Program, and employee resource group (ERG) empowerment; Strategic Plan alignment: Strategy 3.1: A Diverse Workforce and Strategy 3.2: Be Welcoming and Inclusive; DEI Action Plan overview; Environmental Justice (EJ) Scholarship and internship/fellowship programs; supplier diversity; DEI Learning Program; Employee Development Program; diversity awareness; ERGs; pathway to permanency; equity integration in decisions; and adjusted DEI Action Plan.

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 current status of the Air District's ERG Empowerment Program, and how success is being measured; the participation goal for the EJ Scholarship and Internship/Fellowship Program Scholarship; the suggestion of surveying Air District employees to generate ideas for inclusion; encouragement from the Board to the DEI Office on its efforts, despite current federal actions; concerns regarding potential claw backs on funding for DEI activities; federal funding that was previously allocated to the Air District, and whether the Air District should strategize how to fund DEI activities if the funds are eliminated; and reasons to support/oppose reframing the language of the Air District's messaging when addressing more conservative audiences.

Committee Action

No action taken.

OTHER BUSINESS

6. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

7. COMMITTEE MEMBER COMMENTS

None.

8. REPORT OF THE DEPUTY EXECUTIVE OFFICER OF EQUITY AND COMMUNITY PROGRAMS

Arsenio Mataka, Deputy Executive Officer of Equity and Community Programs, made the following announcements:

- Thank you to the Air District's DEI Office for its work
- The next meeting of the Air District's Community Advisory Council (CAC) is March 2025, at 6:00 p.m., at the Trans Pacific Center, California State University East Bay, Oakland Professional & Development Center, 1000 Broadway, Suite 109 - Grand Lake Conference Room, Oakland, CA 94607.
 - A CAC member selection ad hoc committee (led by Board member Noelia Corzo) will be formed to fill 13 seats, and an update on this effort will be presented at the April 9, 2025 Community Equity, Health, and Justice Committee meeting.
 - The CAC's Community Benefit Ad Hoc Committee will recommend its proposed plan for its distribution of the \$3 million in the Community Benefit Fund.
- The East Oakland AB 617 Community Steering Committee will be meeting on March 13, 2025, at 5:00 p.m., at 8711 MacArthur Blvd, Oakland, [or on Zoom](#). The Bayview Hunters Point/Southeast San Francisco AB 617 Community Steering Committee will be meeting on March 18, 2025, at 5:00 p.m., at 1550 Evans Ave, San Francisco.

9. TIME AND PLACE OF NEXT MEETING

Wednesday, April 9, 2025, at 1:00 p.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Community Equity, Health, and Justice Committee members and members of the public will be able to either join in-person or via webcast.

Adjournment

The meeting was adjourned at 2:21 p.m.

Attachments

- #3 – Draft Minutes of the Community Equity, Health, and Justice Committee Meeting of February 29, 2025
- #4 – Development of a Targeted Inspection Program & Policy
- #5 – Diversity, Equity, and Inclusion Initiatives and Action Plan Update

BOARD MEETING DATE: April 2, 2025

REPORT: Policy, Grants, and Technology Committee

SYNOPSIS: The Policy, Grants, and Technology Committee (Committee) held a meeting on Wednesday, March 19, 2025. The following is a summary of the meeting.

RECOMMENDED ACTION:

Receive and file.

Vicki Veenker, Chair
Policy, Grants, and Technology Committee

VV:mh

CALL TO ORDER:

Opening Comments: Policy, Grants, and Technology Committee (Committee) Chairperson, Vicki Veenker, called the meeting to order at 10:01 a.m.

Roll Call:

Present, In-Person (Bay Area Metro Center (375 Beale Street, 1st Floor Board Room, San Francisco, California, 94105): Committee Chairperson Vicki Veenker; and Vice Chairperson Juan González III.

Present, In-Person Satellite Location (Alameda County Board of Supervisors District 3, Office of Supervisor Lena Tam, 101 Callan Avenue, Suite #103, San Leandro, CA 94577): Director Lena Tam.

Present, In-Person Satellite Location (Napa County Administration Building, 1195 Third Street, Suite 310, Crystal Conference Room, Napa, CA 94559): Director Joelle Gallagher.

Present, In-Person Satellite Location (Office of Contra Costa County Supervisor Ken Carlson, 2255 Contra Costa Blvd., Suite 202, Pleasant Hill, CA 94523): Director Ken Carlson.

Present, In-Person Satellite Location (San Mateo County 3rd District Office, 270 Capistrano Road, Suite 6, Half Moon Bay, CA 94019): Director Sergio Lopez and Ray Mueller.

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

Absent: Directors Margaret Abe-Koga, David Haubert, and Rico E. Medina.

For additional details of the Policy Grants, and Technology Committee Meeting, please refer to the webcast, [which can be found here](#). Please use the webcast's index to view specific agenda items.

CONSENT CALENDAR

3. APPROVAL OF THE DRAFT MINUTES OF THE POLICY, GRANTS, AND TECHNOLOGY SPECIAL COMMITTEE MEETING OF FEBRUARY 26, 2025

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Vice Chair González made a motion, seconded by Director Lee, to **approve** the Draft Minutes of the Policy, Grants, and Technology Special Committee Meeting of February 26, 2025; and the motion **carried** by the following vote of the Committee:

AYES: Carlson, Gallagher, González, Lee, Lopez, Mueller, Tam, Veenker.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Haubert, Medina

ACTION ITEM

4. STATE LEGISLATIVE UPDATE

Alan Abbs, Legislative Officer, gave the staff presentation *State Legislative Updates*, including: action requested; outline; Air District co-sponsored bills: Assembly Bill (AB) 14 Hart and Senate Bill (SB) 282 (Wiener); Board-approved position bills: AB 546 (Caloza) and AB 907 (Chen); additional bills of interest: AB 339 (Ortega), AB 1226 (Essayli), AB 1368 (Wallis), SB 712 (Grove); additional bills for brief discussion; and recap of action requested.

Public Comments

Public comments were given by Patrick Messac, Air District Community Advisory Council (CAC) member; and Dr. Stephen Rosenblum, Palo Alto resident.

Committee Comments

The Committee and staff discussed the following:

Regarding AB 1226 (Essayli) - Air quality: wildland vegetation management burning: permits: exemption: the option of adopting a position of “oppose unless amended” and the desire for a sunset provision; the request that this issue be discussed with the full Board; the desire to refrain from decoupling prescribed burning with associated health impacts, which can be transported to other communities by the wind; whether this bill excludes farm burning; concerns regarding air districts being characterized as “barriers” to prescribed burning, and the frequency of the Air District’s meetings with fire agencies and burn managers; and the belief that the Air District should not refrain from taking a position on a bill that would reduce the Air District’s authority.

Regarding AB 339 (Ortega) - Local public employee organizations: notice requirements: The Board and staff discussed whether the Air District’s bargaining units have a right of notification when the Air District contracts out certain positions, and notice that is currently required.

Regarding AB 306 (Schultz) - Building regulations: state building standards: The Board and staff discussed exemptions within this bill.

Regarding AB 1280 (Garcia) – Energy (California Infrastructure and Economic Development Bank financing climate catalyst projects that enable the decarbonization of industrial facilities’ use of heat and power, including, industrial heat pump and thermal energy storage projects): Chair Veenker expressed interest in learning more about this bill.

Committee Action

Director Mueller made a motion, seconded by Director Lopez, to recommend that the Board **adopt** the position of “Oppose Unless Amended” for AB 1226 (Essayli): air quality; wildland vegetation management burning: permits: exemption, with amendments that include a sunset date provision of 3 to 5 years and the bill will only apply to wildland vegetation management burning.

The motion **DID NOT CARRY** by the following vote of the Committee, due to the fact that a majority of 11 Committee members (6) did not vote in favor:

AYES: Carlson, González, Lee, Lopez, Mueller.
NOES: Gallagher, Tam, Veenker.
ABSTAIN: None.
ABSENT: Abe-Koga, Haubert, Medina.

Then, Vice Chair González made a motion, seconded by Director Mueller, to recommend that the Committee sends AB 1226 (Essayli): Air quality; wildland vegetation management burning: permits: exemption to the full Board for a discussion and consideration with no recommendation, also requesting that the Board be made aware of

the failed motion on record in Item 4 of the Draft Minutes of the Policy, Grants, and Technology Committee Meeting of March 19, 2025, due to the fact that a majority of 11 Committee members (6) did not vote in favor.

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

AYES: Carlson, González, Lee, Lopez, Mueller, Tam.
NOES: Gallagher, Veenker.
ABSTAIN: None.
ABSENT: Abe-Koga, Haubert, Medina.

Then, Director González made a motion, seconded by Director Carlson, to recommend that the Board **adopt** the following positions on current legislation:

1. Oppose AB 339 (Ortega) – Local public employee orgs: notice requirements
2. Oppose AB 1368 (Wallis) – Smog check: exemption
3. Oppose SB 712 (Grove) – Smog check: exemption

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

AYES: Carlson, Gallagher, González, Lee, Lopez, Mueller, Tam, Veenker.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Haubert, Medina.

INFORMATIONAL ITEMS

5. UPDATE ON INTERSTATE 580 TRUCK ACCESS STUDY

Cameron Oakes, Deputy District Director of Caltrans District 4, gave the presentation *Update on Interstate 580 (I-580) Truck Access Study*, including: outline; I-580 truck ban history; I-580 truck ban creates inequity; update of I-580 truck access study; technical analysis and forecasting; Air District's work progress; Racial Equity Assessment Report; public and stakeholder engagement; study partners and Technical Advisory Committee (TAC); study timeline and schedule; and next steps.

Public Comments

Public comments were given by Patric Messac, CAC member.

Committee Comments

The Committee and staff discussed the surprise of several Board members who were not aware of this ban; I-880 average daily truck traffic (the number of trucks); the desire for more stringent emission controls so that trucks may be cleaner in the future; anticipated pushback if truck traffic was redirected from the Port of Oakland and warehouses adjacent to I-880; the importance of considering all socioeconomic indicators of health of those living the Oakland/San Leandro area (air quality differences versus other factors); and,

were the ban to be lifted, the anticipated number of trucks would use the route, and potential traffic changes.

Committee Action

No action taken.

6. UPDATE ON THE BAY AREA REGIONAL CLIMATE ACTION PLAN (BARCAP) INITIATIVE

Monte DiPalma, Senior Air Quality Engineer, gave the staff presentation *Update on the Bay Area Regional Climate Action Plan Initiative*, including: outline; BARCAP initiative; goals of the BARCAP initiative; Advisory Work Group for BARCAP; plan development and engagement; Bay Area’s greenhouse gas (GHG) emissions; draft GHG inventory – BARCAP region; transportation; residential and commercial buildings; electricity generation (power); waste and materials management; agricultural/natural and working lands; and BARCAP next steps.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed the fact that the United States Environmental Protection Agency (US EPA) provided a separate climate planning grant to Santa Clara County, and appreciation for the 2022 greenhouse gas inventory for the BARCAP region.

Committee Action

No action taken.

7. OVERVIEW OF AIR DISTRICT’S HEAVY-DUTY EQUIPMENT GRANT PROGRAMS AND SUMMARY OF RESULTS FOR CALENDAR YEAR 2024

Alona Davis, Strategic Incentives Manager, and Adriana Kolev, Senior Staff Specialist, gave the staff presentation *2024 Annual Report on Heavy-Duty Equipment Grants*, including: background – heavy-duty equipment grants, primary funding sources, project types, cost-effectiveness, priority areas, Strategic Plan; 2024 project summary – contracted projects and emissions reduced; 2024 highlight - greatest emissions reduced, most cost-effective, zero-emission (ZE) funding, priority communities; 2024 program summary; Strategic Plan – improving grant implementation and new programs and tools.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed the amount of pollution emitted by a single diesel truck per day; whether the public should be more concerned about the health impacts from Particulate Matter (PM)₁₀ or PM_{2.5}; whether road weight of vehicles and subsequent road repair is incorporated in the Air District's cost benefit analysis calculations; and whether the Air District plans to build a new grants management system or customize an existing system.

Committee Action

No action taken.

8. STATUS OF THE CALIFORNIA AIR RESOURCES BOARD (CARB) CLEAN AIR ACT WAIVER REQUESTS

Mr. Abbs gave the staff presentation *Status of the California Air Resources Board Clean Air Act Waiver Requests*, including: CARB Clean Air Act waivers and authorizations; what is the Congressional Review Act (CRA); how does the CRA work; proposed congressional disapprovals (US EPA); and does the CRA impact the California waivers?

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed the CRA's lookback provision; whether certain US EPA determinations would be subject to the CRA; next steps, were the Clean Air Act waivers to be invalidated, which entity would decide whether the approach that is taken is the correct one.

Committee Action

No action taken.

OTHER BUSINESS

9. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

10. COMMITTEE MEMBER COMMENTS

None.

11. TIME AND PLACE OF NEXT MEETING

Wednesday, April 16, 2025, at 10:00 a.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Policy, Grants, and Technology Committee members and members of the public will be able to either join in-person or via webcast.

Adjournment

The meeting was adjourned at 12:59 p.m.

Attachments

- #3 – Approval of the Draft Minutes of the Policy, Grants, and Technology Special Committee Meeting of February 26, 2025
- #4 – State Legislative Update
- #5 – Update on Interstate 580 Truck Access Study
- #6 – Update on the Bay Area Regional Climate Action Plan Initiative
- #7 – Overview of Air District’s Heavy-Duty Equipment Grant Programs and Summary of Results for Calendar Year 2024
- #8 – Status of the California Air Resources Board Clean Air Act Waiver Requests

BOARD MEETING DATE: April 2, 2025

REPORT: Finance and Administration Committee

SYNOPSIS: The Finance and Administration (Committee) held a special meeting on Wednesday, March 19, 2025. The following is a summary of the meeting.

RECOMMENDED ACTION:

Receive and file.

Lynda Hopkins, Chair
Finance and Administration Committee

LH:mh

CALL TO ORDER:

Finance and Administration Committee (Committee) Chairperson, Lynda Hopkins, called the meeting to order at 1:18 p.m.

Roll Call:

Present, In-Person (Bay Area Metro Center (375 Beale Street, 1st Floor Board Room, San Francisco, California, 94105): Chairperson Lynda Hopkins; Vice Chairperson Tyrone Jue; and Directors Juan González III, Sergio Lopez, and Vicki Veenker.

Absent: Directors Noelia Corzo and David Haubert.

For additional details of the Finance and Administration Committee Meeting, please refer to the webcast, which can be found [here](#). 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 SPECIAL COMMITTEE MEETING OF FEBRUARY 26, 2025

The Committee considered approving the Draft Minutes of the Finance and Administration Special Committee Meeting of February 26, 2025.

4. AUTHORIZATION TO AMEND THE MASTER SERVICES AGREEMENT WITH KBM-HOGUE FOR WORKPLACE FURNITURE DESIGN, PROCUREMENT, AND INSTALLATION SERVICES AT THE AIR DISTRICT'S BEALE STREET HEADQUARTERS

The Committee considered authorizing the Executive Director/Air Pollution Control Officer (APCO) to amend the Air District's Master Services Agreement with KBM-Hogue to increase the total not-to-exceed amount of the agreement by \$750,000, from \$95,837.25 to \$845,837.25, and to extend the term of the agreement through September 21, 2029, to provide workplace furniture design, procurement, and installation services at Air District's Beale Street Headquarters.

Public Comments on Items 3 – 4

No requests received.

Committee Comments on Items 3 – 4

None.

Committee Action on Items 3 – 4

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

AYES:	González, Hopkins, Jue, Lopez, Veenker.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Corzo, Haubert.

ACTION ITEMS

5. CONDUCT INTERVIEWS AND CONSIDER RECOMMENDING BOARD OF DIRECTORS APPROVAL OF CANDIDATES FOR APPOINTMENT TO THE AIR DISTRICT'S HEARING BOARD

Hyacinth Hinojosa, Deputy Executive Officer of Finance and Administration, and Joseph Huynh, Principal Human Resources Analyst, gave the staff presentation *Recommendation of Candidates for the Air District's Hearing Board*, including: background – Administrative Code; vacancies; recruitment; current Hearing Board members and terms; current Hearing Board members' attendance; suggestion for recommending candidates.

Mr. Hinojosa explained that the terms of four current Hearing Board members were to expire on April 6, 2025:

- Principal A Member in the Public category
- Principal Member in the Attorney category
- Alternate Member in the Attorney category
- Principal Member in the Medical category

For three of those seats, the current incumbents had applied to continue serving for an additional term. The fourth was not seeking re-appointment.

In addition, there was one vacant seat, the Alternate Member A seat in the Public category.

Accordingly, there were five positions in total to be filled – with three current incumbents who had applied to continue their service.

Air District staff conducted a robust recruitment process to fill these positions. Outreach and advertisement included listings on 12 job boards, with a focus on diversity, volunteering, medical professions, and attorney professions. The job posting remained open for six weeks, during which, nine applications were received.

Staff conferred with an Ad Hoc Committee of the Finance and Administration Committee to consider and obtain feedback on the process for considering these applications. After considering the input from the Ad Hoc Committee, staff suggested that the Finance and Administration Committee make a recommendation that the Board **reappoint** the three currently-serving Hearing Board members who wished to continue for another term after their current terms expire on April 6, 2025. These three currently-serving members were:

- Valerie J. Armento – Principal member (Attorney Category)
- Peter Y. Chiu – Principal member (Medical Category)
- Amelia Timbers – Principal member A (Public Category)

Staff further suggested that the Committee conduct interviews of all the applicants for the other two seats (alternate in Attorney category and alternate in Public category) to be filled, to make recommendations to the Board.

Public Comments

No requests received.

Committee Comments

Chair Hopkins explained that herself and fellow Board members, John Gioia and Vicki Veenker, formed an ad hoc committee to vet the three Hearing Board incumbents. The ad hoc committee's recommendation to the Committee was to reappoint the three incumbents without interviewing them. When Chair Hopkins asked the Committee if it was comfortable with the ad hoc committee's recommendation, the consensus of the Committee members present was to recommend that the Board reappoints the three Hearing Board member incumbents.

Regarding the two alternate Hearing Board positions that also needed to be filled, Chair Hopkins stated that, due to an interview scheduling error, candidate Jennifer Pierce could no longer attend the March 19, 2025 Committee meeting. Chair Hopkins asked the Committee if it wished to conduct interviews for the alternate positions of the four candidates who would be present on March 19, but wait to vote until Ms. Pierce could be

interviewed at Committee’s April meeting. The consensus of the Committee members present was to conduct interviews today of the candidates that could be present on March 19, and wait to vote on both alternate positions until the Committee’s April meeting.

The Committee then conducted interviews of four candidates who were applying for various vacant alternate seats on the Air District’s Hearing Board. The candidates were asked the following questions by the Committee: What do you understand the Hearing Board’s function to be and how will you use your own lived experience to enhance the work of the Hearing Board; What makes you stand out as a candidate for the Hearing Board (please include anything you have done to help serve your community); why they became interested in this opportunity and how their accomplishments have strengthened their candidacy; whether things from their personal or professional backgrounds may conflict with serving on the Hearing Board; whether they has viewed or observed the Air District’s Hearing Board meetings; and their availability to serve on the Hearing Board.

Chair Hopkins explained to each candidate that the Committee would not vote on the positions of Alternate member in the Public category, nor the Alternate member in the Attorney category, until the April meeting, as a fifth candidate was unable to accommodate the last-minute interview time change on March 19, 2025.

Committee Action

Director González made a motion, seconded by Director Veenker, to recommend the Board approve the re-appointments of the three incumbent Hearing Board members who were eligible for reappointment, were seeking re-appointment, and whose current Hearing Board terms expire on April 6, 2025:

- Amelia Timbers as Principal Member A in the Public category of the Hearing Board
- Valerie J. Armento as Principal Member in the Attorney category of the Hearing Board
- Peter Y. Chiu as Principal Member in the Medical category of the Hearing Board

The motion carried by the following vote of the Committee:

AYES: González, Hopkins, Jue, Lopez, Veenker.
NOES: None.
ABSTAIN: None.
ABSENT: Corzo, Haubert.

6. PROPOSED FISCAL YEAR (FY) 2025-2026 BUDGET AND FEE REGULATION AMENDMENTS

Mr. Hinojosa, Stephanie Osaze, Director of Finance, and Fred Tanaka, Manager in the Engineering Division, gave the staff presentation *Proposed FY 20205-2026 Budget and Fee Regulations Amendments*, including: outline; background; budget highlights; financial forecast; budget summary – ongoing investments and new investments; FY 2025-2026 All Funds Budget by revenue and expense type; FY 2025-2026 General Fund (GF) Budget by type; GF reserves trend; GF Reserve Policy overview; FY 2025-2026 GF

reserve designations; medical retiree plan funding status/policy; pension plan funding status/policy; FY 2025-2026 budget by service area; service areas: Engineering and Compliance, Equity and Community Programs, Finance and Administration, General Counsel; Information Management; Public Affairs, Science and Policy; staffing overview intro slide; Assembly Bill (AB) 617 grant funding; AB 617 staffing requested; Community Benefit Fund; community benefit administrative funding and staffing; Community Air Protection (CAP) administrative funding; California Air Protection Admin overhead staffing; shifting from professional services to support staffing and efficiency; additional staffing request based on other cost savings; facility-funded pilot; accessing designated reserves for Limited Term Contract Employees (LTCE) staffing; organizational efficiency add/delete positions; cost recovery background; cost recovery limitations; cost recovery background trends; cost recovery strategies; proposed fee regulation amendments; small business definition comparison; other changes; impact on large and small facilities; budget and fee regulation schedule; and recommended action.

Public Comments

Public comments were given by Bob Brown, Western States Petroleum Association; and Peter Okurowski, California Council for Environmental and Economic Balance.

Committee Comments

The Committee and staff discussed concerns about GF reserve designations; why the Air District's current funding level is not closer to 90% if there is so much in reserves; where staff would spend more funds, if the Board gave the direction to spend more; whether FTEs are fully-burdened; the difficulty in forecasting fee revenues and recovery out five years; the rationale for recommending updating the gross receipts limit be updated to \$1,500,000; the marsh management fee schedule, and whether that is different from prescribed burning; the proposed timeline for a permit application tracking system; the Air District's year-end savings policy and history over the last five years; best practices for unfunded pension liabilities: appreciation for integrating the budget and fees in a single document.

Committee Action

Director González made a motion, seconded by Director Veenker, to recommend the Board proceed with the public hearing on (FY) 2025-2026 Budget And Fee Regulation Amendments in May 2025 and adopt the FY 2025-2026 Proposed Budget and Fee Amendments, with the provision that the Finance and Administration Committee will revisit interest that the Air District is earning on its reserves, unfunded pension liability, and considerations of adjustments to the trust fund at its April meeting; and the motion carried by the following vote of the Committee:

AYES:	González, Hopkins, Jue, Lopez, Veenker.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Corzo, Haubert.

OTHER BUSINESS

7. PUBLIC COMMENTS ON NON-AGENDA MATTERS

No requests received.

8. COMMITTEE MEMBER COMMENTS

None.

9. TIME AND PLACE OF NEXT MEETING

Wednesday, April 16, 2025, at 1:00 p.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Finance and Administration Committee members and members of the public will be able to either join in-person or via webcast.

Adjournment

The meeting was adjourned at 3:47 p.m.

Attachments

- #3 – Approval Of The Draft Minutes Of The Finance And Administration Special Committee Meeting Of February 26, 2025
- #4 – Authorization To Amend The Master Services Agreement With Kbm-Hogue For Workplace Furniture Design, Procurement, And Installation Services At The Air District's Beale Street Headquarters
- #5 – Conduct Interviews And Consider Recommending Board Of Directors Approval Of Candidates For Appointment To The Air District's Hearing Board
- #6 – Proposed Fiscal Year (Fy) 2025-2026 Budget And Fee Regulation Amendments

BOARD MEETING DATE: April 2, 2025

REPORT: Community Advisory Council

SYNOPSIS: The Community Advisory Council (Council) held a meeting on Thursday, March 20, 2025. The following is a summary of the meeting.

RECOMMENDED ACTION:

Receive and file.

John Kevin Jefferson, Co-Chair
Mayra Pelagio, Co-Chair
Ken Szutu, Co-Chair
Community Advisory Council

JKJ/MP/KS:mh

CALL TO ORDER - ROLL CALL

The meeting Facilitator, Randolph Belle of Randolph Belle, Artist (RBA) Creative, called the Community Advisory Council (Council) in-person meeting to order at 6:01 p.m.

Roll Call:

Present, In Person: (Bay Area Metro Center, 375 Beale Street, 1st Floor Board Room, San Francisco, CA, 94105): Council Co-Chairpersons Mayra Pelagio and Ken Szutu; and Council Members Sejal Babaria, William Goodwin, Ms. Margaret Gordon, Arieann Harrison, Patrick Messac, Dominick Ramirez, Dr. Jeff Ritterman, Violet Saena, and Latasha Washington.

Absent: Council Co-Chairperson John Kevin Jefferson; and Council Members Dr. Juan Aguilera, Rio Molina, Cynthia Prieto-Diaz, and Kevin G. Ruano Hernandez.

For additional details of the Community Advisory Council Meeting, please refer to the webcast, [which can be found here](#). Please use the webcast's index to view specific agenda items.

2. REPORT OF THE EXECUTIVE OFFICER / AIR POLLUTION CONTROL OFFICER (APCO)

On behalf of Dr. Philip M. Fine, Executive Officer / APCO, Arsenio Mataka, Deputy Executive Officer of Equity & Community Programs, reported the following:

- Thank you to Diana Ruiz, who has been/currently is serving as Acting Director of the Environmental Justice Division since December 2024.
- [The Clean HEET program](#) is accepting applications with expanded funding options. The deadline to apply is 5:00 PM PST on April 30, 2025. The Clean HEET Program was developed by the Air District to reduce wintertime wood-smoke pollution and improve air quality. The program incentivizes Bay Area homeowners to remove and/or replace their existing, operational, freestanding wood-burning stoves or pellet stoves, fireplace inserts, or open-hearth fireplaces with electric heat pumps. Funds will be prioritized for award to homeowners in the AB 617 communities of West Oakland, East Oakland, Richmond-San Pablo, and Bayview Hunters Point/Southeast San Francisco, and homes that are in disadvantaged and low-income communities identified by [California's Climate Investments Priority Populations Mapping tool](#).
- Since January 2025, the White House has indicated that efforts to align funding with the administration's priorities are ongoing. The Air District's commitment to protecting air quality, the climate and the health of Bay Area residents is stronger than ever. Regardless of changes at the federal level, we will continue to enforce strong regulations, advance clean air policies and work with our communities to reduce pollution, and safeguard public health. Our region has long been a leader in air quality, climate action and environmental justice, and we will continue to push forward with innovative solutions to meet our mission to improve air quality to protect public health, reduce historical and current environmental inequities, and mitigate climate change and its impacts.

Public Comments

No requests received.

Council Comments

The Council and staff discussed why the Council was not asked to provide input on candidates for the position of Acting Director of the Environmental Justice Division when the position became needed in December 2024; appreciation for the Air District's resolve to uphold and prioritize environmental justice and Diversity, Equity, and Inclusion, during times of political uncertainty and recent federal actions; and the Clean HEET's target goals, and results from previous wood smoke reduction incentive programs led by the Air District.

NOTED PRESENT: Council Member Saena was noted present at 6:15 p.m.

Council Action

No action taken.

3. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

CONSENT CALENDAR

4. APPROVAL OF THE DRAFT MINUTES OF THE COMMUNITY ADVISORY COUNCIL MEETING OF NOVEMBER 21, 2024

Public Comments

No requests received.

Council Comments

None.

Council Action

Council Member Goodwin made a motion, seconded by Council Member Ms. Margaret Gordon, to **approve** the Draft Minutes of the Community Advisory Council Special Meeting of November 21, 2024; and the motion **carried** by the following vote of the Council:

AYES: Babaria, Goodwin, Gordon, Harrison, Messac, Pelagio, Ramirez, Ritterman, Saena, Szutu, Washington.
NOES: None.
ABSTAIN: None.
ABSENT: Aguilera, Jefferson, Molina, Prieto-Diaz, Ruano Hernandez.

Motion Approved.

ACTION ITEMS

5. VOTE TO CREATE A MEMBER SELECTION AD HOC COMMITTEE

Lisa Flores, Staff Specialist II, gave the staff presentation *Vote on the Creation of a Member Selection Ad Hoc Committee*, including: outcome; outline; requested action; background; Council terms; Council seats; council composition; recruitment and outreach; process and timeline; Board of Directors (Board) selection criteria; Council's role in selection process; and Board's role in selection process.

Public Comments

No requests received.

Council Comments

The Council and staff discussed reasons for criteria that formed the inaugural Council's composition of members, and how to change that criteria, moving forward; desire for staff recommendation documentation regarding the inaugural Council, including analyses that may have informed the inaugural Council's composition; and the Board's involvement in appointing the inaugural Council.

Council Actions

Council Member Messac made a motion, seconded by Council Member Saena, to **create** an Ad Hoc Committee that will select Council Member candidates to fill 13 open Council seats, and then recommend the slated candidates to the Board's Community Equity, Health, and Justice (CEHJ) Committee, prior to the Board's final consideration. The Member Selection Ad Hoc Committee members appointed were Council Members Sejal Babaria, Cynthia Prieto-Diaz, Mayra Pelagio (who announced that she will not be reapplying), as well as Board member, Noelia Corzo.

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

AYES: Babaria, Goodwin, Gordon, Harrison, Messac, Pelagio, Ramirez, Ritterman, Saena, Szutu, Washington.
NOES: None.
ABSTAIN: None.
ABSENT: Aguilera, Jefferson, Molina, Prieto-Diaz, Ruano Hernandez.

Motion Approved

THE COUNCIL RECESSED AT 6:45 P.M., AND RESUMED AT 6:57 P.M.

6. COMMUNITY BENEFIT FUND (CBF) DISBURSEMENT PLAN RECOMMENDATION

Arsenio Mataka, Deputy Executive Officer Equity and Community Programs, Council Member William Goodwin, and Council Member Latasha Washington, gave the presentation *Community Benefit Fund Disbursement Plan Recommendation*, including: outcome; outline; requested action; background; basic elements of all funding distribution options – grant program goals, eligible applicants and projects, funding tiers, grant administration and accountability, CBF Ad Hoc Committee recommendation and alternatives; CBF Ad Hoc recommendation: People's Air Grant Program (PAGP) – PAGP grantmaking process, timeline, implementation challenges; alternatives discussed and considered – funding pathways considered, participatory project type selection grantmaking process and timeline, direct grantmaking process with Council review and timeline; and next steps.

Public Comments

No requests received.

Council Comments

The Council and staff discussed regarding public votes to determine funding prioritization, who would be eligible to vote; suggestions of changing “public” to “residents of the impacted area” so that only people living in the impacted area may vote; concerns regarding potential applicants (students) who may not meet the 501(c)(3) nonprofit or public agency partner requirement; concerns regarding overhead and administration costs; the contract amount that was spent on the consultant that helped develop these options, and whether that fee came from the \$3 million intended to be community-directed; whether voting would pertain to all three proposed funding tiers, and whether Air District staff would have the final say; anticipated online voting challenges, and whether in-person voting could be prioritized; staff resources to execute CBF disbursement; desire to expand community outreach beyond social media; the request for a language access for CBF disbursement; the suggestion of reducing project allocations so that more projects can be funded in more communities; concerns about the proposed timeline of dispersing funds; whether Option 3 will ensure that disparities are addressed across the 9-county Bay Area jurisdiction; whether information technology support costs are already budgeted for the online voting component; which entity would select the consultants that would help develop projects; whether projected administrative costs are shown/included for options 2 and 3; any of the options allow fiscal sponsors; whether elements of the different options may be combined; the request for more research on proposed ideas from the consultant that CBF Ad Hoc Committee hired; how to identify the geographic areas in which projects can be awarded; and how long deliberation amongst the Council may last (regarding this item).

Council Action

Three different process options for disbursing the \$3 million Community Benefit Fund were presented to the Council during the presentation and all shared the same core elements of the People’s Air Grant Program:

1. Recommendation: People’s Air Grant Program
2. Alternative Option 2: Participatory Project Type Selection
3. Alternative Option 3: CAC Proposal Review & Selection

Within the presentation, the CBF Ad Hoc Committee formally recommended that the Council recommend that the Board’s CEHJ Committee recommend The People’s Air Grant Program as the plan for the Community Benefit Fund (\$3 million) to the Board of Directors for approval. Following the Council’s discussion of the options, no motion supporting the People’s Air Grant Program was put forth.

Council Member Messac made a motion, seconded by Council Member Harrison, to recommend the Board **approves** Alternative Option 3: Community Advisory Council

Proposal Review & Selection, with the following amendments: administrative costs will be capped at the same level as those of receiving community-based organizations; equity issues regarding online public voting will be addressed ; impacted communities will be prioritized by using CalEnviroScreen 4.0.; and the creation of another ad hoc committee to support the execution of Option 3.

The maker of this motion rescinded the motion, and no vote was taken.

Then Council Member Messac made a motion, seconded by Council Member Gordon, to take no action on at the Council's March 20, 2025 meeting, and revisit the three options for the CBF disbursement at the Council's May retreat, during which, the Council will review additional information on participatory engagement, associated costs, and tradeoffs for the three options. Prior to the vote, Co-Chair Pelagio made a friendly amendment to look for opportunities for community participation. Council Members Messac and Gordon accepted the amendment and motioned to revisit the model for Community Benefit Fund at the Council's May retreat, with the amendments that administrative costs will be capped at the same level as those of receiving community-based organizations, and looking at opportunities for community participation and associated costs and tradeoffs.

The motion **did not pass**, due to the fact that a majority of 16 Council members (9) was not established:

AYES: Babaria, Goodwin, Gordon, Harrison, Messac, Ritterman, Saena, Szutu.

NOES: Ramirez, Washington.

ABSTAIN: Pelagio.

ABSENT: Aguilera, Jefferson, Molina, Prieto-Diaz, Ruano Hernandez.

Motion failed

Then Council Member Washington made a motion, seconded by Council Member Saena, to recommend that the Council recommend that the Board's CEHJ Committee recommend Option #3: "The People's Air Grant Program" as a Direct Grantmaking Process with Council Proposal Review & Selection to the Board for approval, with the amendment that environmental justice community members would be included in the project application review process. Prior to the vote, Mr. Mataka noted that this motion would have to include the caveat, "if feasible, as determined through legal review." The maker and seconder of the motion agreed to the suggested amended language. The final motion was:

Council Member Washington made a motion, seconded by Council Member Saena, to recommend that the Council recommend that the Board's CEHJ Committee recommend Option #3: "The People's Air Grant Program" as a Direct Grantmaking Process with Council Proposal Review & Selection to the Board for approval, with the amendment that environmental justice community members would be included in the project application review process, if feasible, as determined through legal review.

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

AYES: Babaria, Goodwin, Gordon, Harrison, Messac, Pelagio, Ramirez, Ritterman, Saena, Szutu, Washington.
NOES: None.
ABSTAIN: None.
ABSENT: Aguilera, Jefferson, Molina, Prieto-Diaz, Ruano Hernandez,

Motion Approved

INFORMATIONAL ITEM

7. UPDATE OF THE AIR DISTRICT'S REGULATORY AIR MONITORING NETWORK

This item was tabled, due to lack of time.

OTHER BUSINESS

8. COMPLIANCE AND ENFORCEMENT AD HOC COMMITTEE UPDATE

This item was tabled, due to lack of time.

9. COUNCIL MEMBER COMMENTS

Council Member Messac encouraged Air District staff to maintain the Council's meeting schedule, and not cancel meetings without the Council Co-Chair's input, so that matters and discussions are not delayed, despite potentially contentious topics.

10. TIME AND PLACE OF NEXT MEETING

Friday-Saturday, May 16-17, 2025. The special meeting will be an in-person retreat for the Community Advisory Council members and members of the public will be able to either join in-person or via webcast. Location to be determined.

Adjournment

The meeting was adjourned at 9:26 p.m.

Attachments

- #4– Draft Minutes of the Community Advisory Council Meeting of November 21, 2024
- #5– Vote to Create a Member Selection Ad Hoc Committee
- #6– Community Benefit Fund Disbursement Plan Recommendation
- #7 – Update of the Air District's Regulatory Air Monitoring Network

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: Consideration of State Legislation

RECOMMENDED ACTION

Recommend the Board of Directors (Board) adopt the following positions on current State Legislation introduced in the California State Assembly (AB) or California State Senate (SB):

- Oppose AB 339 (Ortega) – Local public employee organizations: notice requirements
- Oppose AB 1368 (Wallis) – Smog check: exemption
- Oppose SB 712 (Grove) – Smog check: exemption
- Oppose SB 318 (Becker) – Air pollution: stationary sources: best available control technology; indirect sources

And recommend the Board discuss and either take a position or take no position on the following current legislation:

- AB 1226 (Essayli) – Air quality: wildland vegetation management burning: permits: exemption

The Policy, Grants, and Technology Committee (Committee) voted to recommend the Board take an "Oppose" position on AB 339 (Ortega), AB 1368 (Wallis) and SB 712 (Grove) at its meeting on March 19, 2025.

In addition, at its meeting on March 19, 2025, the Committee discussed and considered the staff recommendation to recommend the Board oppose AB 1226 (Essayli). A motion was made to recommend the Board adopt a position of "Oppose Unless Amended" – the vote result was 5 in favor and 3 opposed, however the motion did not carry, due to the fact that a majority of 11 Committee members (6) did not vote in favor. A second motion was made to recommend the Board as a whole discuss and consider AB 1226 (Essayli) with no recommendation from the Committee – the motion carried.

Air District staff recommend taking an "Oppose" position on SB 318 (Becker). The staff recommendation has not been considered or voted on by the Committee.

BACKGROUND

The first year of the two-year 2025-26 State Legislative Session began on December 2, 2024. The Legislature reconvened on January 6, 2025, and the last day for the introduction of bills was February 21, 2025. Bills can be heard in committee 31 days after being introduced, with mid-March as the start of committee bill hearings.

At the March 19, 2025, Committee meeting, the Committee discussed and considered the staff recommendations for AB 339 (Ortega), AB 1226 (Essayli), AB 1368 (Wallis), and SB 712 (Grove). AB 1226 (Essayli) was pulled by the Committee for separate consideration. A motion was made to recommend the Board adopt a position of "Oppose Unless Amended" for AB 1226 (Essayli) with amendments to include a sunset date provision of 3 to 5 years and the bill will only apply to wildland vegetation management burning – the vote result was 5 in favor and 3 opposed, however the motion did not carry, due to the fact that a majority of 11 Committee members (6) did not vote in favor.

A second motion was considered to recommend that the Board discuss and consider AB 1226 (Esasyli) with no recommendation from the Committee. That motion carried. Then, the Committee approved the other three staff recommendations to recommend to the Board that the Board adopt an "Oppose" position for AB 339 (Ortega), AB 1368 (Wallis), and SB 712 (Grove).

The Committee did not consider nor recommend a position for SB 318 (Becker) at the meeting on March 19, 2025, as it was still a spot bill at the time of the Committee meeting with no substantive language to consider.

DISCUSSION

The Board will consider the Committee's recommendations to adopt the following positions on current State legislation:

AB 339 (Ortega) – Local public employee organizations: notice requirements.

CapitolTrack Summary: The Meyers-Milias-Brown Act contains various provisions that govern collective bargaining of local represented employees and delegates jurisdiction to the Public Employment Relations Board to resolve disputes and enforce the statutory duties and rights of local public agency employers and employees. Current law requires the governing body of a public agency to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations. Current law requires the governing body of a public agency, and boards and commissions

designated by law or by the governing body, to give reasonable written notice, except in cases of emergency, as specified, 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 governing body or the designated boards and commissions. This bill would require the governing body of a public agency, and boards and commissions designated by law or by the governing body of a public agency, to give the recognized employee organization no less than 120 days' written notice before issuing a request for proposals, request for quotes, or renewing or extending an existing contract to perform services that are within the scope of work of the job classifications represented by the recognized employee organization. The bill would require the notice to include specified information, including the anticipated duration of the contract. (Based on 01/28/2025 text)

Status: AB 339 was introduced on January 28, 2025, and was referred to the Assembly Public Employment and Retirement Committee and was heard on March 19, 2025. The bill passed favorably and has been referred to the Assembly Appropriations Committee – hearing date pending.

Committee Recommendation: Oppose

AB 1368 (Wallis) – Smog check: exemption.

Existing law establishes a motor vehicle inspection and maintenance (smog check) program that is administered by the Department of Consumer Affairs. The smog check program requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts specified vehicles from being inspected biennially upon renewal of registration, including, among others, all motor vehicles manufactured prior to the 1976 model year. Existing law also exempts from specified portions of the smog test a collector motor vehicle that is insured as a collector motor vehicle, is at least 35 model years old, complies with the exhaust emissions standards for that motor vehicle's class and model year as prescribed by the department, and that passes a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks. This bill would extend the above exemption from vehicles that were manufactured prior to the 1976 model year, to any motor vehicle that is 30 or more model years old. (Based on 03/24/2025 text)

Status: AB 1368 was introduced on February 21, 2025, as a spot bill and was amended on March 24, 2025, to include substantive language. This bill has been referred to the Assembly Transportation Committee – hearing date pending.

Committee Recommendation: Oppose

SB 712 (Grove) – Smog check: exemption.

CapitolTrack Summary: Existing law establishes a motor vehicle inspection and maintenance (smog check) program that is administered by the Department of Consumer Affairs. The smog check program requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts specified vehicles from being inspected biennially upon renewal of registration, including, among others, all motor vehicles manufactured prior to the 1976 model year. Existing law also exempts from specified portions of the smog test, both biennially and at transfer, a collector motor vehicle that is insured as a collector motor vehicle, is at least 35 model years old, complies with the exhaust emissions standards for that motor vehicle's class and model year as prescribed by the department, and that passes a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks. This bill would delete the above partial smog check exemption for collector motor vehicles from existing law. Instead, the bill would fully exempt a collector motor vehicle from the smog check requirement, both biennially and at transfer, if the vehicle is at least 35 model years old. The bill would be known, and may be cited as, Leno's Law. (Based on 03/24/2025 text)

Status: SB 712 was introduced on February 21, 2025, and was amended on March 24, 2025. This bill has been referred to the Senate Transportation Committee – hearing scheduled for April 8, 2025.

Committee Recommendation: Oppose

The Board will consider the Committee's recommendation to discuss and consider the following current State legislation:

AB 1226 (Essayli) – Air quality: wildland vegetation management burning: permits: exemption.

CapitolTrack Summary: Current law authorizes the State Air Resources Board to designate public fire protection agencies or other equivalent agencies to issue permits, subject to the rules and regulations of the state board, for agricultural burning, which includes wildland vegetation management burning, as specified. This bill would revise those provisions to also require the state board to designate those agencies to oversee agricultural burning activities and to adopt rules and regulations to ensure those activities are conducted safely and effectively. The bill would exempt wildland vegetation management burning from the above-described permit requirement if that activity is conducted by, or under the supervision of, the applicable agency designated by the state board. The bill would require the state board to develop guidelines and best practices for wildland vegetation management burning to ensure public safety and environmental protection. (Based on 02/21/2025 text)

Status: AB 1226 was introduced on February 21, 2025, and has been referred to the Assembly Natural Resources Committee – hearing date pending.

Staff note: The Committee discussed and considered the staff recommendation to recommend the Board oppose AB 1226 (Essayli) at their meeting on March 19, 2025.

A motion was made to recommend the Board adopt a position of "Oppose Unless Amended" – the vote result was 5 in favor and 3 opposed, however the motion did not carry, due to the fact that a majority of 11 Committee members (6) did not vote in favor.

A second motion was made to recommend the Board as a whole discuss and consider AB 1226 (Essayli) with no recommendation from the Committee – the motion carried.

Committee Recommendation: Discuss and Consider

The Board will consider the staff recommendation to adopt the following position on current State legislation:

SB 318 (Becker) – Air pollution: stationary sources: best available control technology: indirect sources.

CapitolTrack Summary: Current law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Current law authorizes air districts to adopt and implement regulations to reduce or mitigate emissions from indirect sources of air pollution. This bill would authorize the state board to adopt and enforce rules and regulations applicable to indirect sources of emissions, as specified. If the state board elects to exercise that authority, the bill would require the state board to establish a schedule of fees on facilities and mobile sources to cover the reasonable costs of implementing and enforcing the regulations and would require the fees to be deposited in the Air Pollution Control Fund and made available to the state board upon appropriation by the Legislature. (Based on 03/26/2025 text)

Status: SB 318 was introduced on February 11, 2025, as a spot bill, and was amended on March 26, 2025 – Committee referral pending.

Staff Recommendation: Oppose

Additional bill information may be found on the [California Legislative Information](#) website.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Alan Abbs

Reviewed by: Viet Tran

ATTACHMENT(S):

1. AB 339 (Ortega) - Bill Text - As Introduced on January 28, 2025
2. AB 1368 (Wallis) - Bills Text - As Amended on March 24, 2025
3. SB 712 (Grove) - Bill Text - As Amended on March 24, 2025
4. AB 1226 (Essayli) - Bill Text - As Introduced on February 21, 2025
5. SB 318 (Becker) - Bill Text - As Amended on March 26, 2025
6. Consideration of State Legislation Presentation

ASSEMBLY BILL

No. 339

Introduced by Assembly Member Ortega

January 28, 2025

An act to add Section 3504.1 to the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 339, as introduced, Ortega. Local public employee organizations: notice requirements.

Existing law, the Meyers-Milias-Brown Act, contains various provisions that govern collective bargaining of local represented employees and delegates jurisdiction to the Public Employment Relations Board to resolve disputes and enforce the statutory duties and rights of local public agency employers and employees. Existing law requires the governing body of a public agency to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations.

Existing law requires the governing body of a public agency, and boards and commissions designated by law or by the governing body, to give reasonable written notice, except in cases of emergency, as specified, 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 governing body or the designated boards and commissions.

This bill would require the governing body of a public agency, and boards and commissions designated by law or by the governing body of a public agency, to give the recognized employee organization no less than 120 days' written notice before issuing a request for proposals,

request for quotes, or renewing or extending an existing contract to perform services that are within the scope of work of the job classifications represented by the recognized employee organization. The bill would require the notice to include specified information, including the anticipated duration of the contract. The bill would also require the public agency, if an emergency or other exigent circumstance prevents the public agency from providing the written notice described above, to provide as much advance notice as is practicable under the circumstances. If the recognized employee organization demands to meet and confer within 30 days of receiving the written notice, the bill would require the public agency and recognized employee organization to promptly meet and confer in good faith, as specified. By imposing new duties on local public agencies, the bill would impose a state-mandated local program.

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

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that a local agency or school district may pursue any available remedies to seek reimbursement for these costs.

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

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

- 1 SECTION 1. Section 3504.1 is added to the Government Code,
- 2 immediately following Section 3504, to read:
- 3 3504.1. (a) Except as provided in subdivision (c), the
- 4 governing body of a public agency, and boards and commissions
- 5 designated by law or by the governing body of a public agency,
- 6 shall give the recognized employee organization no less than 120
- 7 days' written notice before issuing a request for proposals, request
- 8 for quotes, or renewing or extending an existing contract, to
- 9 perform services that are within the scope of work of the job
- 10 classifications represented by the recognized employee
- 11 organization.
- 12 (b) The written notice specified in subdivision (a) shall include
- 13 all of the following:

- 1 (1) The anticipated duration of the contract.
- 2 (2) The scope of work under the contract.
- 3 (3) The anticipated cost of the contract.
- 4 (4) The draft solicitation, or if not yet drafted, any information
- 5 that would normally be included in a solicitation.
- 6 (5) The reason the public agency believes the contract is
- 7 necessary.
- 8 (c) If an emergency or other exigent circumstance prevents the
- 9 public agency from providing the amount of notice required by
- 10 subdivision (a), the public agency shall provide as much advance
- 11 notice as is practicable under the circumstances.
- 12 (d) If the recognized employee organization demands to meet
- 13 and confer within 30 days of receiving the written notice, the public
- 14 agency and recognized employee organization shall promptly meet
- 15 and confer in good faith relating to the public agency's proposed
- 16 decision to enter into the contract and any negotiable effects
- 17 thereof.
- 18 (e) At the request of the exclusive representative, the parties
- 19 shall reopen negotiations on all or a part of a memorandum of
- 20 understanding to reach a mutual agreement concerning the subjects
- 21 set forth in subdivisions (a) and (b).
- 22 (f) (1) This section shall not diminish any rights of an employee
- 23 or recognized employee organization provided by law or a
- 24 memorandum of understanding.
- 25 (2) This section shall not invalidate any provision of a
- 26 memorandum of understanding in effect on the operative date of
- 27 this section.
- 28 SEC. 2. No reimbursement shall be made pursuant to Part 7
- 29 (commencing with Section 17500) of Division 4 of Title 2 of the
- 30 Government Code for costs mandated by the state pursuant to this
- 31 act. It is recognized, however, that a local agency or school district
- 32 may pursue any remedies to obtain reimbursement available to it
- 33 under Part 7 (commencing with Section 17500) and any other law.

O

AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE—2025—26 REGULAR SESSION

ASSEMBLY BILL

No. 1368

Introduced by Assembly Member Wallis

February 21, 2025

An act to amend Section 44011 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1368, as amended, Wallis. Smog check: exemption.

Existing law establishes a motor vehicle inspection and maintenance (smog check) program that is administered by the Department of Consumer Affairs. The smog check program requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts specified vehicles from being inspected biennially upon renewal of registration, including, among others, all motor vehicles manufactured prior to the 1976 model year. Existing law also exempts from specified portions of the smog test a collector motor vehicle that is insured as a collector motor vehicle, is at least 35 model years old, complies with the exhaust emissions standards for that motor vehicle's class and model year as prescribed by the department, and that passes a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks.

~~This bill would make nonsubstantive changes to the above provision.~~

This bill would extend the above exemption from vehicles that were manufactured prior to the 1976 model year, to any motor vehicle that is 30 or more model years old.

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

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

1 SECTION 1. Section 44011 of the Health and Safety Code is
2 amended to read:
3 44011. (a) All motor vehicles powered by internal combustion
4 engines that are registered within an area designated for program
5 coverage shall be required biennially to obtain a certificate of
6 compliance or noncompliance, except for the following:
7 (1) All motorcycles until the department, pursuant to Section
8 44012, implements test procedures applicable to motorcycles.
9 (2) All motor vehicles that have been issued a certificate of
10 compliance or noncompliance or a repair cost waiver upon a change
11 of ownership or initial registration in this state during the preceding
12 six months.
13 ~~(3) All motor vehicles manufactured prior to the 1976 model~~
14 ~~year.~~
15 (3) *Any motor vehicle that is 30 or more model years old.*
16 (4) (A) Except as provided in subparagraph (B), all motor
17 vehicles four or less model years old.
18 (B) (i) Beginning January 1, 2005, all motor vehicles six or
19 less model years old, unless the state board finds that providing
20 an exception for these vehicles will prohibit the state from meeting
21 the requirements of Section 176(c) of the federal Clean Air Act
22 (42 U.S.C. Sec. 7401 et seq.) or the state’s commitments with
23 respect to the state implementation plan required by the federal
24 Clean Air Act.
25 (ii) Notwithstanding clause (i), beginning January 1, 2019, all
26 motor vehicles eight or less model years old, unless the state board
27 finds that providing an exception for these vehicles will prohibit
28 the state from meeting the requirements of Section 176(c) of the
29 federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the state’s
30 commitments with respect to the state implementation plan required
31 by the federal Clean Air Act.
32 (iii) Clause (ii) does not apply to a motor vehicle that is seven
33 model years old in year 2018 for which a certificate of compliance
34 has been obtained.

1 (C) All motor vehicles excepted by this paragraph shall be
2 subject to testing and to certification requirements as determined
3 by the department, if any of the following apply:

4 (i) The department determines through remote sensing activities
5 or other means that there is a substantial probability that the vehicle
6 has a tampered emission control system or would fail for other
7 cause a smog check test as specified in Section 44012.

8 (ii) The vehicle was previously registered outside this state and
9 is undergoing initial registration in this state.

10 (iii) The vehicle is being registered as a specially constructed
11 vehicle.

12 (iv) The vehicle has been selected for testing pursuant to Section
13 44014.7 or any other provision of this chapter authorizing
14 out-of-cycle testing.

15 (D) This paragraph does not apply to diesel-powered vehicles.

16 (5) In addition to the vehicles exempted pursuant to paragraph
17 (4), any motor vehicle or class of motor vehicles exempted pursuant
18 to subdivision (c) of Section 44024.5. It is the intent of the
19 Legislature that the department, pursuant to the authority granted
20 by this paragraph, exempt at least 15 percent of the lowest emitting
21 motor vehicles from the biennial smog check inspection.

22 (6) All motor vehicles that the department determines would
23 present prohibitive inspection or repair problems.

24 (7) Any vehicle registered to the owner of a fleet licensed
25 pursuant to Section 44020 if the vehicle is garaged exclusively
26 outside the area included in program coverage, and is not primarily
27 operated inside the area included in program coverage.

28 (8) (A) All diesel-powered vehicles manufactured prior to the
29 1998 model year.

30 (B) All diesel-powered vehicles that have a gross vehicle weight
31 rating of 8,501 to 10,000 pounds, inclusive, until the department,
32 in consultation with the state board, pursuant to Section 44012,
33 implements test procedures applicable to these vehicles.

34 (C) All diesel-powered vehicles that have a gross vehicle weight
35 rating from 10,001 pounds to 14,000 pounds, inclusive, until the
36 state board and the Department of Motor Vehicles determine the
37 best method for identifying these vehicles, and until the department,
38 in consultation with the state board, pursuant to Section 44012,
39 implements test procedures applicable to these vehicles.

- 1 (D) All diesel-powered vehicles that have a gross vehicle weight
2 rating of 14,001 pounds or greater.
- 3 (b) Vehicles designated for program coverage in enhanced areas
4 shall be required to obtain inspections from appropriate smog
5 check stations operating in enhanced areas.
- 6 (c) For purposes of subdivision (a), a collector motor vehicle,
7 as defined in Section 259 of the Vehicle Code, is exempt from
8 those portions of the test required by subdivision (f) of Section
9 44012 if the collector motor vehicle meets all of the following
10 criteria:
 - 11 (1) Submission of proof that the motor vehicle is insured as a
12 collector motor vehicle, as shall be required by regulation of the
13 bureau.
 - 14 (2) The motor vehicle is at least 35 model years old.
 - 15 (3) The motor vehicle complies with the exhaust emissions
16 standards for that motor vehicle's class and model year as
17 prescribed by the department, and the motor vehicle passes a
18 functional inspection of the fuel cap and a visual inspection for
19 liquid fuel leaks.

O

AMENDED IN SENATE MARCH 24, 2025

SENATE BILL

No. 712

Introduced by Senator Grove

(Principal coauthor: Assembly Member Wallis)

(Coauthors: Senators Alvarado-Gil, Choi, Cortese, Dahle, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, and Valladares)

(Coauthors: Assembly Members Alanis, Castillo, Davies, Gallagher, Jeff Gonzalez, Hadwick, Patterson, and Michelle Rodriguez)

February 21, 2025

An act to amend Section 44011 of the Health and Safety Code, *and to amend Section 4000.1 of the Vehicle Code*, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 712, as amended, Grove. Smog check: *collector motor vehicles*: exemption.

Existing law establishes a motor vehicle inspection and maintenance (smog check) program that is administered by the Department of Consumer Affairs. The smog check program requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts specified vehicles from being inspected biennially upon renewal of registration, including, among others, all motor vehicles manufactured prior to the 1976 model year. Existing law also exempts from specified portions of the smog ~~test~~ *test*, both biennially and at transfer, a collector motor vehicle that is insured as a collector motor vehicle, is at least 35 model years old, complies with the exhaust emissions standards for that motor vehicle's class and model year as prescribed by the department, and that passes a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks.

This bill would delete the above partial smog check exemption for collector motor vehicles from existing law. Instead, the bill would fully exempt a collector motor vehicle from the smog check ~~requirement~~ *requirement, both biennially and at transfer*, if the vehicle is at least 35 model years ~~old and proof is submitted that the motor vehicle is insured as a collector motor vehicle, as specified.~~ *old. The bill would be known, and may be cited as, Leno's Law.*

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

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

1 SECTION 1. This act shall be known, and may be cited as,
2 *Leno's Law.*

3 ~~SECTION 1.~~

4 SEC. 2. Section 44011 of the Health and Safety Code is
5 amended to read:

6 44011. (a) All motor vehicles powered by internal combustion
7 engines that are registered within an area designated for program
8 coverage shall be required biennially to obtain a certificate of
9 compliance or noncompliance, except for the following:

10 (1) All motorcycles until the department, pursuant to Section
11 44012, implements test procedures applicable to motorcycles.

12 (2) All motor vehicles that have been issued a certificate of
13 compliance or noncompliance or a repair cost waiver upon a change
14 of ownership or initial registration in this state during the preceding
15 six months.

16 (3) All motor vehicles manufactured prior to the 1976 model
17 year.

18 (4) (A) Except as provided in subparagraph (B), all motor
19 vehicles four or less model years old.

20 (B) (i) Beginning January 1, 2005, all motor vehicles six or
21 less model years old, unless the state board finds that providing
22 an exception for these vehicles will prohibit the state from meeting
23 the requirements of Section 176(c) of the federal Clean Air Act
24 (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with
25 respect to the state implementation plan required by the federal
26 Clean Air Act.

27 (ii) Notwithstanding clause (i), beginning January 1, 2019, all
28 motor vehicles eight or less model years old, unless the state board

1 finds that providing an exception for these vehicles will prohibit
2 the state from meeting the requirements of Section 176(c) of the
3 federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the state's
4 commitments with respect to the state implementation plan required
5 by the federal Clean Air Act.

6 (iii) Clause (ii) does not apply to a motor vehicle that is seven
7 model years old in year 2018 for which a certificate of compliance
8 has been obtained.

9 (C) All motor vehicles excepted by this paragraph shall be
10 subject to testing and to certification requirements as determined
11 by the department, if any of the following apply:

12 (i) The department determines through remote sensing activities
13 or other means that there is a substantial probability that the vehicle
14 has a tampered emission control system or would fail for other
15 cause a smog check test as specified in Section 44012.

16 (ii) The vehicle was previously registered outside this state and
17 is undergoing initial registration in this state.

18 (iii) The vehicle is being registered as a specially constructed
19 vehicle.

20 (iv) The vehicle has been selected for testing pursuant to Section
21 44014.7 or any other provision of this chapter authorizing
22 out-of-cycle testing.

23 (D) This paragraph does not apply to diesel-powered vehicles.

24 (5) In addition to the vehicles exempted pursuant to paragraph
25 (4), any motor vehicle or class of motor vehicles exempted pursuant
26 to subdivision (c) of Section 44024.5. It is the intent of the
27 Legislature that the department, pursuant to the authority granted
28 by this paragraph, exempt at least 15 percent of the lowest emitting
29 motor vehicles from the biennial smog check inspection.

30 (6) All motor vehicles that the department determines would
31 present prohibitive inspection or repair problems.

32 (7) Any vehicle registered to the owner of a fleet licensed
33 pursuant to Section 44020 if the vehicle is garaged exclusively
34 outside the area included in program coverage, and is not primarily
35 operated inside the area included in program coverage.

36 (8) (A) All diesel-powered vehicles manufactured prior to the
37 1998 model year.

38 (B) All diesel-powered vehicles that have a gross vehicle weight
39 rating of 8,501 to 10,000 pounds, inclusive, until the department,

1 in consultation with the state board, pursuant to Section 44012,
2 implements test procedures applicable to these vehicles.

3 (C) All diesel-powered vehicles that have a gross vehicle weight
4 rating from 10,001 pounds to 14,000 pounds, inclusive, until the
5 state board and the Department of Motor Vehicles determine the
6 best method for identifying these vehicles, and until the department,
7 in consultation with the state board, pursuant to Section 44012,
8 implements test procedures applicable to these vehicles.

9 (D) All diesel-powered vehicles that have a gross vehicle weight
10 rating of 14,001 pounds or greater.

11 (9) A collector motor vehicle, as defined in Section 259 of the
12 Vehicle Code, ~~if the motor vehicle meets all of the following~~
13 ~~criteria: that is at least 35 model years old.~~

14 ~~(A) Submission of proof that the motor vehicle is insured as a~~
15 ~~collector motor vehicle, as shall be required by regulation of the~~
16 ~~bureau.~~

17 ~~(B) The motor vehicle is at least 35 model years old.~~

18 (b) Vehicles designated for program coverage in enhanced areas
19 shall be required to obtain inspections from appropriate smog
20 check stations operating in enhanced areas.

21 *SEC. 3. Section 4000.1 of the Vehicle Code is amended to read:*

22 4000.1. (a) Except as otherwise provided in subdivision (b),
23 (c), or (d) of this section, or subdivision (b) of Section 43654 of
24 the Health and Safety Code, the department shall require upon
25 initial registration, and upon transfer of ownership and registration,
26 of any motor vehicle subject to Part 5 (commencing with Section
27 43000) of Division 26 of the Health and Safety Code, a valid
28 certificate of compliance or a certificate of noncompliance, as
29 appropriate, issued in accordance with Section 44015 of the Health
30 and Safety Code.

31 (b) With respect to new motor vehicles certified pursuant to
32 Chapter 2 (commencing with Section 43100) of Part 5 of Division
33 26 of the Health and Safety Code, the department shall accept a
34 statement completed pursuant to subdivision (b) of Section 24007
35 in lieu of the certificate of compliance.

36 (c) For purposes of determining the validity of a certificate of
37 compliance or noncompliance submitted in compliance with the
38 requirements of this section, the definitions of new and used motor
39 vehicle contained in Chapter 2 (commencing with Section 39010)
40 of Part 1 of Division 26 of the Health and Safety Code shall control.

1 (d) Subdivision (a) does not apply to a transfer of ownership
2 and registration under any of the following circumstances:

3 (1) The initial application for transfer is submitted within the
4 90-day validity period of a smog certificate as specified in Section
5 44015 of the Health and Safety Code.

6 (2) The transferor is the parent, grandparent, sibling, child,
7 grandchild, or spouse of the transferee.

8 (3) A motor vehicle registered to a sole proprietorship is
9 transferred to the proprietor as owner.

10 (4) The transfer is between companies the principal business of
11 which is leasing motor vehicles, if there is no change in the lessee
12 or operator of the motor vehicle or between the lessor and the
13 person who has been, for at least one year, the lessee's operator
14 of the motor vehicle.

15 (5) The transfer is between the lessor and lessee of the motor
16 vehicle, if there is no change in the lessee or operator of the motor
17 vehicle.

18 (6) The motor vehicle was manufactured prior to the 1976
19 ~~model-year~~ *model year*.

20 (7) Except for diesel-powered vehicles, the transfer is for a
21 motor vehicle that is four or less ~~model-years~~ *model years* old.
22 The department shall impose a fee of eight dollars (\$8) on the
23 transferee of a motor vehicle that is four or less ~~model-years~~ *model*
24 *years* old. Revenues generated from the imposition of that fee shall
25 be deposited into the Vehicle Inspection and Repair Fund.

26 (8) *A motor vehicle that is a collector motor vehicle that is at*
27 *least 35 model years old.*

28 (e) The State Air Resources Board, under Part 5 (commencing
29 with Section 43000) of Division 26 of the Health and Safety Code,
30 may exempt designated classifications of motor vehicles from
31 subdivision (a) as it deems necessary, and shall notify the
32 department of that action.

33 (f) Subdivision (a) does not apply to a motor vehicle when an
34 additional individual is added as a registered owner of the motor
35 vehicle.

36 ~~(g) For purposes of subdivision (a), any collector motor vehicle,~~
37 ~~as defined in Section 259, is exempt from those portions of the~~
38 ~~test required by subdivision (f) of Section 44012 of the Health and~~
39 ~~Safety Code, if the collector motor vehicle meets all of the~~
40 ~~following criteria:~~

- 1 ~~(1) Submission of proof that the motor vehicle is insured as a~~
- 2 ~~collector motor vehicle, as shall be required by regulation of the~~
- 3 ~~bureau.~~
- 4 ~~(2) The motor vehicle is at least 35 model-years old.~~
- 5 ~~(3) The motor vehicle complies with the exhaust emissions~~
- 6 ~~standards for that motor vehicle's class and model year as~~
- 7 ~~prescribed by the department, and the motor vehicle passes a~~
- 8 ~~functional inspection of the fuel cap and a visual inspection for~~
- 9 ~~liquid fuel leaks.~~

O

ASSEMBLY BILL

No. 1226

**Introduced by Assembly Member Essayli
(Coauthors: Assembly Members Alanis, Castillo, Davies, DeMaio,
Flora, Gallagher, Sanchez, and Wallis)**

February 21, 2025

An act to amend Section 41853 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1226, as introduced, Essayli. Air quality: wildland vegetation management burning: permits: exemption.

Existing law authorizes the State Air Resources Board to designate public fire protection agencies or other equivalent agencies to issue permits, subject to the rules and regulations of the state board, for agricultural burning, which includes wildland vegetation management burning, as specified.

This bill would revise those provisions to also require the state board to designate those agencies to oversee agricultural burning activities and to adopt rules and regulations to ensure those activities are conducted safely and effectively. The bill would exempt wildland vegetation management burning from the above-described permit requirement if that activity is conducted by, or under the supervision of, the applicable agency designated by the state board. The bill would require the state board to develop guidelines and best practices for wildland vegetation management burning to ensure public safety and environmental protection.

By expanding the duties of local agencies, the bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 41853 of the Health and Safety Code is
 2 amended to read:

3 41853. (a) The state board shall designate public fire protection
 4 agencies or other equivalent agencies *to oversee agricultural*
 5 *burning activities and to issue permits under subdivision (a) of*
 6 *pursuant to Section 41852, and 41852. The state board shall adopt*
 7 *rules and regulations to ensure those activities are conducted safely*
 8 *and effectively and to provide a procedure for the issuance of the*
 9 *permits. Each agency so designated by the state board pursuant*
 10 *to this section shall issue permits subject to the rules and*
 11 *regulations of the state board.*

12 (b) *Notwithstanding Section 41852, wildland vegetation*
 13 *management burning, as defined in subdivision (c) of Section*
 14 *39011, shall be exempt from the permitting requirements of Section*
 15 *41852 and from Section 41701 if that activity is conducted by, or*
 16 *under the supervision of, the applicable public fire protection*
 17 *agency or other equivalent agency designated by the state board*
 18 *pursuant to subdivision (a).*

19 (c) *The state board shall develop guidelines and best practices*
 20 *for wildland vegetation management burning to ensure public*
 21 *safety and environmental protection.*

22 SEC. 2. If the Commission on State Mandates determines that
 23 this act contains costs mandated by the state, reimbursement to
 24 local agencies and school districts for those costs shall be made
 25 pursuant to Part 7 (commencing with Section 17500) of Division
 26 4 of Title 2 of the Government Code.

O

AMENDED IN SENATE MARCH 26, 2025

SENATE BILL

No. 318

Introduced by Senator Becker

February 11, 2025

~~An act to amend Section 40406 of the Health and Safety Code, relating to air resources.~~ *An act to amend Sections 39602.5, 39620, 39666, 40405, 40406, 40440.11, 40920.8, 42301, and 42322 of, to add Sections 39013.5, 39016.1, 39016.2, 39034.5, 39514.5, 39607.2, 42301.19, and 42301.20 to, and to add Article 7 (commencing with Section 39676) to Chapter 3.5 of Part 2 of Division 26 of, the Health and Safety Code, relating to air pollution.*

LEGISLATIVE COUNSEL'S DIGEST

SB 318, as amended, Becker. ~~Air resources: Lewis-Presley Air Quality Management Act.~~ *Air pollution: stationary sources: best available control technology: indirect sources.*

(1) Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law authorizes air districts to adopt and implement regulations to reduce or mitigate emissions from indirect sources of air pollution.

This bill would authorize the state board to adopt and enforce rules and regulations applicable to indirect sources of emissions, as specified. If the state board elects to exercise that authority, the bill would require the state board to establish a schedule of fees on facilities and mobile sources to cover the reasonable costs of implementing and enforcing the regulations and would require the fees to be deposited in the Air

Pollution Control Fund and made available to the state board upon appropriation by the Legislature. The bill would require the state board to establish a statewide reporting program to quantify emissions and annually collect related information from indirect sources of emissions.

(2) Existing law requires the state board to identify toxic air contaminants that are emitted into the ambient air of the state and to adopt airborne toxic control measures to reduce emissions of toxic air contaminants. Existing law also requires the state board to designate any substance that is listed as a hazardous air pollutant under federal law as a toxic air contaminant and to establish airborne toxic control measures applicable to the substance in accordance with specified procedures.

This bill would authorize the state board to assess and collect reasonable fees on emitters of toxic air contaminants. The bill would require the fees to be deposited in the Air Pollution Control Fund and made available for the regulation of toxic air contaminants upon appropriation by the Legislature.

(3) Existing law authorizes air districts to establish a permit system to require, with specified exceptions, that a person obtain a permit before constructing or operating any article, machine, equipment, or contrivance that may cause the issuance of air contaminants. Existing law prohibits an air district from issuing a permit to a Title V source, as defined, if the Administrator of the United States Environmental Protection Agency objects to its issuance, as specified.

Existing law requires each district with moderate, serious, or severe air pollution to include certain measures in its plan to attain state ambient air quality standards, including the use of best available control technology for any new or modified stationary source, and the use of best available retrofit control technology for all existing stationary sources, under certain circumstances, as prescribed. Under the federal Clean Air Act, a new or modified major stationary source is required to meet various requirements in order to obtain a permit to operate, including a requirement that the source employs best available control technology on its emission-emitting equipment.

This bill would establish definitions for the terms “best available control technology” and “best available retrofit control technology” for purposes of the laws governing air pollution and would set forth various requirements for the determination of best available control technology.

The bill would require an air district to submit a proposed permit for a Title V source to the executive officer of the state board. The bill would require the executive officer to review the permit and, if the executive officer determines that the permit does not to comply with the federal Clean Air Act or state law governing air pollution, to object to the issuance of that permit. If the executive officer objects to the issuance of a permit, the bill would prohibit the air district from finalizing that permit without revising it to address the objection to the satisfaction of the executive officer. The bill would also authorize any person to petition the executive officer to object to a proposed Title V permit within 30 days of the executive officer's receipt of the proposed permit, as specified.

The bill would require an applicant for a renewal of a Title V permit to submit a technical feasibility analysis to the air district as part of its application for the renewal of that permit if the facility's current effective operating permit includes equipment or control apparatus that meets certain criteria. The bill would require an air district to require best available retrofit control technology to be applied at each piece of equipment or source category identified in the technical feasibility analysis and to impose measures more stringent than those proposed by the applicant, as specified.

(4) Existing law requires the state board to implement a program to assist air districts to improve efficiencies in the issuance of permits and requires that program to include a process to precertify simple, commonly used equipment and processes as being in compliance with air quality rules and regulations, to expedite permitting of air pollution sources. Existing law requires the California Environmental Protection Agency to evaluate the feasibility of expanding the precertification program to involve other state and local regulatory agencies with jurisdiction over other environmental media.

This bill would revise the precertification program including by requiring the state board to update criteria and guidelines for precertification at least once every 8 years. The bill would authorize the precertification program to include the identification of equipment, controls, fuels, and processes, as specified. As part of the precertification program, the bill would authorize the state board to prescribe rules to establish a voluntary program for the temporary assignment or loan of employees within an agency, or between agencies or jurisdictions, including air districts, on a limited-term basis, to enable the state to obtain expertise needed to meet a compelling program need.

The bill would authorize the California Environmental Protection Agency to expand the precertification program to involve other state and local regulatory agencies with jurisdiction over other environmental media.

(5) Existing law requires every air district, except as provided, to establish a program to provide for the expedited review of permits. Existing law requires that expedited permit system to include, among other things, a precertification program for equipment that is mass-produced and operated by numerous sources under the same or similar conditions and a training and certification program for private sector personnel, as specified.

This bill would eliminate the requirement that the expedited permit system include a precertification program established by the applicable air district. The bill would instead require the expedited permit system to include an expedited permit review pathway for permit applications that propose to use equipment and processes identified through the state board's precertification program described above, as specified. The bill would also eliminate the requirement that the expedited permit system include a training and certification program and would instead require the publication of online training resources for private sector personnel that explain expedited permitting pathways.

(6) Existing law requires the state board to establish and maintain a statewide clearinghouse that identifies the best available control technology and best available retrofit control technology for criteria air pollutants, and related technologies for the control of toxic air contaminants. When updating best available control technology determinations, existing law requires a district to use the information in the statewide clearinghouse.

This bill would require the state board to periodically issue determinations to suggest best available control technology, and best available retrofit control technology, for any class or category of sources and to establish best available control technology for the control of toxic air contaminants for any class or category of sources. The bill would authorize members of the public to petition the state board to issue a determination.

(7) Existing law authorizes the state board to appoint employees and prescribe their duties.

This bill would authorize the state board and any district to temporarily loan and assign staff members to each other, via a memorandum of agreement, for any lawful purpose.

(8) Existing law generally makes any violation of a rule or regulation of the state board or an air district relating to nonvehicular air pollution control a misdemeanor.

To the extent that the bill would expand the definition of a crime, this bill would impose a state-mandated local program.

(9) By expanding the duties of air districts, the bill would impose a state-mandated local program.

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

This bill would provide that no reimbursement is required by this act for specified reasons.

Existing law, the Lewis-Presley Air Quality Management Act, regulates air quality in the South Coast Air Basin. Existing law requires the south coast district board to adopt rules and regulations that require the use of best available retrofit control technology for existing sources of air pollution. Existing law defines the term “best available retrofit control technology” for purposes of the act.

This bill would make a nonsubstantive change to the definition.

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

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

- 1 SECTION 1. Section 39013.5 is added to the Health and Safety
- 2 Code, to read:
- 3 39013.5. “Alternative technology” means a process that does
- 4 not produce air pollutant emissions, or that produces emissions
- 5 below permitting thresholds, including, but not limited to,
- 6 zero-emissions technology, at a source being permitted. Upstream
- 7 emissions from power sector generation shall not be construed as
- 8 excluding any technology from this definition.
- 9 SEC. 2. Section 39016.1 is added to the Health and Safety
- 10 Code, to read:
- 11 39016.1. “Best available control technology” has the same
- 12 meaning as defined in Section 40405.
- 13 SEC. 3. Section 39016.2 is added to the Health and Safety
- 14 Code, to read:

1 39016.2. “Best available retrofit control technology” has the
2 same meaning as defined in Section 40406.

3 SEC. 4. Section 39034.5 is added to the Health and Safety
4 Code, to read:

5 39034.5. “Indirect source” has the same meaning as set forth
6 in Section 7410(a)(5)(C) of Title 42 of the United States Code.

7 SEC. 5. Section 39514.5 is added to the Health and Safety
8 Code, to read:

9 39514.5. The state board and any district may temporarily
10 loan or assign staff members to each other, via a memorandum of
11 agreement, for any lawful purpose, including to support the
12 development of pollution control plans, the issuance and review
13 of air pollution permits, and the development or implementation
14 of determinations pursuant to Section 40920.8.

15 SEC. 6. Section 39602.5 of the Health and Safety Code is
16 amended to read:

17 39602.5. (a) The state board shall adopt rules and regulations
18 pursuant to Section 43013 that, in conjunction with other measures
19 adopted by the state board, the districts, and the United States
20 Environmental Protection Agency, will achieve ambient air quality
21 standards required by the federal Clean Air Act (42 U.S.C. Sec.
22 7401 et seq.) in all areas of the state by the applicable attainment
23 date, and to maintain these standards thereafter. The state board
24 shall adopt these measures if they are necessary, technologically
25 feasible, and cost effective, consistent with Section 43013.

26 (b) If necessary to carry out its duties under this section, the
27 state board shall adopt and enforce rules and regulations that
28 anticipate the development of new technologies or the improvement
29 of existing technologies. The rules and regulations shall require
30 standards that the state board finds and determines can likely be
31 achieved by the compliance date set forth in the rule.

32 (c) If necessary to carry out its duties under this section, the
33 state board may adopt and enforce rules and regulations applicable
34 to indirect sources of emissions to facilitate mobile source emission
35 reduction. This subdivision does not affect the authority of a district
36 to establish rules for, require permits of, or establish fees on
37 indirect sources of emissions. In adopting these rules and
38 regulations, the state board shall do all of the following

39 (1) Consult with affected districts to ensure that any state
40 regulation supports district emission reduction needs.

1 (2) *Establish a schedule of fees on facilities and mobile sources*
2 *limited in amount to cover only the reasonable costs of*
3 *implementing and enforcing the regulations on those facilities and*
4 *mobile sources. Fees collected pursuant to this paragraph shall*
5 *be deposited in the Air Pollution Control Fund and made available*
6 *to the state board for those purposes upon appropriation by the*
7 *Legislature.*

8 (3) *Eliminate or minimize impacts to disadvantaged,*
9 *low-income, and high-poverty communities.*

10 SEC. 7. *Section 39607.2 is added to the Health and Safety*
11 *Code, to read:*

12 39607.2. *The state board shall establish a statewide reporting*
13 *program to quantify emissions and annually collect related*
14 *information from indirect sources of emissions, including data*
15 *from on-road and off-road mobile sources that visit those sources,*
16 *but are not owned or operated by those sources.*

17 SEC. 8. *Section 39620 of the Health and Safety Code is*
18 *amended to read:*

19 39620. (a) *The state board shall implement a program to assist*
20 *districts to improve efficiencies in the issuance of permits pursuant*
21 *to this division. The program shall be consistent with the*
22 *requirements of Title V.*

23 (b) (1) *The program shall include a process, developed in*
24 *coordination with the districts, for the state board to precertify*
25 *simple, commonly used equipment and processes as being in*
26 *compliance with applicable air quality rules and regulations, under*
27 *conditions specified by the state board. The state board shall*
28 *develop develop, and update at least once every eight years, criteria*
29 *and guidelines for precertification in coordination with the districts.*
30 *The precertification program may include the identification of*
31 *equipment, controls, fuels, and processes that can achieve all of*
32 *the following:*

33 (A) *Emissions limits lower than best available control*
34 *technology limits.*

35 (B) *Emissions limits lower than best available control*
36 *technology limits for toxic air contaminants.*

37 (C) *Reductions in greenhouse gas emissions, or removals of*
38 *greenhouse gases from the atmosphere, in alignment with climate*
39 *goals and targets established pursuant to the California Global*

1 *Warming Solutions Act of 2006 (Division 25.5 (commencing with*
 2 *Section 38500)).*

3 (2) (A) The state board shall charge a reasonable fee for
 4 precertification, not to exceed the state board’s estimated costs.
 5 Payment of the fee shall be a condition of precertification.

6 (B) *As part of the precertification program, the state board may*
 7 *prescribe rules to establish a voluntary program for the temporary*
 8 *assignment or loan of employees within an agency, or between*
 9 *agencies or jurisdictions, including districts, on a limited-term*
 10 *basis, to enable the state to obtain expertise needed to meet a*
 11 *compelling program need. The rules shall outline terms and*
 12 *conditions of this program, including procedures governing the*
 13 *award of precertification fees, subject to appropriation by the*
 14 *Legislature, to agencies or jurisdictions participating in this*
 15 *program, to help offset the cost of the program.*

16 (3) Precertification shall not affect any existing authority of a
 17 district regarding permitting and compliance requirements.
 18 Precertification shall constitute a preliminary evaluation of the
 19 equipment or process, and a recommendation by the state board
 20 for permit conditions to be adopted by a district having jurisdiction
 21 over particular equipment or a particular process, that would allow
 22 district permitting staff to more quickly process permit applications
 23 for air pollution sources.

24 (4) *The state board shall periodically release public notices or*
 25 *requests for information to facilitate efforts to collect information*
 26 *on areas of interest relating to the precertification program.*

27 (4)

28 (5) The California Environmental Protection Agency, within
 29 existing resources, and in consultation with appropriate state and
 30 local regulatory agencies, ~~shall evaluate the feasibility and benefits~~
 31 ~~of expanding~~ *may expand* the precertification program to involve
 32 other state and local regulatory agencies with jurisdiction over
 33 other environmental media, including land and water.

34 *SEC. 9. Section 39666 of the Health and Safety Code is*
 35 *amended to read:*

36 39666. (a) Following a noticed public hearing, the state board
 37 shall adopt airborne toxic control measures to reduce emissions
 38 of toxic air contaminants from nonvehicular sources.

39 (b) For toxic air contaminants for which the state board has
 40 determined, pursuant to Section 39662, that there is a threshold

1 exposure level below which no significant adverse health effects
2 are anticipated, the airborne toxic control measure shall be
3 designed, in consideration of the factors specified in subdivision
4 (b) of Section 39665, to reduce emissions sufficiently *through the*
5 *application of best available control technology* so that the source
6 will not result in, or contribute to, ambient levels at or in excess
7 of the level ~~which~~ *that* may cause or contribute to adverse health
8 effects as that level is estimated pursuant to subdivision (c) of
9 Section 39660.

10 (c) For toxic air contaminants for which the state board has not
11 specified a threshold exposure level pursuant to Section 39662,
12 the airborne toxic control measure shall be designed, in
13 consideration of the factors specified in subdivision (b) of Section
14 39665, to reduce emissions to the lowest level achievable through
15 application of best available control technology or a more effective
16 control method, unless the state board or a district board
17 determines, based on an assessment of risk, that an alternative
18 level of emission reduction is adequate or necessary to prevent an
19 endangerment of public health.

20 (d) Not later than 120 days after the adoption or implementation
21 by the state board of an airborne toxic control measure pursuant
22 to this section or Section 39658, the districts shall implement and
23 enforce the airborne toxic control measure or shall propose
24 regulations enacting airborne toxic control measures on
25 nonvehicular sources within their jurisdiction ~~which~~ *that* meet the
26 requirements of subdivisions (b), (c), and (e), except that a district
27 may, at its option, and after considering the factors specified in
28 subdivision (b) of Section 39665, adopt and enforce equally
29 effective or more stringent airborne toxic control measures than
30 the airborne toxic control measures adopted by the state board. A
31 district shall adopt rules and regulations implementing airborne
32 toxic control measures on nonvehicular sources within its
33 jurisdiction in conformance with subdivisions (b), (c), and (e), not
34 later than six months following the adoption of airborne toxic
35 control measures by the state board.

36 (e) District new source review rules and regulations shall require
37 new or modified sources to control emissions of toxic air
38 contaminants consistent with subdivisions (b), (c), and (d) and
39 Article 2.5 (commencing with Section 39656).

1 (f) Where an airborne toxic control measure requires the use
2 of a specified method or methods to reduce, avoid, or eliminate
3 the emissions of a toxic air contaminant, a source may submit to
4 the district an alternative method or methods that will achieve an
5 equal or greater amount of reduction in emissions of, and risk
6 associated with, that toxic air contaminant. The district shall
7 approve the proposed alternative method or methods if the operator
8 of the source demonstrates that the method is, or the methods are,
9 enforceable, that equal or greater amounts of reduction in emissions
10 and risk will be achieved, and that the reductions will be achieved
11 within the time period required by the applicable airborne toxic
12 control measure. The district shall revoke approval of the
13 alternative method or methods if the source fails to adequately
14 implement the approved alternative method or methods or if
15 subsequent monitoring demonstrates that the alternative method
16 or methods do not reduce emissions and risk as required. The
17 district shall notify the state board of any action it proposes to take
18 pursuant to this subdivision. This subdivision is operative only to
19 the extent it is consistent with the federal act.

20 (g) *For a given toxic air contaminant or airborne toxic control*
21 *measure, the state board may adopt and enforce rules and*
22 *regulations applicable to indirect sources of emissions to facilitate*
23 *stationary and mobile source emission reductions. This subdivision*
24 *does not affect the authority of a district to establish rules for,*
25 *require permits of, or establish fees on indirect sources of*
26 *emissions. In adopting these rules and regulations, the state board*
27 *shall do all of the following:*

28 (1) *Consult with affected districts to ensure that any state*
29 *regulation supports district emission reduction needs.*

30 (2) *Establish a schedule of fees on facilities and mobile sources*
31 *limited in amount to cover only the reasonable costs of*
32 *implementing and enforcing the regulations on those facilities and*
33 *mobile sources. Fees collected pursuant to this paragraph shall*
34 *be deposited in the Air Pollution Control Fund and made available*
35 *to the state board for those purposes upon appropriation by the*
36 *Legislature.*

37 (3) *Eliminate or minimize impacts to disadvantaged,*
38 *low-income, and high-poverty communities.*

1 *SEC. 10. Article 7 (commencing with Section 39676) is added*
2 *to Chapter 3.5 of Part 2 of Division 26 of the Health and Safety*
3 *Code, to read:*

4
5 *Article 7. Fees*
6

7 39676. (a) *The state board may assess and collect reasonable*
8 *fees not to exceed the costs of implementing this chapter on emitters*
9 *of toxic air contaminants.*

10 (b) (1) *Funds collected pursuant to this section shall be*
11 *expended to carry out responsibilities authorized by this chapter,*
12 *including, but not limited to, any of the following:*

13 (A) *Developing new, and amending existing, airborne toxic*
14 *control measures.*

15 (B) *Implementing and enforcing airborne toxic control*
16 *measures.*

17 (C) *Identifying, quantifying, inventorying, monitoring,*
18 *evaluating, and reducing emissions of toxic pollutants in*
19 *communities across the state, as determined to be necessary by*
20 *the state board.*

21 (2) *In expending funds pursuant to paragraph (1), the state*
22 *board shall prioritize emission reductions of toxic air contaminants*
23 *in disadvantaged communities identified pursuant to Section 39711.*

24 (c) *Any fees imposed pursuant to this section shall be in an*
25 *amount sufficient to cover the state board's reasonable costs in*
26 *developing and implementing the programs authorized by this*
27 *chapter, including any administrative costs, and may be adjusted*
28 *by the annual change in the California Consumer Price Index, as*
29 *determined pursuant to Section 2212 of the Revenue and Taxation*
30 *Code, for the preceding year.*

31 (d) *Fees collected by the state board pursuant to this section*
32 *shall be deposited in the Air Pollution Control Fund and shall be*
33 *available upon appropriation by the Legislature for purposes of*
34 *carrying out this chapter.*

35 *SEC. 11. Section 40405 of the Health and Safety Code is*
36 *amended to read:*

37 40405. (a) *As used in this chapter, "best available control*
38 *technology" means an emission limitation that will achieve the*
39 *lowest achievable emission rate for the source to which it is*
40 *applied. ~~Subject to subdivision (b), "Best available control~~*

1 *technology*” includes the consideration of measures applied to
 2 *sources in similar categories, the use of alternative technologies,*
 3 *modification of the process or process equipment, fuel selection,*
 4 *and other pollution prevention measures. An emissions limitation*
 5 *may include a requirement that a source use a different type of*
 6 *fuel, including a requirement to use electric power, to power a*
 7 *process or source, and an emission limitation shall not be declined*
 8 *to be set on the ground that the limitation would require a source*
 9 *to be powered by a different fuel.*

10 (b) *“Achieved in practice,” as used in this section, means*
 11 *emissions limits achieved by any combination of technologies,*
 12 *fuels, and processes that have operated at one or more facilities*
 13 *for a minimum of six months and that have been demonstrated as*
 14 *effective and reliable on a full-scale unit for a specific class and*
 15 *category of source. This combination includes technologies*
 16 *employed outside of the United States.*

17 (c) (1) *Subject to paragraph (2), “lowest achievable emission*
 18 *rate,” as used in this section, means the more stringent of the*
 19 *following:*

20 (1)

21 (A) *The most stringent emission limitation that is contained in*
 22 *the any state implementation plan for the particular class or*
 23 *category of ~~source~~, source, or in any permit for a source in the*
 24 *same class or category of sources, unless the owner or operator*
 25 *of the source demonstrates that the limitation is not achievable.*

26 (2)

27 (B) *The most stringent emission limitation that is achieved in*
 28 *practice by that class or category of ~~source~~. source or at any similar*
 29 *source through technology transfer.*

30 (b)

31 (2) *“Lowest achievable emission rate” shall not be construed*
 32 *to authorize the permitting of a proposed new source or a modified*
 33 *source that will emit any pollutant in excess of the amount*
 34 *allowable under the applicable new source standards of*
 35 *performance.*

36 (d) *“Technology transfer,” as used in this section, means the*
 37 *consideration of technologies, fuels, and processes that are*
 38 *achieved in practice for a similar class or category of source. This*
 39 *consideration may include, but is not limited to, sources that have*

1 *similar exhaust stream characteristics or that are designed to*
2 *produce similar products or outputs.*

3 *SEC. 12. Section 40406 of the Health and Safety Code is*
4 *amended to read:*

5 40406. As used in this chapter, “best available retrofit control
6 technology” means an emission limitation that is based on the
7 maximum degree of reduction achievable, *which includes the*
8 *consideration of fuels, process changes, or alternative technologies,*
9 taking into account environmental, energy, and economic impacts
10 by each class or category of source.

11 *SEC. 13. Section 40440.11 of the Health and Safety Code is*
12 *amended to read:*

13 ~~40440.11. (a) In establishing the best available control~~
14 ~~technology that is more stringent than the lowest achievable~~
15 ~~emission rate pursuant to federal law for a proposed new or~~
16 ~~modified source, the south coast district shall consider only control~~
17 ~~options or emission limits to be applied to the basic production or~~
18 ~~process equipment existing in that source category or a similar~~
19 ~~source category.~~

20 ~~(b)~~

21 40440.11. (a) In establishing the best available control
22 technology for a source category or determining the best available
23 control technology for a particular new or modified source, when
24 a particular control alternative for one pollutant will increase
25 emissions of one or more other pollutants, the south coast district’s
26 cost-effectiveness calculation for that particular control alternative
27 shall include the cost of eliminating or reducing the increases in
28 emissions of the other pollutants as required by the south coast
29 district.

30 ~~(e)~~

31 (b) Prior to revising the best available control technology
32 guideline for a source category to establish an emission limit that
33 is more stringent than the existing best available control technology
34 guideline for that source category, the south coast district shall do
35 all of the following:

36 (1) Identify one or more potential control alternatives that may
37 constitute the best available control technology, as defined in
38 Section 40405.

39 (2) Determine that the proposed emission limitation has been
40 met by production equipment, control equipment, or a process that

1 is commercially available for sale, and has achieved the best
2 available control technology in practice on a comparable
3 commercial operation for at least one year, or a period longer than
4 one year if a longer period is reasonably necessary to demonstrate
5 the operating and maintenance reliability, and costs, for an
6 operating cycle of the production or control equipment or process.

7 (3) Review the information developed to assess the
8 cost-effectiveness of each potential control alternative. For
9 purposes of this paragraph, “cost-effectiveness” means the annual
10 cost, in dollars, of the control alternative, divided by the annual
11 emission reduction potential, in tons, of the control alternative.

12 (4) Calculate the incremental cost-effectiveness for each
13 potential control option. To determine the incremental
14 cost-effectiveness under this paragraph, the district shall calculate
15 the difference in the annual dollar costs, divided by the difference
16 in the annual emission reduction between each progressively more
17 stringent control alternative, as compared either to the next less
18 expensive control alternative, or to the current best available control
19 technology, whichever is applicable.

20 (5) Place the best available control technology revision for a
21 source category proposed under this subdivision on the calendar
22 of a regular meeting agenda of the south coast district board, for
23 its acceptance or further action, as the board determines.

24 ~~(d)~~

25 (c) If the proposed control option is more stringent than the
26 lowest achievable emission rate for a source category pursuant to
27 federal law, the south coast district shall not establish an emission
28 limit for best available control technology that is conditioned on
29 the use of a particular control option unless the incremental
30 cost-effectiveness value of that option is less than the district’s
31 established incremental cost-effectiveness value for each pollutant.
32 Notwithstanding any other ~~provision of law~~, the south coast district
33 shall have the discretion to revise incremental cost-effectiveness
34 value for each pollutant, provided it holds a public hearing pursuant
35 to Section 40440.10 ~~prior to~~ *before* revising the value.

36 ~~(e)~~

37 (d) After the south coast district determines what is the best
38 available control technology for a source, it shall not change that
39 determination for that application for a period of at least one year
40 from the date that an application for authority to construct was

1 determined to be complete by the district. For major capital projects
2 in excess of ten million dollars (\$10,000,000), after the applicant
3 has met and conferred with the south coast district in a
4 preapplication meeting, the south coast district executive officer
5 may approve existing best available control technology for the
6 project, for a longer time period as long as the final design is
7 consistent with the initial, preliminary project design presented in
8 the preapplication meeting.

9 *SEC. 14. Section 40920.8 of the Health and Safety Code is*
10 *amended to read:*

11 40920.8. (a) (1) The state board shall establish and maintain
12 a statewide clearinghouse that identifies the best available control
13 technology and best available retrofit control technology for criteria
14 air pollutants, and related technologies for the control of toxic air
15 contaminants. *The statewide clearinghouse shall also identify*
16 *relevant CDR technologies, as defined in Section 39741, to provide*
17 *the public with centralized information on emissions control*
18 *technology options.*

19 (2) *To assist in controlling air pollution from stationary sources,*
20 *the state board shall, using the information collected and evaluated*
21 *pursuant to Section 39620, periodically issue determinations to*
22 *do any of the following:*

23 (A) *Suggest best available control technology for any class or*
24 *category of sources.*

25 (B) *Suggest best available retrofit control technology for any*
26 *class or category of sources.*

27 (C) *Establish best available control technology for the control*
28 *of toxic air contaminants pursuant to Chapter 3.5 (commencing*
29 *with Section 39650) of Part 2 for any class or category of sources.*

30 (3) *To ensure the statewide clearinghouse contains*
31 *comprehensive information on technology options, the state board*
32 *shall, using the information collected and evaluated pursuant to*
33 *Section 39620, publish information on both of the following:*

34 (A) *Next generation technologies that are capable of achieving*
35 *criteria air pollutant or toxic air contaminant emission reductions*
36 *lower than existing standards for a given source type.*

37 (B) *Carbon management technologies that are capable of*
38 *reducing greenhouse gases or removing greenhouse gases from*
39 *the atmosphere.*

1 (b) In issuing determinations pursuant to paragraph (2) of
 2 subdivision (a), the state board shall prioritize classes or categories
 3 of sources that it deems to contribute to local air pollution
 4 exposure, including sources within or impacting disadvantaged
 5 communities identified pursuant to Section 39711. This includes
 6 the prioritization of sources of concern identified through air
 7 monitoring efforts. The state board may also prioritize the issuance
 8 of determinations to address sources that emit nonattainment
 9 pollutants, as defined in Section 39607.1, to strengthen state
 10 implementation plans pursuant to Section 39602.5.

11 (c) The state board shall provide the public an opportunity to
 12 comment before a determination issued pursuant to paragraph (2)
 13 of subdivision (a) is finalized. A determination issued pursuant to
 14 this section is not a regulation for purposes of Chapter 3.5
 15 (commencing with Section 11340) of Part 1 of Division 3 of Title
 16 2 of the Government Code.

17 (d) (1) Members of the public may petition the state board to
 18 issue a determination pursuant to paragraph (2) of subdivision
 19 (a).

20 (2) The state board shall respond to a petition received pursuant
 21 to paragraph (1) within 60 calendar days.

22 (e) The state board shall provide annual updates at a public
 23 hearing to summarize the publications made in the statewide
 24 clearinghouse, the number of petitions received, and the response
 25 to any petitions.

26 ~~(b)~~

27 (f) When ~~updating best available control technology~~
 28 ~~determinations~~, issuing air pollution control permits for all
 29 categories and classes of sources to which best available control
 30 technology determinations apply, a district shall use the information
 31 in the statewide clearinghouse established and maintained by the
 32 state board.

33 SEC. 15. Section 42301 of the Health and Safety Code is
 34 amended to read:

35 42301. A permit system established pursuant to Section 42300
 36 shall do all of the following:

37 (a) Ensure that the article, machine, equipment, or contrivance
 38 for which the permit was issued does not prevent or interfere with
 39 the attainment or maintenance of any applicable air quality
 40 standard.

1 (b) Prohibit the issuance of a permit unless the air pollution
2 control officer is satisfied, on the basis of criteria adopted by the
3 district board, that the article, machine, equipment, or contrivance
4 will comply with all of the following:

5 (1) All applicable orders, rules, and regulations of the district
6 and of the state board.

7 (2) All applicable provisions of this division.

8 (c) Prohibit the issuance of a permit to a Title V source if the
9 Administrator of the *United States* Environmental Protection
10 Agency objects to its issuance in a timely manner as provided in
11 Title ~~V~~: *V or the executive officer objects to its issuance in a timely*
12 *manner pursuant to Section 42301.19*. This subdivision is not
13 intended to provide any authority to the *United States*
14 Environmental Protection Agency to object to the issuance of a
15 permit other than that authority expressly granted by Title V.

16 (d) Provide that the air pollution control officer may issue to a
17 Title V source a permit to operate or use if the owner or operator
18 of the Title V source presents a variance exempting the owner or
19 operator from Section 41701, any rule or regulation of the district,
20 or any permit condition imposed pursuant to this section, or
21 presents an abatement order that has the effect of a variance and
22 that meets all of the requirements of this part pertaining to
23 variances, and the requirements for the issuance of permits to
24 operate are otherwise satisfied. The issuance of any variance or
25 abatement order is a matter of state law and procedure only and
26 does not amend a Title V permit in any way. Those terms and
27 conditions of any variance or abatement order that prescribe a
28 compliance schedule may be incorporated into the permit consistent
29 with Title V and this division.

30 (e) Require, upon annual renewal, that each permit be reviewed
31 to determine that the permit conditions are adequate to ensure
32 compliance with, and the enforceability of, district rules and
33 regulations applicable to the article, machine, equipment, or
34 contrivance for which the permit was issued ~~which that~~ were in
35 effect at the time the permit was issued or modified, or ~~which that~~
36 have subsequently been adopted and made retroactively applicable
37 to an existing article, machine, equipment, or contrivance, by the
38 district board and, if the permit conditions are not consistent,
39 require that the permit be revised to specify the permit conditions
40 in accordance with all applicable rules and regulations.

1 (f) Provide for the reissuance or transfer of a permit to a new
2 owner or operator of an article, machine, equipment, or contrivance.
3 An application for transfer of ownership only, or change in operator
4 only, of any article, machine, equipment, or contrivance ~~which~~
5 *that* had a valid permit to operate within the two-year period
6 immediately preceding the application is a temporary permit to
7 operate. Issuance of the final permit to operate shall be conditional
8 upon a determination by the district that the criteria specified in
9 subdivisions (b) and (e) are met, if the permit was not surrendered
10 as a condition to receiving emission reduction credits pursuant to
11 banking or permitting rules of the district. However, under no
12 circumstances shall the criteria specify that a change of ownership
13 or operator alone is a basis for requiring more stringent emission
14 controls or operating conditions than would otherwise apply to the
15 article, machine, equipment, or contrivance.

16 *SEC. 16. Section 42301.19 is added to the Health and Safety*
17 *Code, to read:*

18 *42301.19. (a) A district shall electronically transmit each*
19 *proposed and final Title V permit to the executive officer of the*
20 *state board at the same time that the district transmits those permits*
21 *to the United States Environmental Protection Agency pursuant*
22 *to Section 70.8 of Title 40 of the Code of Federal Regulations with*
23 *all the same information that is transmitted to the United States*
24 *Environmental Protection Agency. The district shall post each*
25 *proposed permit publicly on its internet website at the time of*
26 *transmission.*

27 *(b) (1) Within 45 days of receipt of a proposed Title V permit,*
28 *the executive officer of the state board shall review the permit and,*
29 *if the executive officer determines that the permit does not comply*
30 *with any relevant provision of the federal Clean Air Act (42 U.S.C.*
31 *Sec. 7401 et seq.) or this division, shall object to that permit. If*
32 *the executive officer objects to the issuance of the permit, the*
33 *executive officer shall prepare a full statement of their reasons for*
34 *objecting to that permit.*

35 *(2) If the executive officer objects to the issuance of a Title V*
36 *permit pursuant to paragraph (1), the district shall not finalize*
37 *that permit without revising it to address the objection to the*
38 *satisfaction of the executive officer. In cases where the objection*
39 *cannot be reasonably addressed, the district shall deny the permit*
40 *application subject to Sections 42302 and 42309.*

1 (c) (1) Any person may petition the executive officer of the state
2 board to object to a proposed Title V permit within 30 days of the
3 executive officer's receipt of the proposed permit. A petition
4 submitted pursuant to this subdivision shall explain its basis in
5 facts and law for the requested objection and demonstrate that its
6 bases were raised before the district, or provide good cause for a
7 failure to raise those bases.

8 (2) The executive officer shall consider a petition submitted
9 pursuant to paragraph (1) if it meets all of the following criteria:

10 (A) The issuance of the permit will result in a net increase of
11 local air pollutants, including directly emitted airborne fine
12 particles smaller than 2.5 microns in diameter or toxic air
13 contaminants,

14 (B) Net emissions increases will occur within a disadvantaged
15 community identified pursuant to Section 39711.

16 (C) The emissions increases will not be offset onsite or within
17 the community.

18 (3) For permit modifications, the executive officer shall consider
19 a petition submitted pursuant to paragraph (1) if the petition
20 demonstrates that regression has occurred pursuant to Sections
21 42500 to 42507, inclusive, including proposals to increase existing
22 permit limits due to changes in fuel, processes, or equipment.

23 (4) The state board shall provide annual updates at a public
24 hearing to summarize the number of petitions received pursuant
25 to this section and the status of each petition.

26 SEC. 17. Section 42301.20 is added to the Health and Safety
27 Code, to read:

28 42301.20. (a) (1) Except as provided in paragraph (2), an
29 applicant for a renewal of a Title V permit issued pursuant to this
30 chapter for a facility shall submit a technical feasibility analysis
31 as part of its application for the renewal of that permit in
32 accordance with subdivisions (b) and (c) if the facility's current
33 effective operating permit includes any equipment or control
34 apparatus that meets both of the following:

35 (A) Any equipment or control apparatus required by the permit
36 subject to renewal was installed at least 20 years before the
37 expiration date of its current effective operating permit.

38 (B) Any equipment or control apparatus required by the permit
39 subject to renewal was not reviewed under this section in the 15
40 years before the expiration date of the permit.

1 (2) *In cases where any equipment or control apparatus that was*
2 *electively installed and permitted at emissions limits lower than*
3 *best available control technology or best available control*
4 *technology for toxic air contaminants limits that applied at the*
5 *time the final permit to operate was issued, the equipment or*
6 *control apparatus may be granted, in writing, an additional five*
7 *years of operation before triggering the requirements of this*
8 *section.*

9 (b) *The applicant shall list each piece of equipment and source*
10 *operation that meets the criteria of subdivision (a), according to*
11 *the potential of each piece of equipment and source operation, in*
12 *descending order, to emit each applicable pollutant. For each*
13 *listed piece of equipment and source operation, the applicant shall*
14 *identify whether it is subject to any determinations made by the*
15 *state board pursuant to Section 40920.8.*

16 (c) *For each piece of equipment and source operation listed*
17 *under subdivision (b), the applicant shall provide a technical*
18 *feasibility analysis addressing whether further reductions of air*
19 *pollution from that equipment or source are feasible. The technical*
20 *feasibility analysis shall include the following, and use the*
21 *top-down approach, as provided below:*

22 (1) *A list of air pollution control technologies or pollution*
23 *prevention options that may be applied to each equipment or*
24 *control apparatus to reduce air pollution emissions, which shall:*

25 (A) *Include control applied to similar types of sources,*
26 *alternative technologies, modification of the process or process*
27 *equipment, other pollution prevention measures, and combination*
28 *of these measures, including any measures identified in*
29 *determinations made by the state board, or next generation*
30 *technologies identified in the statewide clearinghouse, pursuant*
31 *to Section 40920.8.*

32 (B) *List each measure in descending order of air pollution*
33 *control effectiveness.*

34 (2) *A proposal to reduce emissions of each pollutant by applying*
35 *the first listed or “top” measure in its list prepared pursuant to*
36 *paragraph (1) for each equipment and control apparatus, unless*
37 *the applicant demonstrates any of the following:*

38 (A) *The top measure is technically infeasible, based on physical,*
39 *chemical, or engineering principles, or technical difficulties that*
40 *would prevent the successful application of the measure, or both.*

1 (B) *The top measure would be unreasonable when comparing*
2 *its air contaminant emission reduction benefits with its adverse*
3 *environmental effects, such as effects on water or land, or toxic*
4 *air contaminant emissions.*

5 (C) *The total and incremental costs of the top measure are*
6 *greater than the total and incremental costs of the other proposed*
7 *measures, which costs shall be calculated using the techniques in*
8 *the latest edition of the United States Environmental Protection*
9 *Agency's Air Pollution Control Cost Manual and that the extra*
10 *costs, compared with the air contaminant emission reduction*
11 *benefits resulting from the top measure, would make use of the top*
12 *measure unreasonable.*

13 (D) *The top measure uses fuels that are not reliably available,*
14 *or that the energy consumed by the top measure is greater than*
15 *any proposed measure, and the extra energy used, when compared*
16 *with the air contaminant emission reduction benefits resulting*
17 *from the top measure, would make use of the top measure*
18 *unreasonable.*

19 (3) *If the top measure is eliminated from consideration, the*
20 *applicant shall evaluate each successive measure on the list, using*
21 *the procedure described in paragraph (2), until the applicant*
22 *reaches its proposed measure.*

23 (d) *The district shall require best available retrofit control*
24 *technology to be applied at each piece of equipment or source*
25 *category identified in the technical feasibility analysis and shall*
26 *apply its expert judgment to each measure proposed by the*
27 *applicant. The district may impose measures more stringent than*
28 *proposed by the applicant if justified on the record.*

29 (e) *Measures imposed under this section are to be identified as*
30 *nonfederally enforceable measures pursuant to Section 42301.12.*

31 SEC. 18. *Section 42322 of the Health and Safety Code is*
32 *amended to read:*

33 42322. (a) *Every district shall establish, and update at least*
34 *once every eight years, by regulation, a program to provide for the*
35 *expedited review of permits issued pursuant to Article 1*
36 *(commencing with Section 42300) in order to reduce unnecessary*
37 *delay in the issuance of those permits and to protect the public*
38 *health and the environment. The expedited permit system shall*
39 *include all of the following:*

1 (1) ~~A~~*An expedited permit review pathway for permit*
2 *applications that propose to use equipment and processes identified*
3 *through the state board's precertification program for equipment*
4 ~~which is mass-produced and operated by numerous sources under~~
5 ~~the same or similar conditions, adopted pursuant to Section 39620~~
6 *in order to allow permit applicants who purchase that propose to*
7 *use identified equipment or processes to receive permits in an*
8 *expedited fashion.*

9 (2) A consolidated permitting process for any source that
10 requires more than one permit, which provides that the source will
11 be permitted on a facility or project basis, provides a single point
12 of contact for the permit applicant, and allows a source to be
13 reviewed and permitted on a single, consolidated schedule.

14 (3) An expedited permit review schedule, based upon the types
15 and amount of pollution emitted from sources. In order to comply
16 with this subdivision, a district shall classify sources within its
17 jurisdiction as minor, moderate, and major sources of air pollution,
18 and shall establish a permit action schedule that sets forth specific
19 deadlines, based on each classification, for an air pollution control
20 officer to notify a permit applicant in writing of the approval or
21 disapproval of a permit application.

22 (4) ~~A~~*The publication of online training and certification*
23 ~~program resources for private sector personnel, in order to establish~~
24 ~~a pool of professionals who can certify businesses as being in~~
25 ~~compliance with district rules and regulations. personnel that~~
26 ~~explain expedited permitting pathways, including where to find~~
27 ~~information on commercially available technology options that~~
28 ~~do not trigger the requirement to obtain a permit pursuant to~~
29 ~~Article 1 (commencing with Section 42300).~~

30 (5) The development of standardized permit application forms
31 that are written in clear and understandable language and provide
32 applicants with adequate information to complete and return the
33 forms.

34 (6) To the extent that a district determines that it will not
35 adversely affect the public health and safety or the environment,
36 the consolidation of the authority to construct and permit to operate
37 into a single permit process in order to reduce processing times
38 and paperwork for stationary sources.

39 (7) An appeals process whereby, if the air pollution control
40 officer fails to notify a permit applicant of the approval or

1 disapproval of a permit application within the schedule established
 2 pursuant to paragraph (3), the permit applicant may, after notifying
 3 the district, request the district board, at its next regularly scheduled
 4 meeting, to set a date certain on which the permit will be acted
 5 upon. This paragraph does not prohibit a permit applicant from
 6 seeking relief under Section 42302.

7 (b) For those districts ~~which~~ *that* have a population of less than
 8 1,000,000 persons, the state board shall provide assistance in
 9 developing regulations implementing this section.

10 (c) This section does not apply to county air pollution control
 11 districts in counties that have a population of less than 250,000
 12 persons.

13 *SEC. 19. No reimbursement is required by this act pursuant*
 14 *to Section 6 of Article XIII B of the California Constitution because*
 15 *a local agency or school district has the authority to levy service*
 16 *charges, fees, or assessments sufficient to pay for the program or*
 17 *level of service mandated by this act or because costs that may be*
 18 *incurred by a local agency or school district will be incurred*
 19 *because this act creates a new crime or infraction, eliminates a*
 20 *crime or infraction, or changes the penalty for a crime or*
 21 *infraction, within the meaning of Section 17556 of the Government*
 22 *Code, or changes the definition of a crime within the meaning of*
 23 *Section 6 of Article XIII B of the California Constitution.*

24 ~~SECTION 1. Section 40406 of the Health and Safety Code is~~
 25 ~~amended to read:~~

26 ~~40406. As used in this chapter, “best available retrofit control~~
 27 ~~technology” means an emission limitation that is based on the~~
 28 ~~maximum degree of reduction achievable, that takes into account~~
 29 ~~environmental, energy, and economic impacts by each class or~~
 30 ~~category of source.~~

O



Consideration of State Legislation

Board of Directors Meeting

April 2, 2025

Alan Abbs

Legislative Officer

Legislative and Government Affairs

Action Requested (1 of 2)

Adopt the following positions on current State Legislation introduced in the California State Assembly (AB) or California State Senate (SB):

- 1. Oppose AB 339 (Ortega)** – Local public employee organizations: notice requirements
- 2. Oppose AB 1368 (Wallis)** – Smog check: exemption
- 3. Oppose SB 712 (Grove)** – Smog check: exemption
- 4. Oppose SB 318 (Becker)** – Air pollution: stationary sources: best available control technology: indirect sources

The Committee voted to recommend items 1-3 for Board adoption at its meeting on March 19, 2025. Item 4 is a staff recommendation, and the recommended position has not been considered or voted on by the Committee.

Action Requested (2 of 2)

Consider adopting a position on current State Legislation:

- **AB 1226 (Essayli)** – Air quality: wildland vegetation management burning: permits: exemption

Staff note: At the Committee meeting on March 19, 2025, the Committee recommended the Board discuss and consider AB 1226 (Essayli). An “Oppose” position was recommended by Air District staff, but no position was taken by the Committee.

Slide 8 includes details on the motions.

AB 339 (Ortega)

Local public employee organizations: notice requirements

This bill would require the governing body of a public agency, and boards and commissions designated by law or by the governing body of a public agency, to give the recognized employee organization no less than 120 days' written notice before issuing a request for proposals, request for quotes, or renewing or extending an existing contract to perform services that are within the scope of work of the job classifications represented by the recognized employee organization. The bill would require the notice to include specified information, including the anticipated duration of the contract.

Recent Status: The bill was heard and passed favorably on March 19, 2025, in the Assembly Public Employment and Retirement Committee. It has been referred to the Assembly Appropriations Committee – hearing date pending.

Committee Recommendation: Oppose

AB 1368 (Wallis)

Smog check: exemption

This bill would create a 30-year rolling exemption from smog check for all motor vehicles.

Status: Introduced on February 21, 2025, as a spot bill and was amended on March 24, 2025, to include substantive language. This bill has been referred to the Assembly Transportation Committee – hearing date pending.

Committee Recommendation: Oppose

SB 712 (Grove)

Smog check: exemption

This bill would fully exempt a collector motor vehicle from the smog check requirement if the vehicle is at least 35 model years old. This bill does not require proof that the motor vehicle is insured as a collector motor vehicle.

Status: Introduced on February 21, 2025, and was amended on March 24, 2025. This bill has been referred to the Senate Transportation Committee – hearing scheduled for April 8, 2025.

Committee Recommendation: Oppose

AB 1226 (Essayli)

Air quality: wildland vegetation management burning: permits: exemption

This bill would exempt wildland vegetation management burning (prescribed burns) from local air district permitting requirements, including burn and no-burn decisions, if the burn was conducted by, or under the supervision of, an applicable public fire management agency.

Status: Introduced on February 21, 2025, and has been referred to the Assembly Natural Resources Committee – hearing date pending.

Committee Recommendation: None (see staff note on page 8)

AB 1226 (Essayli) (cont.)

Staff note: The Committee discussed and considered the staff recommendation to recommend the Board oppose AB 1226 (Essayli) at their meeting on March 19, 2025.

- A motion was made to recommend the Board adopt a position of “Oppose Unless Amended” – the vote result was 5 in favor and 3 opposed, however the motion did not carry, due to the fact that a majority of 11 Committee members (6) did not vote in favor
- A second motion was made to recommend the Board as a whole discuss and consider AB 1226 (Essayli) with no recommendation from the Committee – the motion carried

SB 318 (Becker)

Air pollution: stationary sources: best available control technology: indirect sources

This bill would make significant changes to the air district permitting process that would lengthen permit times and create uncertainty about equipment and permit requirements.

Status: Introduced on February 11, 2025, and amended on March 26, 2025 – Committee referral pending.

Staff note: The Committee did not consider or recommend a position for SB 318 (Becker) at the meeting on March 19, 2025.

Staff Recommendation: Oppose

Recap: Action Requested (1 of 2)

Adopt the following positions on current State Legislation introduced in the California State Assembly (AB) or California State Senate (SB):

- 1. Oppose AB 339 (Ortega)** – Local public employee organizations: notice requirements
- 2. Oppose AB 1368 (Wallis)** – Smog check: exemption
- 3. Oppose SB 712 (Grove)** – Smog check: exemption
- 4. Oppose SB 318 (Becker)** – Air pollution: stationary sources: best available control technology: indirect sources

The Committee voted to recommend items 1-3 for Board adoption at its meeting on March 19, 2025. Item 4 is a staff recommendation, and the recommended position has not been considered or voted on by the Committee.

Recap: Action Requested (2 of 2)

Consider adopting a position on current State Legislation:

- **AB 1226 (Essayli)** – Air quality: wildland vegetation management burning: permits: exemption

Staff note: At the Committee meeting on March 19, 2025, the Committee recommended the Board discuss and consider AB 1226 (Essayli). An “Oppose” position was recommended by Air District staff, but no position was taken by the Committee.

Slide 8 includes details on the motions.

Questions?

For more information:

Alan Abbs, Legislative Officer | aabbs@baaqmd.gov

BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Board of Directors

From: Philip M. Fine
Executive Officer/APCO

Date: April 2, 2025

Re: United States Environmental Protection Agency (US EPA) Initiatives Under
the New Federal Administration and How the Bay Area May be Affected

RECOMMENDED ACTION

None; the Board will discuss, but no action is requested at this time.

BACKGROUND

Air District staff will provide a summary of the Administration's relevant statements and actions to date, the current legal landscape, and the potential impact on the Air District and air quality in the Bay Area.

DISCUSSION

Since January 20, 2025, the Administration has issued multiple memoranda and Executive Orders (EOs) that relate to the Air District's regulatory purview and goals under the Air District's 2024-2029 Strategic Plan. Additionally, on March 12, 2025, US EPA Administrator Lee Zeldin issued a lengthy press release listing over thirty deregulatory actions the US EPA intends to take.

Factors that May Impact US EPA's Agenda

Many factors may affect the Administration's ability to carry out its stated agenda. The EOs and US EPA's press release may signal the Administration's intent regarding policies and implementation of federal statutes and regulations. However, these statements alone are insufficient to change the existing statutes and regulations under current law.

Several mechanisms could be used to alter regulations. Most imminently, the Congressional Review Act (CRA) allows Congress to review US EPA's most recently adopted rules, as defined by the Administrative Procedures Act. 5 U.S.C. §§ 801-808. Absent the CRA, US EPA must go through full notice-and-comment rulemaking to amend or entirely reconsider an existing regulation. Rulemaking is a process that often takes many months or years to finalize; and once final, revised or rescinded regulations are subject to legal challenge in federal courts.

Implementation of several of the EOs are already delayed due to ongoing litigation. For example, the Administration issued a memorandum and multiple executive orders directing federal agencies to freeze all federal funding. Many states sued the Administration, and a federal district court issued a nationwide preliminary injunction prohibiting implementation of the freeze, which is still in effect while the litigation continues. See *N.Y. v. Trump et al*, Case No. 25-cv-00039-JJM-PAS (U.S. Dist. Ct. R.I).

California's Motor Vehicle Waivers

The Clean Air Act (CAA) generally preempts states from adopting vehicle emissions standards that are more stringent than federal standards. But the CAA expressly authorizes California to adopt more stringent standards if US EPA grants the state a "waiver" based on specific criteria. US EPA consistently approves California's waiver requests. The CAA does not contain an express mechanism for US EPA to revoke a waiver once granted. However, the first Trump Administration attempted to revoke US EPA's waiver for California's initial Advanced Clean Cars program. US EPA quickly reinstated the waiver under the Biden Administration while the case was still in litigation.

The Government Accountability Office (GAO) previously issued a memorandum stating that US EPA's waiver approval is an adjudicatory order, not a rulemaking, so it is not subject to review under the CRA. The current US EPA submitted several waivers granted under the previous administration to Congress to consider under the CRA. Despite the GAO memorandum, Congress may attempt to use its CRA authority to overturn these waivers. If Congress does so, this will become another issue that is likely to be litigated.

Reconsideration of Recent Fine Particulate Matter (PM_{2.5}) Air Quality Standard

In 2024, US EPA revised the annual National Ambient Air Quality Standard (NAAQS) for PM_{2.5} from 12 µg/m³ to 9 µg/m³. US EPA announced it intends to reconsider this standard, but to date, US EPA has not proposed any formal rulemaking action.

The Bay Area would be designated non-attainment under the 9 µg/m³ standard, which will require the Air District to submit a nonattainment State Implementation Plan (SIP) describing the control measures the Air District plans to implement to achieve and maintain attainment with the standard. A court may stay the

effectiveness of the standard while US EPA undergoes reconsideration, which would delay the Air District's statutory obligations to submit a SIP.

Additionally, the Clean Air Scientific Advisory Committee (CASAC) and the Science Advisory Board are two key advisory committees that US EPA relies on for independent scientific guidance for rulemakings, including the revised PM_{2.5} NAAQS standard. The Administration fired all members of both panels on January 28, 2025. Unless CASAC is reconstituted quickly, US EPA will not be able to rely on CASAC for independent scientific guidance in its decision-making process. If US EPA carries out its intention to significantly reduce staff, it may be harder to issue a defensible revocation or revision of the new standard.

Reconsideration of Greenhouse Gas (GHG) "Endangerment Finding"

In order to regulate an air pollutant, the CAA requires US EPA to make an "Endangerment Finding" that emissions of that pollutant "cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare." CAA § 108(a). Sixteen years ago, in 2009, US EPA issued the GHG Endangerment Finding. The Endangerment Finding is the foundation of many air quality rules, including: the Clean Power Plan, which regulates power plants; methane emissions standards, which apply to oil and gas facilities; and nationwide vehicle emission standards.

The new Administration has stated its intent to reconsider the GHG Endangerment Finding and regulations that rely on that Finding. US EPA faces several obstacles, however. US EPA would have to establish a factual record that climate change is not happening due to burning fossil fuels, and that even if it is, pollution from fossil fuels does not endanger public health or welfare. Since 2009, the scientific evidence to support US EPA's Endangerment Finding has only become more overwhelming. Additionally, the Inflation Reduction Act amended the CAA in 2022 to provide express authority and resources to US EPA to address GHGs and to encourage deployment of zero emission heavy-duty vehicles and zero emission port equipment, help capitalize green banks, pursue emission reductions in the power sector, reduce methane emissions in the oil and gas sector, support the development and implementation of subnational climate pollution reduction plans, and make grants to support Environmental Justice (EJ) activities. Finally, in 2024, the Supreme Court overturned "Chevron Deference", which required courts to defer to agency expertise when evaluating rulemakings. See *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). As a result, courts will be less likely to defer to an agency's interpretation of an ambiguity in a law that the agency enforces.

Federally Funded Grants

As mentioned above, in the first week of the new Administration, the President issued a series of EOs and the Office of Management and Budget (OMB) issued a memorandum essentially freezing disbursement of federal funding to states and government agencies. Twenty-three states, including California, sued the Trump administration over the OMB memorandum and related EOs. *NY v. Trump, et al*, Case No. 25-cv-00039-JJM-PAS (U.S. Dist. Ct. R.I). On March 6, 2025, the Rhode Island federal district court entered a preliminary injunction with a lengthy opinion that prohibits federal agencies from pausing, freezing, or blocking awards or obligations based on the OMB's memorandum and any related executive orders that would have a similar impact. Litigation is ongoing, but the district court's opinion on the preliminary injunction found that the states are likely to succeed on the merits.

The district court's order applies to federal grant funding the Air District receives under multiple statutes, including the Inflation Reduction Act and the Infrastructure Improvement and Jobs Act. Air District staff are closely monitoring grant disbursements while this litigation is ongoing. However, the outcome is unlikely to have significant impacts. The Air District's recurring grants are less than two percent of the total budget. The Air District occasionally manages a few other discretionary grants, but these are also comparatively small.

Environmental Justice (EJ)

US EPA is removing all references to EJ and closing all eleven of its EJ offices, including the headquarters office in Washington D.C. US EPA's retreat from its EJ agenda could negatively impact the Air District's community partners. However, the Air District is unwavering in its commitment to EJ as the core of the 2024-2029 Strategic Plan. Additionally, even without federal EJ requirements, EJ principles are enshrined in California Law under AB617 and Government Code § 11135.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Carrie Schilling
Reviewed by: Alexander Crockett

ATTACHMENT(S):

1. US EPA Initiatives Under the New Federal Administration and How the Bay Area May be Affected Presentation



United States Environmental Protection Agency (US EPA) Initiatives Under the New Federal Administration and How the Bay Area May be Affected

Board of Directors Meeting

April 2, 2025

Carrie Schilling
Senior Assistant Counsel
Legal Division

Presentation Outline

- Factors that May Impact US EPA's Agenda
- California's Motor Vehicle Waivers
- Reconsideration of Recent Fine Particulate Matter (PM_{2.5}) Air Quality Standard
- Reconsideration of Greenhouse Gas (GHG) "Endangerment Finding"
- Federally Funded Grants
- Environmental Justice

Factors that May Impact US EPA's Agenda

- Potential Implications of the Congressional Review Act
- Notice and Comment Rulemaking Procedural Requirements
- Litigation on Rulemakings

California's Motor Vehicle Waivers

- The Clean Air Act allows California to adopt more stringent standards
 - But requires a waiver from US EPA
- US EPA has historically approved waivers, but the new Administration has signaled it will not
- Congress may attempt disapproval under Congressional Review Act
- Fewer emissions reductions achieved without these waivers

California's Motor Vehicle Waivers (cont.)

- Up to eight waivers are either withdrawn or at risk of denial under the new Administration
- While emissions reductions under these waivers is somewhat uncertain, the totality of reductions lost without these waivers in place could be significant in the Bay Area.
- This is particularly true for Particulate Matter (PM) and Nitrogen Oxides (NO_x) emissions and within specific communities.
- Example: Without certain waivers, impacts could be significant in communities near areas of concentrated diesel truck activities.

California's Motor Vehicle Waivers (cont.)

California Waiver	Status	Potential Regional Impact	Potential Local Impact
Advanced Clean Cars II regulations	Granted	Low	Low
Omnibus Low NOx regulations	Granted	Low	Low
Small Off-Road Engines Amendments	Granted	Low	Low
In-Use Off-Road Diesel-Fueled Fleet Amendments	Granted	Low	High
Commercial Harbor Craft Amendments	Partially Granted	Low	Medium
Transport Refrigeration Unit (TRU) Amendments	Partially Granted	Low	Medium
Advanced Clean Fleets	Withdrawn	Medium	Medium
In-Use Locomotive Standards	Withdrawn	Low	High

Reconsideration of Recent PM_{2.5} Standard

- In 2024, US EPA revised the standard from 12 µg/m³ to 9 µg/m³
- Bay Area would be designated non-attainment
- On March 12, 2025, US EPA announced it intends to reconsider the revised standard
- US EPA is likely to stay the rule while undergoing reconsideration, which delays the Air District's obligations
- US EPA is "reconstituting" the Clean Air Scientific Advisory Committee

Reconsideration of GHG Endangerment Finding

- In order to regulate an air pollutant, US EPA must make an “Endangerment Finding”
- US EPA issued the GHG Endangerment Finding in 2009
- The Finding is the foundation of many rules, including:
 - Clean Power Plan 2.0;
 - Methane emission standards; and
 - Vehicle emission standards
- The new Administration has stated intent to reconsider the Finding
- Multiple legal impediments to this goal

Federally Funded Grants

- The new Administration issued a memo and executive orders to freeze all federal funding
- Rhode Island District Court issued a nationwide preliminary injunction putting the funding freeze on hold (*NY v. Trump*)
- Litigation ongoing
- Potential impact on Air District is minimal
 - Recurring grants are less than 2% of the Air District's total budget
 - Plus, occasional discretionary grants

Environmental Justice

- US EPA is removing all references to and closing its Environmental Justice Division
 - Example: “[E]nvironmental justice considerations shall no longer inform EPA’s enforcement and compliance assurance work.”
<https://www.epa.gov/system/files/documents/2025-03/necimemo-20250312.pdf>
- The Air District is unwavering in our commitment to Environmental Justice
- Even without federal Environmental Justice requirements, Environmental Justice principles are enshrined in California Law under Government Code § 11135 and AB617

Questions?

For more information:

Carrie Schilling, Senior Assistant Counsel

Cschilling@baaqmd.gov