BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS' REGULAR MEETING

November 18, 2009

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:45 a.m. in the 7th Floor Board Room at the Air District headquarters, 939 Ellis Street, San Francisco, California.

Questions About an Agenda Item

The name, telephone number and e-mail of the appropriate staff person to contact for additional information or to resolve concerns is listed for each agenda item.

Meeting Procedures

The public meeting of the Air District Board of Directors begins at 9:45 a.m. The Board of Directors generally will consider items in the order listed on the agenda. However, any item may be considered in any order.

After action on any agenda item not requiring a public hearing, the Board may reconsider or amend the item at any time during the meeting.

BOARD OF DIRECTORS' REGULAR MEETING
A G E N D A

WEDNESDAY
NOVEMBER 18, 2009
9:45 A.M.

BOARD ROOM
7TH FLOOR

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance

Chairperson, Pamela Torliatt
Clerk of the Boards

PUBLIC COMMENT PERIOD

Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3
Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's subject matter jurisdiction. Speakers will be limited to three (3) minutes each.

BOARD MEMBERS' 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)

CONSENT CALENDAR (ITEMS 1 – 6)

Staff/Phone (415) 749-

1. Minutes of November 4, 2009

   L. Harper/5073
   lharper@baaqmd.gov

2. Set a Public Hearing for December 2, 2009 to consider adoption of proposed amendments to Regulation 8, Rule 50: Polyester Resin Operations, and the adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA).

   H. Hilken/4642
   hhilken@baaqmd.gov

   Regulation 8, Rule 50 regulates volatile organic compound (VOC) emissions from the composite (polyester resin, including fiberglass) products manufacturing industry. The proposed amendments to Regulation 8, Rule 50 will reduce VOC and toxic emissions by lowering the allowable monomer content limits for resins; by establishing monomer content limits for gel coats that will reduce the allowable VOC emissions; and by requiring the use of non-atomizing spray systems when resins are applied to open molds. In addition, the proposed amendments reduce VOC emissions from cleaning products by lowering the allowable VOC content.

3. Set Public Hearing for December 16, 2009 to Consider Proposed Amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants; and Adoption of a CEQA Negative Declaration

B. Bateman/4653
bbateman@baaqmd.gov

Proposed amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants will incorporate updated health risk assessment methodologies, resulting in an increase in the stringency of permitting requirements for new/modified stationary sources of toxic air contaminants. The amendments will also establish a new provision for tracking toxic air contaminant emissions in Priority Communities identified under the District's Community Air Risk Evaluation (CARE) program.

4. Contract with the City of Fremont Redevelopment Agency for Interchange Improvement Costs

J. McKay/4629
jmckay@baaqmd.gov

Approve a contract with the City of Fremont Redevelopment Agency through FYE 2028/29, with an established limit of $1.5 billion.

5. Adjust Pay Range for the Strategic Facilities Manager Classification to 148M in accordance with all other District Manager classifications

J. Broadbent/5052
jbroadbent@baaqmd.gov

Approve adjusting Pay Range for the Strategic Facilities Manager Classification to 148M in accordance with all other District Manager Classifications.

COMMITTEE REPORTS AND RECOMMENDATIONS

6. Report of the **Nominating Committee Meeting** of November 4, 2009
CHAIR: P. TORLIATT

J. Broadbent/5052
jbroadbent@baaqmd.gov

Action: The Committee recommends Board of Directors' approval of a slate of Board Officers for the 2010 term of office.

7. Report of the **Mobile Source Committee Meeting** of November 5, 2009
CHAIR: S. HAGGERTY

J. Broadbent/5052
jbroadbent@baaqmd.gov

Actions: The Committee recommends Board of Directors' approval of the following:

A) Carl Moyer Program Year 11 Projects:

1. *Approve Carl Moyer Program Year 11 projects with proposed grant awards over $100,000; and*
2. *Authorize the Executive Officer/APCO to execute all necessary agreements for the recommended Carl Moyer Program Year 11 projects.*

B) Extension of Contracts and Request to Reserve $4.5 Million in Mobile Source Incentive Funds for Vehicle Buy Back Program:

1. *Authorize the Executive Officer/APCO to execute contract extensions for vehicle scrapping and related services with Environmental Engineering Studies, Inc and Pick-N-Pull, which will distribute, on a reimbursement basis, up to approximately $4.5 million in Mobile Source Incentive Funds until April 1, 2010, at which time the Air District's Vehicle Buy Back (VBB) program will cease temporarily and be reactivated in the likely event that the California Bureau of Automotive Repair (BAR) program runs out of funding; and*
2. *Allocate an additional $4.5 million in Mobile Source Incentive Funds (MSIF) to fund the VBB Program during fiscal Year 2009/2010 and increase the VBB Program FY 2009/2010 budget accordingly.*

C) *Proposed Revisions To Transportation Fund For Clean Air Regional Fund Projects:*

1. *Approved proposed revisions to three (3) Transportation Fund for Clean Air Regional Fund Projects.*

D) *Fiscal Year (FY) 2008/2009 Transportation Fund For Clean Air (TFCA) Expenditures And Effectiveness Report:*

1. *Approve Fiscal Year (FY) 2008/2009 Transportation Fund for Clean Air (TFCA) Expenditures and Effectiveness Report.*

E) *Proposed Revisions to Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year (FY) 2009/2010:*

1. *Approve the proposed revisions for FY 2009/2010 Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria.*

8. Report of the **Legislative Committee Meeting** of November 12, 2009
CHAIR: T. BATES **J. Broadbent/5052**
jbroadbent@baaqmd.gov

9. Report of the **Public Outreach Committee Meeting** of November 13, 2009
CHAIR: M. ROSS **J. Broadbent/5052**
jbroadbent@baaqmd.gov

10. Report of the **Stationary Source Committee Meeting** of November 16, 2009
CHAIR: J. GIOIA **J. Broadbent/5052**
jbroadbent@baaqmd.gov

PUBLIC HEARING(S)

11. Public Hearing to receive testimony on proposed amendments to the District's California Environmental Quality Act (CEQA) Thresholds of Significance. The hearing will be continued on December 2, 2009 at which time adoption of the proposed amendments will be considered. **J. Roggenkamp/4646**
jroggenkamp@baaqmd.gov

CEQA Thresholds of Significance are developed to assist local jurisdictions and agencies in complying with the requirements of CEQA regarding potentially adverse impacts to air quality. The thresholds provide a means to identify proposed local plans and development projects that may have a significant adverse effect on air quality, public health, attainment

of state and national ambient air quality standards, and to provide recommendations to mitigate those impacts. The proposed amendments to the Thresholds of Significance include staff-recommended thresholds for construction, operational-related, and plan-level emissions of criteria air pollutants and ozone precursors, greenhouse gases, toxic air contaminants, and odors.

CLOSED SESSION

12. Report of the **Personnel Committee Meeting** of November 18, 2009
CHAIR: H. BROWN **J. Broadbent/5052**
jbroadbent@baaqmd.gov

Pursuant to Government Code Section 54957 and 54957.6, the Committee will meet in closed session to conduct performance evaluation of the Legal Counsel.

OPEN SESSION

OTHER BUSINESS

13. Report of the Executive Officer/APCO
14. Chairperson's Report
15. Time and Place of Next Meeting – 9:45 A.M. Wednesday, December 2, 2009 - 939 Ellis Street, San Francisco, CA 94109
16. Adjournment

CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET SAN FRANCISCO, CA 94109

(415) 749-5130
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities. Notification to the Executive Office should be given at least 3 working days prior to the date of the meeting so that arrangements can be made accordingly.
- 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 headquarters at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body. Such writing(s) may also be posted on the Air District's website (www.baaqmd.gov) at that time.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109
(415) 771-6000

EXECUTIVE OFFICE:
MONTHLY CALENDAR OF DISTRICT MEETINGS

NOVEMBER 2009

TYPE OF MEETING	DAY	DATE	TIME	ROOM
Board of Directors Public Outreach Committee *(Meets 1st Thursday each Month)*	Friday	13	9:30 a.m.	4th Floor Conf. Room
Board of Directors Stationary Source Committee *(Meets 3rd Monday Quarterly)*	Monday	16	9:30 a.m.	Board Room
Board of Directors Personnel Committee *(At the Call of the Chair)*	Wednesday	18	9:00 a.m.	4th Floor Conf. Room
Board of Directors Regular Meeting *(Meets 1st & 3rd Wednesday of each Month)*	Wednesday	18	9:45 a.m.	Board Room
Executive Committee Meeting *(Meets at the Call of the Chair)*	Thursday	19	9:30 a.m.	4th Floor Conf. Room
Joint Policy Committee *(Meets 3rd Friday Every Other Month)* - **RESCHEDULED TO FRIDAY, NOVEMBER 6, 2009**	Friday	20	10:00 a.m.	MTC Auditorium 101 8th Street Oakland, CA 94607
Board of Directors Personnel Committee *(At the Call of the Chair)*	Monday	23	9:30 a.m.	4th Floor Conf. Room
Board of Directors Budget & Finance Committee *(At the Call of the Chair)* - **CANCELLED & RESCHEDULED TO MONDAY, NOVEMBER 2, 2009**	Wednesday	25	1:30 p.m.	4th Floor Conf. Room
Board of Directors Mobile Source Committee *(Meets 4th Thursday each Month)* **CANCELLED**	Thursday	26	9:30 a.m.	4th Floor Conf. Room

DECEMBER 2009

TYPE OF MEETING	DAY	DATE	TIME	ROOM
Board of Directors Regular Meeting *(Meets 1st & 3rd Wednesday of each Month)*	Wednesday	2	9:45 a.m.	Board Room
Board of Directors Public Outreach Committee *(Meets 1st Thursday each Month)*	Thursday	3	9:30 a.m.	4th Floor Conf. Room
Board of Directors Mobile Source Committee *(Meets 4th Thursday each Month)*	Monday	7	9:30 a.m.	4th Floor Conf. Room

December 2009 Calendar Continued on Next Page

DECEMBER 2009

TYPE OF MEETING	DAY	DATE	TIME	ROOM
Board of Directors Climate Protection Committee *(Meets 2nd Thursday each Month)* RESCHEDULED TO FRIDAY, DECEMBER 11, 2009	Thursday	10	9:30 a.m.	4th Floor Conf. Room
Board of Directors Climate Protection Committee *(Meets 2nd Thursday each Month)*	Friday	11	9:30 a.m.	4th Floor Conf. Room
Board of Directors Regular Meeting *(Meets 1st & 3rd Wednesday of each Month)*	Wednesday	16	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee – *(Meets 4th Thursday of each Month)* - CANCELLED	Thursday	24	9:30 a.m.	4th Floor Conf. Room

JANUARY 2010

TYPE OF MEETING	DAY	DATE	TIME	ROOM
Board of Directors Regular Meeting *(Meets 1st & 3rd Wednesday of each Month)*	Wednesday	6	9:45 a.m.	Board Room
Board of Directors Public Outreach Committee *(Meets 1st Thursday each Month)*	Thursday	7	9:30 a.m.	4th Floor Conf. Room
Advisory Council Regular Meeting	Wednesday	13	9:00 a.m.	Board Room
Board of Directors Climate Protection Committee *(Meets 2nd Thursday each Month)*	Thursday	14	9:30 a.m.	4th Floor Conf. Room
Board of Directors Legislative Committee *(Meets 2nd Thursday each Month)*	Thursday	14	Following Board Climate Protection Cme. Mtg.	4th Floor Conf. Room
Joint Policy Committee *(Meets 3rd Friday Every Other Month)*	Friday	15	10:00 a.m.	MTC Auditorium 101 8th Street Oakland, CA 94607
Board of Directors Regular Meeting *(Meets 1st & 3rd Wednesday of each Month)*	Wednesday	20	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee *(Meets 4th Thursday each Month)*	Thursday	28	9:30 a.m.	4th Floor Conf. Room

HL – 11/12/09 (12:10 p.m.)
P/Library/Forms/Calendar/Calendar/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 12, 2009

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors Regular Meeting of November 4, 2009.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of November 4, 2009.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

AGENDA: 1

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
(415) 749-5000

Board of Directors' Regular Meeting
November 4, 2009

DRAFT MINUTES

CALL TO ORDER: Chairperson Pamela Torliatt called the meeting to order at 9:45 a.m.

Roll Call: Chairperson Pamela Torliatt; Vice Chairperson Brad Wagenknecht, Secretary Tom Bates; and Directors Harold Brown, Chris Daly, Susan Garner, John Gioia, Carole Groom, Scott Haggerty, Jennifer Hosterman, Carol Klatt, Eric Mar, Nate Miley, Mark Ross, James Spering, Gayle B. Uilkema, Ken Yeager and Shirlee Zane

Absent: Directors Dan Dunnigan, Yoriko Kishimoto and Liz Kniss

PLEDGE OF ALLEGIANCE: Chair Torliatt led the Pledge of Allegiance.

Public Comments: Gordan Mar, Bay Area Environmental Health Collaborative (BAEHC), cited submission of written comments, opposed removal of key equity provisions to CEQA guidelines one day prior to the end of public comment period, and urged the Board to reinstate original recommendations.

Marie Harrison, GreenAction, voiced opposition to reduced thresholds, requested the Air District put people's health first and not allow industry to influence the decision.

Ray Davis, spoke in opposition to the Lehigh Cement Plant's permit renewal, citing health and safety concerns and the plant's pollution of over one million tons of cement plant dust.

Dr. Henry Clark, Executive Director, West County Toxics Coalition, requested the Board adopt policies to reduce and eliminate negative impacts and asked to approve "No Project" options in addressing EIR mitigation.

Bruce Ramsay, spoke of a friend with lung cancer who had passed away and who lived downwind from someone who regularly burned wood, voiced support of current and more stringent regulations and enforcement, and requested the Air District monitor and measure locally instead of countywide.

Patricia Weisselberg, Families for Clean Air, spoke of the need to enforce wood smoke, suggested changing the advisory on the District's website for non-Spare

the Air days-"Okay to Burn" and asked it to read, "No Excessive Smoke Allowed." She also asked that District inspection staff enforce regularly on evenings and weekends.

Joel Ervice, Regional Asthma Management and Prevention, BAEHC, spoke of the Board's work to address cumulative impacts of mobile and stationary sources, discussed CEQA guidelines proposed in September which had a tiered approach with added protective thresholds, and his disappointment to learn of its removal a day before the public comment period ended. He asked the Board to reinstate the tiered approach.

Ken Kloc, BAEHC, echoed concerns of speakers, requested reinstatement of tiered approach in the CEQA guidelines, and asked for stronger measures over time.

Teresa Fau Mui, Mothers Committee and resident of Bay View Hunter's Point, asked the Board to consider humans first and those who are suffering.

Andy Katz, Breathe California, Clean Air Task Force, BAEHC, spoke of pollution, asthma and cardiovascular risks which he said are severe in the Bay Area. He asked that environmental justice groups have a chance to comment on the revised proposal, and requested that staff present the analysis which led to the revision.

Board Member Comments:

Chairperson Torliatt stated that the District will hold their next meeting on November 18, 2009 to deliberate on the CEQA Guidelines. The Board will be provided with an analysis, options, and staff recommendations and a presentation on the Wood Smoke Program would also be given. She believed staff has done a lot to heighten awareness of the matter, has reviewed lessons from the year prior, and is crafting an enhanced program.

CONSENT CALENDAR (Items 1-9):

Director Daly requested removing Consent Calendar Item 9 and asked for discussion regarding the process by which staff used to change their recommendations.

Chairperson Torliatt noted a minor edit to page 8 of the October 7, 2009 Minutes.

1. Approval of Minutes of October 7, 2009 Regular Meeting;
2. Communications;
3. District Personnel on Out-of-State Business Travel;
4. Quarterly Report of the Executive Office Activities;
5. Quarterly Report of Air Resources Board Representative – Honorable Ken Yeager;
6. Consider Adjusting the Air District's Medical Contribution Declared to California Public Employee's Retirement System (CalPERS);
7. Notice of Proposed Amendments to the Air District's Administrative Code Division III – Personnel Policies and Procedures – Section 3 adding a new subsection 3.12, entitled Fraud, Misconduct, and Dishonesty in the Workplace;

8. Approve an Administrative Instruction regarding Capital Assets and Depreciation Policy

Board Action: Vice Chairperson Wagenknecht made a motion to approve Consent Calendar Items 1, as amended, and Consent Calendar Items 2, 3, 4, 5, 6, 7 and 8; Director Brown seconded the motion; carried unanimously without opposition.

9. Set a Public Hearing for November 18, 2009 to receive testimony on proposed amendments to the District's California Environmental Quality Act (CEQA) Thresholds of Significance. The hearing will be continued on December 2, 2009 at which time adoption of the proposed amendments will be considered.

Executive Officer/APCO Jack Broadbent explained that the Consent Calendar item sets the public hearing for CEQA guidelines. The Air District has been working extensively to prepare the guidelines for local city/county decision-making on land use. The guidelines have not been updated for years; proposed is new GHG thresholds, lowering criteria smog contaminant thresholds, and addressing the local toxics impacts in and around the Bay Area.

Mr. Broadbent also noted that staff has been engaged in modifying the District's Toxics New Source Review Program, which pertains to all stationary source permitting and the toxics impacts associated with it. This rule will be brought before the Board of Directors on December 16, 2009 after being discussed at the Stationary Source Committee meeting on November 16, 2009. He stated that staff was also meeting with BAEHC on November 13, 2009 to discuss concerns.

Director Daly confirmed with Mr. Broadbent and Chairperson Torliatt that the recommendation and reasons why the District is recommending changes will be addressed and discussed prior to the public hearing. Mr. Broadbent explained that the State has come out with methodologies on how risk is calculated which raises the relative risk, thus the need for more stringent standards. He agreed to review details of the process, what the State's new methodology is, and the revised recommendation.

Director Zane commented that the North Bay Air District had adopted some strict regulations in terms of stationary engines for the agricultural industry, which she said also affect the Bay Area AQMD.

Director Ross believed it would be helpful for staff to explain what the State Office of Environmental Hazard Assessment's role is and why the Air District would try to align itself with those guidelines.

Director Daly requested staff provide the original September report with an explanation and justification of why the previous recommendation was made, and Mr. Broadbent agreed to present this at the Stationary Source Committee meeting.

Board Action: Director Uilkema made a motion to approve Consent Calendar Item 9; Director Ross seconded the motion; carried unanimously without opposition.

COMMITTEE REPORTS AND RECOMMENDATIONS:

10. **Continued discussion of the Executive Committee Meeting of September 24, 2009 to amend the Air District's Administrative Code regarding Board of Director's Officers' term of Office**
Report given by Chairperson P. Torliatt

The Executive Committee met on Thursday, September 24, 2009 and approved the minutes of July 29, 2009. The report and recommendation of the Committee was presented to the Board of Directors at the October 7, 2009 meeting and was continued by the Chair to this meeting.

The Committee continued its discussion to consider amending the Administrative Code Division I, Section 2.1, to re-establish a two-year term of office for Board Officers. After lengthy discussion, the Committee, by a vote of 4-2, recommended that the Board of Directors establish a two-year term for the Chairperson, commencing with the Vice Chairperson's term in 2010.

Chairperson Torliatt made a motion to approve the recommendation; Director Bates seconded the motion.

Director Uilkema voiced her preference for a model where all board members and jurisdictions have an opportunity to advance forward, spoke of the leadership opportunity, noted that Boards of Supervisors and City Councils change Chairpersons every year, and looks at the agenda as the collective Board's agenda.

Director Hosterman echoed comments and said Section 2.7 talks about Officer Rotation in a manner to ensure participation from a wide representation of the membership. She believed it was good for the Board and communities to have varied representation every year and supported a one-year Officer term.

Director Garner supported comments, questioned and cited those Board Members with and without term limits, said her comments in no way reflect those currently on the Board, and supported a one-year Officer term.

Director Haggerty did not disagree with many comments, thinks that a two-year term may be difficult for the Executive Director and that his Board of Supervisors have two-year Chairs. He supported the Executive Committee's recommendation, believes that the Chair's role is to run the meetings and reiterated that the Executive Officer/APCO works for the entire Board and not just the Chair.

Vice Chairperson Wagenknecht believed there was relevance that other regional bodies are two year terms and supported it working in a Board situation. He believes that the Chair is the person the Executive Officer checks in with every day, which adds to the relationship and he also thinks that moving things forward on a regional basis would be easier to follow through to completion. While he understands arguments, he supported the Committee's recommendation.

Secretary Bates cited the importance of continuity, said he is opposed to term limits, and supported the Committee's recommendation.

Director Yeager said he would not support the motion, stating that Santa Clara County and many of its cities have term limits which limit the time Directors can serve. He supported a one-year Officer term as sufficient and believes that allowing more people in a leadership role also strengthens the perception of the Board.

Director Ross said he personally benefitted from the one year term and had it been two years, he would still be the Chair. He cited the time it takes in educating members and getting projects completed. While he understands the term limit argument, City Council members must also be

appointed by their City Selection Committees and therefore, he supported the Committee's recommendation.

Board Action: Chairperson Torliatt made a motion to approve the report and recommendation of the Executive Committee; Director Bates seconded the motion; which failed by the following roll call vote (8-9-1-3): Ayes: Bates, Daly, Haggerty, Mar, Ross, Wagenknecht, Zane, Torliatt; Noes: Brown, Garner, Gioia, Groom, Hosterman, Klatt, Spering, Uilkema, and Yeager. Abstain: Miley. Absent: Dunnigan, Kishimoto and Kniss

11. Climate Protection Committee Meeting
October 8, 2009
Report given by Vice Chairperson T. Bates

The Climate Protection Committee met on Thursday, October 8, 2009 and approved the Climate Protection Committee minutes of September 10, 2009.

The Committee received a breakdown of the 2007 transportation sector emissions and an overview of electric vehicle technologies, which included neighborhood electric vehicles, hybrid electric vehicles and plug-in hybrids. Committee members discussed pros and cons of electric vehicles, master planning for infrastructure needs, the diversity of charging mechanisms, building retrofits, and requested that focus be placed on what is the District's best investment for technology and infrastructure in support of electric vehicles.

The Committee then received an update on the 2009 Clean Air Plan, with an emphasis on measures to reduce greenhouse gases emissions. The Committee reviewed benefits of a multi-pollutant evaluation methodology which helps analyze control measures, and reviewed examples of the five different categories in the Control Strategy. The draft 2009 Clean Air Plan will be out for review later this year. CEQA and socio-economic analysis will be done and will be presented to the Board of Directors early 2010.

The next meeting of the Climate Protection Committee is Thursday, December 10, 2009 at 9:30 a.m.

Board Action: Secretary Bates made a motion to approve the report of the Climate Protection Committee; Director Garner seconded the motion; which carried unanimously.

12. Stationary Source Committee Meeting
October 19, 2009
Report given by Chairperson M. Ross

The Public Outreach Committee met, without a quorum, on Thursday, October 15, 2009, and deferred the minutes of May 7, 2009.

The Committee received an overview of the Community Grant Program awards which allotted grants in three different categories: Outreach and Education; Implementing Behavior Changes; and Respiratory Health Improvement. A total of 57 applications were received which represented $2.2 million in requests. The Committee reviewed the selection process, scoring criteria, geographic locations served, and requested that the entire list of applications be provided by their dollar amounts, to identify whether they are fully or partially funded, and for them to be listed in priority order. The

Committee also requested that five (5) additional projects be discussed at an upcoming Budget and Finance Committee meeting for consideration of funding.

The Committee received a Report on the 2009 Summer Season Spare the Air Campaign. The campaign lasted from May 11th through October 2nd with the slogan, "*Any Ride is Worth Sharing*". The Committee discussed campaign elements, targeted outreach, advertisements, website refinements, and 2009 highlights which focused on carpooling, taking transit and behaviors. A report on the feedback received from focus groups will be presented at the next Public Outreach Committee meeting.

The Committee then received a presentation on the 2009-2010 Winter Spare the Air Communication Strategy and discussed the doubling of communication alert sign-ups, updated program elements, offender penalties for wood burning, and the development of an exemption guidance document. A presentation of the 2009-2010 Wood Smoke Reduction Program will be presented at today's Board meeting.

The Committee then considered renewal of a contract with Community Focus for facilitation of Air District Resource Teams in the amount of $200,000. The Committee confirmed that a full RFP process had been undertaken, that the current consultant's proposal was the only response received, and that Community Focus has been very successful in their facilitation efforts. It was unanimously recommended by those Committee Members in attendance to recommend Board of Directors' approval of a contract with Community Focus for facilitation of Air District Resource Teams in the amount of $200,000.

The next meeting of the Public Outreach Committee is scheduled for Friday, November 13, 2009 at 9:30 a.m.

Board Action: Director Ross made a motion to approve the report and recommendations of the Public Outreach Committee; Director Wagenknecht seconded the motion; which carried unanimously.

13. Stationary Source Committee Meeting
October 19, 2009
Report given by Chairperson J. Gioia

The Committee met on Monday, October 19, 2009 and approved the minutes of July 13, 2009.

The Committee received a status report on the Flare Minimization Plan (FMP) Second Annual Updates under Regulation 12, Rule 12: Flares at Petroleum Refineries. The Plan mandates that refineries update their FMP annually to incorporate any new prevention measures. The Committee received reports of progress in the reduction of frequency and magnitude of flaring and noted that regulations serve to function as a continuous improvement process.

The Committee then received an update on Bay Area emission trends, the distribution of 2005 annual average emissions, and all sources of emission trends from 1980-2010 including stationary source, refinery, power plants and cogeneration. The Committee reviewed trends in air quality monitoring data and discussed emission reductions as a result of adopted control measures from 1992-2008. Public comment was received regarding refinery emissions reductions, cleaner burning

fuels, the Air District's collaboration in adoption of rules, and a request for the Air District to address pollution from the Lehigh Cement Plant.

The next meeting of the Committee is scheduled for Monday, November 16, 2009 at 9:30 a.m.

Board Action: Director Gioia made a motion to approve the report of the Stationary Source Committee; Director Klatt seconded the motion; which carried unanimously.

14. Ad Hoc Committee on Port Emissions Meeting
October 26, 2009
Report given by Chairperson N. Miley

The Ad Hoc Committee on Port Emissions met on Monday, October 26, 2009 and approved the minutes of July 16, 2009.

The Committee received an update on the Emission Reduction Strategy for the Port of Oakland and discussed the Joint Work Program established between the Port of Oakland and the Air District to address near term projects to reduce emissions, measures to track progress, specific emission reduction projects, and compliance assistance and enforcement. Mr. Richard Sinkoff attended the meeting and briefly discussed the Port's update of its 2005 emissions inventory, development of the Joint Work Program and the group's active and positive working relationship. The final draft Joint Work Program will go to the Port Maritime Committee on November 4, 2009 and to the Port Board of Commissioners on November 17, 2009.

The Committee received an update on the Drayage Truck Retrofit Program at the Port of Oakland, and discussed a timeline of activities, program successes to date, and the program's goal of achieving 1,500 compliant trucks at the Port of Oakland by January 1, 2010. The Committee reviewed current issues and recognized the unprecedented $22 million in funding for the retrofit program. Committee members voiced their desire to assist the remaining 800 non-retrofitted truckers, and the Chair agreed to facilitate a future meeting to discuss the matter.

The Committee then received a report on the Compliance Plan for Enforcement of mobile source regulations. The goal of the plan is to reduce the diesel particulate matter health risk in CARE impacted areas, with special focus on the Port of Oakland and West Oakland through enforcement activities. The Committee reviewed plan implementation which involves truck, ships, boat, equipment and locomotive regulations.

The Committee further reviewed the establishment of partnerships which led to development of the plan, and highlight that the Air District is the first in the State to enter into a comprehensive mobile source enforcement partnership agreement with CARB.

The Committee then received an overview of shore power at the Port of Oakland and discussed the California Air Resources Board's (ARB) enactment of an Air Toxics Control Measure (ATCM), which requires vessel owners, terminals and California Ports work to reduce emissions and requires that (they) choose between two emissions reduction options by July. Facilities at the Port of Oakland have chosen to utilize grid-based shore power where 50% of the vessels visiting must be able to plug into grid-based shore power by July 2014.

The Committee reviewed costs to electrify all berths, infrastructure and funding and strongly recommended that the Board of Directors consider future use of Carl Moyer funds, for discussion to be held at the JPC, and that the Port consider working with the private sector for providing infrastructure on a lease basis.

The next meeting of the Committee is at the call of the Chair.

Directors said they were pleased that the District and the Port of Oakland were working together and progress was being made. Mr. Broadbent noted that some of the subjects discussed at the Ad Hoc Committee on Port Emissions would be discussed at the upcoming November 5th Mobile Source Committee meeting and he noted that the MOU with CARB should also be signed, which will allow the District to enforce regulations at the Port.

Board Action: Director Miley made a motion to approve the report of the Ad Hoc Committee on Port Emissions; Director Wagenknecht seconded the motion; which carried unanimously.

15. Budget and Finance Committee Meeting
November 2, 2009
Report given by Vice Chairperson M. Ross

The Budget and Finance Committee met on November 2, 2009 and approved the minutes of September 16, 2009.

The Committee reviewed and discussed consideration for the District to participate in the Proposition 1A Securitization Program, a program authorized under ABX4 14 and ABX4 15 and instituted by California Statewide Communities Development Authority, to enable local agencies to sell their respective Proposition 1A Receivables to California Communities. Under the Securitization Program, California Communities would simultaneously purchase the Proposition 1A Receivables, issue bonds and provide each participating local agency with the cash proceeds which will equal 100% of the amount of the property tax reduction.

The Committee recommends that the Board of Directors adopt the proposed Proposition 1A Sale Resolution and Purchase and Sale Agreement, and recommends that the Board of Directors authorize the APCO and DAPCO to sign all necessary documents on behalf of the District.

The Committee received an update on itemized reductions in the Services and Supplies Budget, Grants staffing budget considerations, transfers of staffing from core programs which would have been temporarily funded from Grants Administration revenue rather than from General Fund revenue, and utilization of Enforcement employees. The Committee questioned the status of Lehman Bros. litigation and requested that a future Closed Session be held to discuss protection of the District's interests.

The Committee then reviewed and discussed consideration for the District to create a Carbon Offset Fund, funded by the ConocoPhillips settlement in the amount of $4,443,025, and adjustment of the Air District's FY 2009/10 Strategic Incentives Division budget, which will be used to provide grants and staff administrative costs. Examples of projects could include energy efficiency projects for public buildings, and solar, wind and renewable projects.

The Committee recommends that the Board of Directors approve the creation of a Carbon Offset Fund Program Number 311, funded by the ConocoPhillips settlement in the amount of $4,443,025, and adjust the Air District FY 2009/10 Strategic Incentives Division budget accordingly.

The next meeting of the Budget and Finance Committee is at the call of the Chair.

Board Action: Director Ross made a motion to approve the report and recommendations of the Budget and Finance Committee; Director Hosterman seconded the motion; which carried unanimously.

16. Personnel Committee Meeting
November 2, 2009
Report given by Director C. Daly, on behalf of Chairperson H. Brown

The Personnel Committee meeting scheduled to be held at 9:00 a.m. today was canceled.

The next meeting of the Personnel Committee will be held on November 18, 2009 at 9:30 a.m. and thereafter, a meeting of the Personnel Committee will be held on November 23, 2009 to consider re-appointment and appointment of Advisory Council Members.

Board Action: Director Daly made a motion to approve the report of the Personnel Committee; Director Uilkema seconded the motion; which carried unanimously.

17. 2009-2010 Winter Wood Smoke Reduction Program

Director of Compliance and Enforcement, Kelly Wee, presented the report, stating that the program has been successful and the District has continued to fine-tune it. He presented peak winter PM 2.5 percentages and reviewed specific requirements of Regulation 6, Rule 3 adopted July 9, 2008. Mr. Wee recapped the 2008/2009 Winter season, and said there were 11 *Winter Spare the Air Alerts*, 13 exceedances, nearly 1,500 wood smoke complaints received, inspectors conducted patrols in high priority areas for curtailment enforcement, with 254 warning letters issued and one $400 penalty.

Changes to the program for the 2009/2010 winter season include:

- Calling *Winter Spare the Air Alerts* at 2:00 p.m. for the next day, which takes effect at midnight and in effect for 24 hours;
- Wood smoke complaints will be mapped for patrols;
- Second offense will be charged a $400 penalty which will increase for repeat violations;
- Issuance of an exemption guidance document

Director of Communications and Outreach, Lisa Fasano, discussed the District's public outreach program, media launch highlights, and increased advertisements on the Internet. She presented a sample video commercial, presented *Spare the Air* snuggies, and distributed web widgets which contain a host of materials that can be downloaded on agency websites.

Mr. Wee said many regulatory efforts rely on enforcement to gain compliance, and he presented staff's mapping out and patrol routes of wood smoke complaints on Google. He reviewed the burn ban exemption guidance which was issued this fall to provide additional information about under which circumstances a resident can be exempt from the burn ban in the rule. He said the "only source of

heat" exemption does not apply if other forms of permanently installed heating exist in a residence. Propane heating must be used if available. Residents claiming permanently installed heat is insufficient to heat the entire residence are not exempt, and residents with broken heaters are granted a one-season exemption.

Mr. Wee concluded his report with the wood smoke message, check before you burn number, website information, news and television alerts, and email and telephone notification.

Director Comments/Questions:
Director Uilkema questioned space heaters and specific exemptions, stating that of the 18 communities in her District that indicate they burn wood, 3 of those communities indicate they do so at a rate of over 60%, and she suggested they be targeted.

Director Gioia questioned how the broken heater exemption works and voiced concern for low income families and the cost of repairs or purchase of new heaters. Mr. Wee said no economic thresholds have been set to date, but staff works with residents and their individual situations when they receive a warning letter.

Director Zane cited the tough economy, thinks media information is important, encouraged Directors to post widget information on their websites, and offered to work with staff on media exposure in Sonoma County with the Press Democrat.

Director Garner supported staff's work on the program, likes the simple language, and suggested the District pilot a communication/education program with a school in a hot spot community.

Director Ross thanked staff and thinks the program is well thought-out and executed; it is a behavioral change on a large scale and it has freedom issues that the District will overcome.

Vice Chairperson Wagenknecht thanked staff for their work and educational materials for websites, and suggested continuing the aggressive outreach so people understand wood smoke is a serious health issue.

Chairperson Torliatt referred to low income families and noted that AB 811 funding is available to homeowners in some counties.

Public Comments: Patricia Weisselberg, Families for Clean Air, suggested the message in outreach materials about the ban on excessive wood smoke be changed to read, "throughout the entire year."

CLOSED SESSION
The Board of Directors adjourned to Closed Session at 11:40 a.m.

18. Conference with Legal Counsel – Existing Litigation

Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following case(s):

1. ***Patricia Howell vs. Bay Area AQMD, et al.,*** *San Francisco Superior Court Case No. CGC 07 461887*

OPEN SESSION

The Board of Directors reconvened in Open Session at 11:44 p.m. District Counsel Brian Bunger stated that there was no reportable action taken in Closed Session.

OTHER BUSINESS:

19. Report of Executive Officer/APCO:

Mr. Broadbent anticipated that the next two Board of Directors' meetings will be longer due to significant interest from the public on public hearing items.

Director Uilkema confirmed that the 4th Floor Conference Room is used for overflow crowds and is equipped with audiovisual and cameras, that security will be in place for the meetings, as well as bollards.

Director Zane confirmed that staff will conduct a poll for the November 18, 2009 Board meeting to ensure a quorum of Directors, given the CSAC conference on the same date.

21. Time and Place of Next Meeting: Regular Meeting - Wednesday, November 18, 2009 - 939 Ellis Street, San Francisco, CA 94109

22. Adjournment: The Board of Directors Meeting adjourned at 11:47 a.m.

Lisa Harper
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 12, 2009

Re: Set Public Hearing to Consider Proposed Amendments to Regulation 8, Rule 50: Polyester Resin Operations; and Adoption of a CEQA Negative Declaration

RECOMMENDED ACTION

Set a Public Hearing for December 2, 2009 to consider proposed amendments to Regulation 8; Rule 50: Polyester Resin Operations; and adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA).

BACKGROUND

Regulation 8, Rule 50: Polyester Resin Operations limits emissions of volatile organic compounds (VOC) from polyester resin operations during manufacturing and repair of composite products. A composite product is made of polyester resin, gel coats, and reinforcing materials or fillers such as crushed stone to create synthetic marble. Examples of other composite products include tools (molds) to make composite products; watercraft; recreational vehicle bodies; automotive and aerospace parts; bathware products; musical instrument parts; gardening tools; architectural facades; personal computer board parts; pipes; storage tanks and secondary containment for chemicals, sewage and petroleum products. VOCs contribute to the formation of ground-level ozone, which is the primary ingredient in smog.

In addition, VOCs can contribute to the secondary formation of particulate matter (PM). The Bay Area is not in attainment of the State air quality standards for ozone and PM, and the Air Resources Board has determined that ozone and ozone precursors are sometimes transported from the Bay Area to neighboring air basins. As a result, the District is required to implement all feasible measures to reduce emissions of ozone precursors, including VOCs. The predominant VOC emitted by polyester resin operations is styrene, which is a toxic air contaminant (TAC). Currently, Bay Area polyester resin operations emit approximately 1.3 tons per day (TPD) of VOC and 0.8 TPD of TACs into the region's atmosphere.

DISCUSSION

The proposed amendments to Reg. 8-50 will fulfill Control Measure SS 4 of the 2005 Ozone Strategy. The proposed amendments reduce VOC and TAC emissions by establishing monomer content limits for gel coats, by lowering existing monomer content limits for resins, by requiring the use of non-atomizing spray guns when polyester resins are applied to open molds, and by lowering the VOC content limits for polyester resin and gel coat cleaning products. The monomer content limits and VOC content limits for cleaning products and the requirement to use non-atomized spray guns have already been adopted in three other California Districts.

District staff also proposes a number of other amendments that include the modification of definitions and the addition of several new definitions in order to clarify the scope and applicability of the rule. In addition, staff has corrected and updated other provisions.

The proposed amendments for Regulation 8, Rule 50 will reduce VOC emissions by a total of 0.46 tons per day (TPD), approximately a 35% reduction from this source category. The estimated emission reductions are mainly attributable to changes in chemistry for resin and gel coat materials, and the use of non-atomizing application technologies. TAC emission reductions from resin and gel coat usage will be 0.37 TPD and the VOC emission reduction from cleaning product usage will be 0.09 TPD. The amendments for the controls on polyester resins, gel coats, and cleaning products would take effect on October 1, 2010. The amendment for the requirement of non-atomizing spray technology for resins applied to open molds would take effect on October 1, 2011.

RULE DEVELOPMENT PROCESS

The proposal amendments are based on several site visits to composite manufacturing facilities in the Bay Area; staff reports and regulations in the South Coast and Mojave Desert air districts; email and phone conversations with staff from both air districts and ARB and EPA staff; and numerous e-mail and telephone discussions and meetings with industry trade groups, manufacturers and distributers of polyester resin products, and composite product manufacturers.

Staff conducted two public workshops on August 19 and 20, 2009 to solicit comments on the draft amendments. Twelve parties attended the workshops. A follow up meeting was held on September 1, 2009 with the parties who contributed to the written comments. The final proposal incorporates comments from all parties as appropriate.

The proposed amendments have been found to be cost-effective and a socio-economic analysis has determined that these amendments can be implemented without significant economic dislocation or loss of jobs. A California Environmental Quality Act (CEQA) Initial Study has determined that there are no significant adverse impacts associated with this project, and a CEQA Negative Declaration is proposed.

A public hearing notice; proposed amendments to Regulation 8, Rule 50; the CEQA initial study and Negative Declaration; a socioeconomic analysis; and a staff report are available by request and have been posted on the District's website at http://www.baaqmd.gov/Divisions/Planning-and-Research/Rule-Development/Current-Regulatory-Public-Hearings.aspx.

BUDGET CONSIDERATIONS/FINANCIAL IMPACTS

None. The District already inspects facilities subject to this rule.

Respectfully submitted,

Jack P. Broadbent
Executive Officer / APCO

Prepared by: William T. Saltz
Reviewed by: Henry Hilken

AGENDA: 3

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 9, 2009

Re: Set Public Hearing to Consider Proposed Amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants; and Adoption of a CEQA Negative Declaration

RECOMMENDED ACTION

Set a Public Hearing for December 16, 2009 to consider proposed amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants; and adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA).

BACKGROUND

The District's preconstruction permit review includes an analysis of potential health risks resulting from emissions of toxic air contaminants (TACs) under the provisions of Regulation 2, Rule 5. The requirements of this rule are based on the results of site-specific Health Risk Screening Analyses (HRSA), which describe the possible adverse health effects which may result from public exposure to emissions of TACs. Procedures for completing HRSAs are based on guidelines adopted by Cal/EPA's Office of Environmental Health Hazard Assessment (OEHHA) for use in the Air Toxics Hot Spots Program.

Where the predicted health risks from a proposed project exceed specified threshold levels, Regulation 2, rule 5 requires that new/modified source(s) use the Best Available Control Technology to minimize TAC emissions (TBACT). If the residual health risks, after TBACT is applied, result in risks that exceed Project Risk standards, then other risk reduction measures may be required, or the permit(s) for the proposed source(s) may be denied.

Staff has prepared amendments to Regulation 2, Rule 5 that would incorporate updated OEHHA health risk assessment methodologies, resulting in an increase in the stringency of permitting requirements for new/modified stationary sources of TACs.

DISCUSSION

The proposed amendments would initially result in an increase in stringency of TBACT and Project Risk cancer risk standards for new and modified sources by a factor of 1.7 relative to existing requirements. This increased stringency would result from the use of age sensitivity factors (ASFs) for calculating lifetime cancer risks that were adopted by OEHHA on June 1, 2009.

OEHHA has indicated that additional revisions to cancer risk assessment methodologies will soon be proposed, and are expected to be finalized in mid-2010. These revisions will be to the exposure assessment methodology. OEHHA has indicated that these changes in exposure assessment methodology, when combined with the ASFs, will increase the stringency of cancer risk standards by a factor of 2 to 3 relative to existing requirements. Staff believes that the revised exposure assessment methodology should be incorporated for use in Regulation 2, Rule 5 upon adoption by OEHHA.

OEHHA has also recently adopted a revised risk assessment methodology for non-cancer health effects. This methodology explicitly includes consideration of possible differential effects on the health of infants, children and other sensitive subpopulations. To date, OEHHA has adopted revised Reference Exposure Levels (RELs) using the new methodology for seven TACs, and additional contaminants will be reviewed for new or revised RELs using the new methodology over time. For many TACs, use of the new methodology will result in more stringent non-cancer risk standards relative to existing requirements (e.g., the recently revised chronic and acute RELs for mercury are 3 times more stringent than the previous RELs). Staff believes that revised RELs using the new OEHHA methodology should be incorporated for use in Regulation 2, Rule 5 upon adoption by OEHHA.

Staff has evaluated the socioeconomic impacts of incorporating the revised more stringent OEHHA risk assessment methodologies into HRSAs completed under Regulation 2, Rule 5, and has concluded that gasoline dispensing facilities, diesel backup generators, and crematories would be the source categories most significantly impacted. Staff believes that, in some cases, affected sources will need to install additional emissions controls, reduce source capacities or throughputs, provide additional source/receptor separation distances, and/or otherwise improve project design to reduce localized impacts, in order to comply with the rule requirements using the revised risk assessment methodologies.

The staff proposal also contains a toxics tracking provision for each Priority Community identified under the District's Community Air Risk Evaluation (CARE) program. Under this provision, the District will track and report emissions changes of TACs from stationary, mobile, and area-wide sources over time in the Priority Communities.

Pursuant to the California Environmental Quality Act (Public Resources Code § 21000 et seq.), staff has concluded that the proposed rule amendments would not have significant adverse environmental impacts. Notice is hereby given that the District intends to adopt a negative declaration for the rule pursuant to Public Resources Code section 21080(c) and CEQA Guidelines section 15070 et seq.

A public hearing notice, proposed amendments to Regulation 2, Rule 5, the CEQA Negative Declaration, a socioeconomic analysis, and a staff report are available by request and have been posted on the District's website at: http://www.baaqmd.gov/pln/ruledev/regulatory_public_hearings.htm.

BUDGET CONSIDERATIONS/FINANCIAL IMPACTS:

None. The rule amendments will result in more HRSAs being prepared by District staff, but the risk screening fee in Regulation 3 will serve to recover these costs.

Respectfully submitted,

Jack P. Broadbent
Executive Officer /APCO

Prepared by: Brian Bateman
Reviewed by: Jeffrey McKay

AGENDA: 4

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 10, 2009

Re: Contract with the City of Fremont Redevelopment Agency for Interchange Improvement Costs

RECOMMENDED ACTION

Recommend that the Board of Directors approve a contract with the City of Fremont Redevelopment Agency to allow continuation of use of property taxes for Interchange Improvement costs.

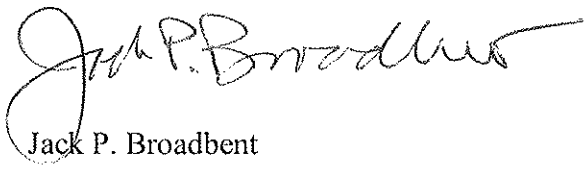
DISCUSSION

The current contract with the City of Fremont Redevelopment Agency expires during FY 2011/12, when the $400 million limit on the collection of revenue from the industrial area of Fremont is reached. The Redevelopment Agency is requesting that the Bay Area Air Quality Management District and other affected agencies approve a new contract which would extend the revenue collection through FY 2028/29, with an established limit of $1.5 billion.

BUDGET CONSIDERATION/FINANCIAL IMPACT

There is no impact on Fiscal Year 2009/10 budget, but the action would continue the redirection of property taxes to the Redevelopment Agency, in an annual amount estimated at $40,000 through FY 2028/29.

Respectfully submitted,



Jack P. Broadbent
Executive Officer/APCO

Prepared by: Linda J. Serdahl, CPA, CFE
Reviewed by: Jack M. Colbourn, Administrative Director

Attachment

Execution

THIRD AMENDED AND RESTATED

FISCAL AGREEMENT

REGARDING

FREMONT INDUSTRIAL REDEVELOPMENT PROJECT

Initially Dated as of January 12, 1993

First Amended and Restated as of November 1, 1995

Second Amended and Restated as of March 1, 1999

Third Amended and Restated as of September 1, 2009

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THIRD AMENDED AND RESTATED FISCAL AGREEMENT REGARDING FREMONT INDUSTRIAL REDEVELOPMENT PROJECT

This Agreement, initially dated as of January 12, 1993, as previously amended and restated as of November 1, 1995 and March 1, 1999, and as hereby further fully amended and restated as of September 1, 2009, is entered into by and among the Redevelopment Agency of the City of Fremont, the City of Fremont, the County of Alameda, the AC Transit District, the Alameda County Flood Control District, the Alameda County Library District, the Alameda County Mosquito Abatement District, the Alameda County Resource Conservation District, the Alameda County Water District, the Bay Area Air Quality Management District, the Bay Area Rapid Transit District, the East Bay Regional Park District, and the Washington Hospital District, on the basis of the following facts, understandings, and intentions of the parties:

RECITALS

A. These Recitals refer to and utilize certain capitalized terms which are defined in Article 1 of this Agreement. The parties intend to refer to those definitions in connection with the use thereof in this Agreement.

B. In 1983, the City adopted the Original Plan and established the Project Area for the primary purpose of assisting in the construction, reconstruction, and improvement of the Interchanges. Minor amendments to the Original Plan were adopted by the City in 1989 and 1992.

C. In 1993, the Agency prepared and the City Council of the City adopted the 1993 Amended Plan which expanded the Agency's financial resources to assist in financing the Interchange Improvement Costs. As of the Third Amendment and Restatement of this Agreement, through the financial resources made available by the 1993 Amended Plan and the 1998 Amended Plan, the Auto Mall Parkway and Fremont Boulevard interchange improvements have been completed and fully funded, physical construction of the Dixon Landing Road interchange improvements has been substantially completed (while certain funding and administrative tasks remain to be completed), and construction of the Mission Boulevard interchange improvements is underway.

D. In July 1998, the City adopted the 1998 Amended Plan, the general purposes of which were to: (1) authorize the Agency to finance a limited and specified set of improvements in the Project Area in addition to the Interchanges (namely, a business/learning center, a transit terminal, and widening of a portion of Fremont Boulevard); (2) extend specified financial deadlines; and (3) merge the Project Area with the City's three Historic District Project Areas to form the Merged Project Area for purposes of pooling Claimed Tax Increment Revenue for partial use in the three Historic District Project Areas as permitted by Health and Safety Code Section 33485 et seq. In connection with the 1998 Amended Plan, the parties entered into the Second Amendment and Restatement of this Agreement.

E. The Agency has prepared and the City Council will consider for execution the 2010 Amended Plan, a primary purpose of which is to increase the limit on tax increment revenue from the Project Area portion of the Merged Project Area that may be claimed by the Agency from $400 million to $1.5 billion in order to enable the Agency to complete the program of redevelopment for the Merged Project Area.

F. Pursuant to (1) Section 16 of Article XVI of the Constitution of the State of California, (2) Health and Safety Code Section 33670 et seq., and (3) the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan, the Agency is entitled to receive Potential Tax Increment Revenue from the Project Area portion of the Merged Project Area to pay the principal of and interest on loans of, monies advanced to, or indebtedness incurred by, the Agency to finance, in whole or in part, redevelopment in accordance with the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan.

G. Pursuant to the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan, the Agency is not entitled to claim or to have allocated to it the Inflation Allocation from the Project Area portion of the Merged Project. The Inflation Allocation is instead allocated among the affected taxing entities, including the Participating Entities, as normal property taxes. Consequently, the Potential Tax Increment Revenue from the Project Area portion of the Merged Project Area that is subject to Agency claim pursuant to the 1993 Amended Plan, the 1998 Amended Plan and the 2010 Amended Plan excludes the Inflation Allocation.

H. The Participating Entities are affected taxing entities with jurisdiction over property located within the Project Area. The Participating Entities had concern over the potential negative impact of tax increment financing pursuant to the 1993 Amended Plan on their respective financial situations.

I. As a result, a fiscal review committee was convened for the 1993 Amended Plan pursuant to Health and Safety Code Section 33353 (then in effect) and meetings were held that were attended by the Agency and other affected taxing entities.

J. The fiscal review committee determined, and the Agency found that, but for the fiscal mitigation measures set forth in this Agreement as initially executed, the redevelopment program undertaken pursuant to the 1993 Amended Plan would create a financial burden or detriment as defined in Health and Safety Code Section 33012 (then in effect) by requiring an increase in the level of Participating Entities' services, and by causing a loss of property tax revenues from changes in ownership and new construction which might have been received by the Participating Entities if the 1993 Amended Plan were not adopted.

K. Following initial negotiation, approval, and execution of this Agreement, the County Auditor-Controller implemented a methodology for allocating certain property taxes to the ERAF Fund as contributions on behalf of certain Participating Entities (hereafter defined as the "ERAF-impacted Entities"), thereby reducing the proportionate share of property taxes (commonly referred to as the "AB8 Factors") allocable to those Participating Entities and

additionally deducting a fixed annual contribution to the ERAF Fund from those Participating Entities, in order to achieve the required aggregate contribution to the ERAF Fund attributable to property taxes from the Project Area without adversely affecting the constitutionally and statutorily protected amount of Potential Tax Increment Revenue allocated to the Agency. The methodology implemented by the County Auditor-Controller had the potential effect of reducing the payments of Claimed Tax Increment by the Agency to the County and certain Non-County Participants pursuant to Section 4.1 and 4.2 below the payment amounts intended by the parties when the Agreement was initially negotiated, approved, and executed. Through a previous first amendment and restatement of this Agreement dated as of November 1, 1995, the parties made certain clarifications to the method for determining payments to be made by the Agency to the Participating Entities pursuant to Sections 4.1 and 4.2. Those clarifications were an initial attempt to compensate for the ERAF Fund allocation methodology implemented by the County Auditor-Controller and to reestablish the Agency payments at the relative levels intended by the parties when the Agreement was initially negotiated, approved and executed.

L. In connection with consideration of the 1998 Amended Plan and the 2010 Amended Plan, the parties determined the need for further clarifications of the method for determining payments to be made by the Agency to the Participating Entities pursuant to Section 4.1 and 4.2 in order to most accurately reflect the County Auditor-Controller's ERAF Fund allocation methodology and to most accurately achieve the level of Agency payments to the Participating Entities intended by the parties when this Agreement was initially negotiated, approved and executed. To that end, the parties entered into the Second Amendment and Restatement of this Agreement as of March 1, 1999 and the Third Amendment and Restatement of this Agreement as of September 1, 2009. The clarifications of the payment determination method described in Recital K and this Recital L implement the objective of Section 33 of Chapter 699 of the Statutes of 1992, the act that created the ERAF Fund contribution requirement, that became effective after completion of negotiation and approval by the Participating Entities of the initial version of this Agreement, and that was subsequently implemented in Alameda County through the County Auditor-Controller's ERAF Fund allocation methodology system briefly described above (the "ERAF Act"). Section 33 of the ERAF Act states:

> "Notwithstanding any changes made by this act in the allocation of property tax revenues between local government entities, redevelopment agencies, school districts, and community college districts, mitigation agreements entered into prior to the operative date of this act pursuant to Section 33401 and 33446 of the Health and Safety Code shall not be affected thereby, and any payments required under these agreements shall continue to be made as if there were no change in local property tax allocations pursuant to the act."

M. The purposes of the Third Amendment and Restatement of this Agreement, dated as of September 1, 2009, are to achieve the clarification of Agency payments as described in Recital L, to enable the Agency to achieve the purposes of the 2010 Amended Plan as generally described in Recitals E and N, and to continue to assure prompt, priority completion of the Project, including the Interchange improvements.

N. The redevelopment program to be implemented pursuant to the 2010 Amended Plan has regional significance and will provide regional benefits including, but not limited to, county-wide economic development and traffic circulation benefits resulting from timely improvement of the Interchanges and construction of the Irvington BART Station, and improvement of the local housing stock available at affordable housing cost to low-and moderate-income households. Through achievement of the purposes summarized in Recital E and this Recital N, the 2010 Amended Plan and the Third Amendment and Restatement of this Agreement will provide the Agency with additional financial resources and the legal authority to better achieve these regional benefits in the Merged Project Area, while maintaining and clarifying the fiscal mitigation measures for the benefit of the Participating Entities as contemplated in this Agreement as initially executed in 1993.

O. In consideration of this Agreement determining the obligations of the Agency and the City with respect to the Project, the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan, the Participating Entities have foregone the right to contest the adoption of the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan.

NOW, THEREFORE, the Agency, the City, and the Participating Entities agree as follows:

ARTICLE 1
DEFINITIONS AND EXHIBITS

Section 1.1 General Definitions. The following general definitions shall govern this Agreement:

(a) "Adjusted AB8 Factor" for a given Participating Entity for a given Fiscal Year, means:

(1) Beginning in Fiscal Year 1994-95 and continuing through and including the Final Pre-Third Amendment Fiscal Year, the percentage factor determined in accordance with the following formula:

Unadjusted AB8 Factor for Participating Entity for Fiscal Year	x	ERAF Ratio for 1 - Participating Entity for Fiscal Year

In turn, the "ERAF Ratio" for a given Participating Entity for a given Fiscal Year means the percentage factor shown for the Participating Entity in the "% of ERAF To Tot Rev" column of the computer spreadsheet prepared by the County Auditor-Controller for that Fiscal Year and entitled "Tax Shift to ERAF 1992-93 & 1993-94 Carry Forward." If, in any given Fiscal Year, the County Auditor-Controller no longer prepares such computer spreadsheet in substantially the same way the spreadsheet was prepared annually prior to the Second Amendment and Restatement of this Agreement, the Agency and the County shall meet with the County Auditor-Controller to establish an alternate method for determining the ERAF Ratio that

achieves, as nearly as possible, the intent of this definition. By way of illustration only, Part I of Exhibit B to this Agreement contains a sample calculation of an Adjusted AB8 Factor pursuant to this subparagraph (1); and

(2) Beginning with the Third Amendment Fiscal Year and continuing through and including the Project Completion Fiscal Year, the percentage for the given Participating Entity shown in Column (4) of the attached Exhibit D (which represents the Adjusted AB8 Factors reported by the County as of the execution of the Third Amendment and Restatement of this Agreement). By mutually acceptable agreement of the Agency and the County, the Agency and the County may modify Column (4) of Exhibit D through an amendment to this Agreement without approval of the other Participating Entities to correct any future non-material clerical corrections or adjustments of the Adjusted AB8 Factors reported by the County. If there should occur a future material change in the Adjusted AB8 Factors reported by the County from one Fiscal Year to the next, then, upon the request of either the Agency or the County, the Agency and the County shall implement the procedure set forth in Section 4.8 to seek to achieve a mutually acceptable modification to Column (4) of Exhibit D for consideration of approval by all of the Participating Entities in the form of an amendment to this Agreement approved by all of the Participating Entities.

(b) "Agency" means the Redevelopment Agency of the City of Fremont, California.

(c) "Annual Report" has the meaning given in Section 2.4.

(d) "Anticipated Interchange Funds" has the meaning given in Section 2.5(a)(3).

(e) "Approved Interchange Financing Program" means a Proposed Interchange Financing Program that is approved to constitute an Approved Interchange Financing Program in accordance with the procedures set forth in Section 2.5(c) or (d).

(f) "Basic Tax Increment Revenue" means the portion of Potential Tax Increment Revenue generated from the levy of the basic one percent (1%) County-wide ad valorem property tax rate imposed in accordance with the provisions of Section 1(a) of Article XIIIA of the Constitution of the State of California.

(g) "Caltrans" means the California State Department of Transportation.

(h) "Cash Flow Budget" has the meaning given in Section 2.5(a)(4).

(i) "CEQA" means the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and applicable state and local implementing guidelines.

(j) "City" means the City of Fremont, California.

(k) "City Sales Tax Revenue" has the meaning given in Section 2.5(a).

(l) "Claimed Tax Increment Revenue" means the portion of Potential Tax Increment Revenue that is actually claimed by the Agency and received by the Agency from the County Auditor-Controller. Section 3.1 sets forth certain parameters regarding the amount of Claimed Tax Increment Revenue that the Agency may or shall claim.

(m) "Community Redevelopment Law" means the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.).

(n) "County" means the County of Alameda, California.

(o) "County Share" means the proportionate percentage share of Basic Tax Increment Revenue that the County would receive as property taxes from the Project Area if there was no provision in the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan for the division of Potential Tax Increment Revenue to the Agency pursuant to Health and Safety Code Section 33670 et seq. and if no allocation of property taxes was made to the ERAF Fund. (Stated another way, the County Share for a given Fiscal Year equals the product of Basic Tax Increment Revenue for the Fiscal Year multiplied by the Unadjusted AB8 Factor for the County for the Fiscal Year.)

(p) "ERAF Fund" means the Educational Revenue Augmentation Fund established pursuant to Revenue and Taxation Code Section 97.03, or any similar or successor fund.

(q) "ERAF-impacted Entity" means each of the following Participating Entities: the County, the Alameda County Flood Control District, the Alameda County Library District, the Alameda County Mosquito Abatement District, the Alameda County Resource Conservation District, and the Alameda County Water District.

(r) "Education Districts" means, collectively, the Fremont Unified School District, the Fremont-Newark Community College District, and the Alameda County Superintendent of Schools.

(s) "Final Pre-Third Amendment Fiscal Year" means the final fiscal year prior to the Third Amendment Fiscal Year.

(t) "Fiscal Year" means the period commencing on July 1 and ending the following June 30.

(u) "Fixed ERAF Contribution Amount" for a given Participating Entity for a given Fiscal Year means the amount for that Participating Entity shown in Column (2) of the attached Exhibit D. The Fixed ERAF Contribution Amount represents for each Participating Entity the fixed annual contribution to the ERAF Fund that is deducted in accordance with the ERAF Fund allocation methodology implemented by the County Auditor-Controller from the property taxes the Participating Entity would otherwise receive, in order to achieve the required aggregate contribution to the ERAF Fund attributable to property taxes from the Project Area

without adversely affecting the constitutionally and statutorily protected amount of Potential Tax Increment Revenue allocated to the Agency.

(v) "Former County Agreement" means, collectively: (1) the letter dated August 17, 1983 from Charles K. McLain, on behalf of the City and Agency, to Mel Hing, County Administrator of the County; and (2) the agreement entitled "Fiscal Agreement Regarding the City of Fremont's Industrial Redevelopment Project" dated August 29, 1989, among the County, the City, and the Agency. A copy of the Former County Agreement is on file with the Agency and the County.

(w) "Funding Shortfall" has the meaning given in Section 2.5(a).

(x) "General Administrative Costs" means the Agency's reasonable costs related to accounting, reporting, statutory compliance, conduct of Agency meetings, administration of this Agreement and any other fiscal agreements entered into by the Agency, and other similar matters necessary to the general administration of the Project. General Administrative Costs do not include the Agency's costs of: (1) preparing and amending this Agreement, the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan; or (2) participating in the actual implementation of the Project, including the actual design, construction, reconstruction and improvement of the Interchanges and other improvements.

(y) "Historic District Project Areas" means, collectively, the redevelopment project areas for the Irvington, Niles, and Centerville historic districts as previously established by the City pursuant to the Community Redevelopment Law and as hereafter amended from time to time. As detailed in the 1998 Report to Council, the Agency has prepared and the City has approved (in July 1998) redevelopment plan amendments that expanded the boundaries of the Irvington and Niles project areas. The three Historic District Project Areas comprise portions of the Merged Project Area.

(z) "Housing Fund" means the Agency's Low and Moderate Income Housing Fund established pursuant to Health and Safety Code Section 33334.3, into which the Agency is required to make annual deposits pursuant to Health and Safety Code Section 33334.2.

(aa) "Housing Fund Indebtedness" has the meaning given in Section 2.6(b)(3).

(bb) "Imputed ERAF Contribution" for a given Participating Entity for a given Fiscal Year means the product of (1) the Unclaimed Tax Increment Revenue for the Fiscal Year multiplied by (2) the remainder that is determined by subtracting the Adjusted AB8 Factor from the Unadjusted AB8 Factor for the Participating Entity for the Fiscal Year. By way of illustration only, Part II of Exhibit B to this Agreement contains a sample calculation of an Imputed ERAF Contribution. The term "Imputed ERAF Contribution" has applicability only for specified Fiscal Years prior to and including the Final Pre-Third Amendment Fiscal Year, and thereafter has no further applicability.

(cc) "Independent Advisor" has the meaning given in Section 2.5(c).

(dd) "Inflation Allocation" means the portion of property taxes attributable to increases in the assessed value of the taxable property in the Project Area, as the assessed value was established by the assessment roll last equalized prior to the effective date of City Ordinance No. 1577 adopting the Original Plan, which are, or otherwise would be, calculated annually pursuant to Revenue and Taxation Code Section 110.1(f). Pursuant to the provisions of Part VII.D.3.a of the 1993 Amended Plan and the 1998 Amended Plan, and Part VII.C.3 of the 2010 Amended Plan, the Agency is expressly prohibited from claiming or having allocated to it the Inflation Allocation, with the purpose and effect that such unclaimed Inflation Allocation is instead allocated by the County Auditor-Controller to the affected taxing entities as normal property taxes.

(ee) "Interchange-Committed Tax Increment Revenue" has the meaning given in Section 2.5(a)(5).

(ff) "Interchange Financing Completion Date" means the date on which occurs the payment in full of all amounts due from the City, the Agency, and/or the Local Interchange Financing Authority to defray Interchange Improvement Costs.

(gg) "Interchange Improvement Costs" means all costs related (1) to preparation and amendment of this Agreement (as originally executed in 1993 and as first amended and restated in 1995) and the 1993 Amended Plan, and (2) to the construction, reconstruction, and improvement of the Interchanges in accordance with plans and specifications approved by Caltrans, including, without limitation, right-of-way acquisition costs, design costs, environmental assessment costs, utility relocation costs, construction costs, and the City's cost of administering its participation in the design, construction, reconstruction, and improvement of the Interchanges.

(hh) "Interchange Indebtedness" means tax allocation bonds or notes issued by the Agency or on behalf of the Agency by the Local Interchange Financing Authority, loans received by the Agency from the Local Interchange Financing Authority or any other legally authorized public or private lender, and other forms of indebtedness (with a repayment term of at least one year) entered into by the Agency or the Local Interchange Financing Authority for the purpose of raising funds to pay Interchange Improvement Costs, the repayment of which is secured in whole or in part by a pledge of Claimed Tax Increment Revenue (other than the portion of Claimed Tax Increment Revenue deposited in the Housing Fund).

(ii) "Interchanges" means the interchanges serving Interstate Highway 880 at Auto Mall Parkway, Fremont Boulevard, Mission Boulevard, and Dixon Landing Road.

(jj) "Junior Position Indebtedness" means indebtedness other than Senior Position Indebtedness.

(kk) "Local Interchange Financing Authority" means a public entity or other joint powers arrangement formed by the City, the Agency, and/or, if applicable, one or more other public agencies pursuant to a joint powers agreement in accordance with Government Code Section 6500 et seq., or the authority of the Marks-Roos Local Bond Pooling Act of 1985

(Government Code Section 6584 et seq.), or the provisions of any other applicable statute, to serve as a financing authority or other joint powers arrangement for obtaining and paying local contributions toward Interchange Improvement Costs.

(ll) "Maximum General Administrative Cost Amount" for a given Fiscal Year (from Fiscal Year 1993-94 through Fiscal Year 1997-98) means the sum of: (1) One Hundred Ten Thousand Dollars ($110,000) in 1992-93 Fiscal Year dollars, as escalated by a five percent (5%) annual compounded inflation factor to the given Fiscal Year, plus (2) the Agency's reasonable costs of administering this Agreement and any agreement(s) with one or more of the Education Districts.

(mm) "Merged Project Area" means the Fremont Merged Redevelopment Project Area consisting of the Project Area and the three Historic District Project Areas. The Merged Project Area was created pursuant to the 1998 Amended Plan and corresponding 1998 amendments to the redevelopment plans for the three Historic District Project Areas. The 2010 Amended Plan creates a single consolidated amended and restated redevelopment plan for the entire Merged Project Area.

(nn) "Non-County Participant" means one of the Non-County Participants, individually.

(oo) "Non-County Participants" means, collectively, the Participating Entities except for the County.

(pp) "Non-County Participant's Share" for a given Non-County Participant means the proportionate percentage share of Basic Tax Increment Revenue that Non-County Participant would receive as property taxes from the Project Area if there was no provision in the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan for the division of Potential Tax Increment Revenue to the Agency pursuant to Health and Safety Code Section 33670 et seq. and if no allocation of property taxes was made to the ERAF Fund. (Stated another way, a Non-County Participant's Share for a given Fiscal Year equals the product of the Basic Tax Increment Revenue for the Fiscal Year multiplied by the Unadjusted AB8 Factor for the Non-County Participant for the Fiscal Year.)

(qq) "Non-ERAF-impacted Entity" means each of the following Participating Entities: the AC Transit District, the Bay Area Air Quality Management District, the Bay Area Rapid Transit District, and the East Bay Regional Parks District.

(rr) "Original Plan" means the Original Redevelopment Plan for the Fremont Industrial Redevelopment Project, adopted November 22, 1983 by City Ordinance No. 1577.

(ss) "Other Authorized Indebtedness" means tax allocation bonds or notes issued by or on behalf of the Agency, loans received by the Agency from any legally authorized public or private lender, and other forms of indebtedness (with a repayment term of at least one year) entered into by or on behalf of the Agency for the purpose of paying costs of the Project other than Interchange Improvement Costs, the repayment of which is secured in whole or in part

by a pledge of Claimed Tax Increment Revenue (other than the portion of Claimed Tax Increment Revenue deposited in the Housing Fund), and which is either:

(1) issued or incurred after the Interchange Financing Completion Date; or

(2) issued or incurred on or prior to the Interchange Financing Completion Date in a principal amount and with a debt service payment schedule consistent with the principal amount and debt service payment terms set forth for a proposed Other Authorized Indebtedness in the Approved Interchange Financing Program then in effect.

(tt) "Override Tax Increment Revenue" means the portion of Potential Tax Increment Revenue generated from the levy of all Override Tax Rates in effect in the Project Area from time to time.

(uu) "Override Tax Rate" means the tax rate levied for the benefit of a Participating Entity for the purpose of producing revenues to make annual payments of the principal of, and interest on, bonded indebtedness of the Participating Entity approved by the voters prior to January 1, 1989.

(vv) "Participating Entities" means, collectively, the following affected taxing entities: the County, the AC Transit District, the Alameda County Flood Control District, the Alameda County Library District, the Alameda County Mosquito Abatement District, the Alameda County Resource Conservation District, the Alameda County Water District, the Bay Area Air Quality Management District, the Bay Area Rapid Transit District, the East Bay Regional Park District, and the Washington Hospital District.

(ww) "Participating Entity" means one of the Participating Entities, individually.

(xx) "Potential Tax Increment Revenue" means those taxes from the Project Area which the Agency is entitled to claim and have allocated to it pursuant to the provisions of Part VII.D of the 1993 Amended Plan and the 1998 Amended Plan, and Part VII.C of the 2010 Amended Plan. Potential Tax Increment Revenue expressly does not include the Inflation Allocation, since the Agency is prohibited by the terms of Part VII D.3.a. of the 1993 Amended Plan and the 1998 Amended Plan, and Part VII.C.3 of the 2010 Amended Plan from claiming or having allocated to it the Inflation Allocation. Potential Tax Increment Revenue also does not include any property taxes from the Project Area that are allocated to and retained by the County pursuant to the provisions of Revenue and Taxation Code Section 97 (or any successor statute) for property tax collection services. For various purposes of this Agreement, Potential Tax Increment Revenue is sometimes divided between Claimed Tax Increment Revenue and Unclaimed Tax Increment Revenue; and between Basic Tax Increment Revenue and Override Tax Increment Revenue.

(yy) "Previously Designated Interchange Tax Increment Revenue" means, as of a given date, Claimed Tax Increment Revenue that, prior to such given date, was received by the Agency and encumbered, set aside or otherwise designated for payment of Interchange

Improvement Costs in accordance with the terms of this Agreement or otherwise, and that, as of such given date, has not yet been expended to pay Interchange Improvement Costs.

(zz) "Project" means the program of redevelopment to be undertaken by the Agency pursuant to the provisions of the 1993 Amended Plan, the 1998 Amended Plan, the 2010 Amended Plan and the Community Redevelopment Law. The Project includes Agency actions to implement the following activities, projects, programs and improvements, including the expenditure of Claimed Tax Increment Revenue from the Project Area, as appropriate:

(1) completion of the improvements to the Interchanges, including payment of Interchange Improvement Costs, as contemplated in Parts IV and VI of the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan;

(2) completion in the Project Area of a business/learning center, a multi-modal transit station and related facilities and services, and the widening of Fremont Boulevard between Cushing and Warren, as contemplated in Parts IV and VI of the 1998 Amended Plan and the 2010 Amended Plan;

(3) provision of affordable housing in accordance with the Community Redevelopment Law, using the portion of the Claimed Tax Increment Revenue required to be deposited into the Housing Fund;

(4) use of Claimed Tax Increment Revenue to complete unfunded portions of the redevelopment program throughout the Merged Project Area, as authorized by the merger provisions of the Community Redevelopment Law (Health and Safety Code Section 33485 et seq.) and as contemplated in the 1998 Amended Plan and the 2010 Amended Plan; and

(5) preparation and adoption of the 1998 Amended Plan, the 2010 Amended Plan, the Second Amendment and Restatement of this Agreement, the Third Amendment and Restatement of this Agreement, and any subsequent amendments of this Agreement.

(aaa) "Project Area" means the Fremont Industrial Redevelopment Project Area established by the Original Plan, as described and mapped in Exhibit A and Exhibit B of the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan. The Project Area comprises a portion of the Merged Project Area.

(bbb) "Project Completion Fiscal Year" means the Fiscal Year in which occurs the earlier of the following: (1) the completion of payment of all costs of the Project; or (2) the expiration of the Agency's authority under the 2010 Amended Plan to receive Potential Tax Increment Revenue.

(ccc) "Proposed Interchange Financing Program" has the meaning given in Section 2.5(a).

(ddd) "Released Funds" has the meaning given in Section 2.5(a)(I).

(eee) "Remaining Interchange Improvement Costs" has the meaning given in Section 2.5(a)(2).

(fff) "Second Amendment and Restatement" means the amendment and restatement of this Agreement, dated for reference purposes as of March 1, 1999, incorporating certain amendments to, and restating in its entirety, this Agreement as initially executed in 1993 and as previously amended in 1995.

(ggg) "Senior Position Indebtedness" means Interchange Indebtedness or Other Authorized Indebtedness that, as a result of the operation of Section 4.5, has a claim on Claimed Tax Increment Revenue superior in priority to the claim of the Participating Entities to receive payments under this Agreement.

(hhh) "Subordination Shortfall Amount" has the meaning given in Section 4.5(d).

(iii) "Third Amendment and Restatement" means the amendment and restatement of this Agreement, dated for reference purposes as of September 1, 2009, incorporating certain amendments to, and restating in its entirety, this Agreement as initially executed and as previously amended and restated.

(jjj) "Third Amendment Fiscal Year" means the Fiscal Year in which the 2010 Amended Plan Effective Date occurs.

(kkk) "Traffic Impact Fees" means the development fees imposed by the City to implement Citywide traffic mitigation improvements pursuant to the provisions of Article 3 of Chapter 9 of Title VIII of the Fremont Municipal Code, or any similar or successor provision of the Fremont Municipal Code, and any implementing resolutions thereto.

(lll) "Unadjusted AB8 Factor" for a given Participating Entity for a given Fiscal Year means:

(1) Beginning in Fiscal Year 1994-95 and continuing through and including the Final Pre-Third Amendment Fiscal Year, the percentage for the Participating Entity in the "Percent" column for the tax code area(s) comprising the Project Area of the computer spreadsheet prepared by the County Auditor-Controller for that Fiscal Year and entitled "AB8 Calculation of Revenue Percentages In Each Code Area." If, in any given Fiscal Year, the County Auditor-Controller no longer prepares such computer spreadsheet in substantially the same way the spreadsheet was prepared annually prior to the Second Amendment and Restatement of this Agreement, the Agency and the County shall meet with the County Auditor-Controller to establish an alternate method for determining the Unadjusted AB8 Factor that achieves, as nearly as possible, the intent of this definition.

(2) Beginning with the Third Amendment Fiscal Year and continuing through and including the Project Completion Fiscal Year, the percentage for the given Participating Entity shown in Column (3) of the attached Exhibit D (which represents the

Unadjusted AB8 Factors reported by the County as of the execution of the Third Amendment and Restatement of this Agreement). By mutually acceptable agreement of the Agency and the County, the Agency and the County may modify Column (3) of Exhibit D through an amendment to this Agreement without approval of the other Participating Entities to correct any future non-material clerical corrections or adjustments of the Unadjusted AB8 Factors reported by the County. If there should occur a future material change in the Unadjusted AB8 Factors reported by the County from one Fiscal Year to the next, then, upon the request of either the Agency or the County, the Agency and the County shall implement the procedure set forth in Section 4.8 to seek to achieve a mutually acceptable modification to Column (3) of Exhibit D for consideration of approval by all of the Participating Entities in the form of an amendment to this Agreement approved by all of the Participating Entities.

(mmm) "Unclaimed Tax Increment Revenue" means the portion of Potential Tax Increment Revenue that is not claimed by the Agency and that is instead allocated by the County Auditor-Controller to the affected taxing entities, including the Participating Entities, as normal property taxes, or to the ERAF Fund as a contribution on behalf of various affected taxing entities.

(nnn) "Uncompleted Interchanges" mean the Dixon Landing Road and Mission Boulevard interchanges. The status of the Uncompleted Interchanges as of the Third Amendment and Restatement of this Agreement is set forth in Recital C.

(ooo) "1993 Amended Plan" means the Amended and Restated (Third) Redevelopment Plan for the Fremont Industrial Redevelopment Project, prepared by the Agency and adopted by the City Council of the City by Ordinance No. 2025, dated February 2, 1993.

(ppp) "1998 Amended Plan" means the Amended and Restated (Fifth) Redevelopment Plan for the Fremont Industrial Project, prepared by the Agency and adopted by the City Council of the City by Ordinance No. 2297, dated July 7, 1998.

(qqq) "1998 Report to Council" means the Report to Council for the Fremont Plan Amendments and Merger, dated May 5, 1998, as supplemented, a copy of which has been provided to each Participating Entity.

(rrr) " 2010 Amended Plan" means the Consolidated Amended and Restated Redevelopment Plan for the Fremont Merged Redevelopment Project (Including Irvington, Niles, Centerville, and Industrial Areas), substantially in the form of the Public Review Draft distributed to the Participating Entities in July, 2009, as such document may ultimately be adopted by the City Council of the City.

(sss) " 2010 Amended Plan Effective Date" means the last to occur of the following dates, as applicable:

(1) If no timely and valid referendum petition is filed to present the 2010 Amended Plan and the 2010 Amended Plan Ordinance to a vote of the electorate, the date that is ninety-one (91) days after the date of adoption of the 2010 Amended Plan Ordinance; or

(2) If a timely and valid referendum petition is filed to present the 2010 Amended Plan and the 2010 Amended Plan Ordinance to a vote of the electorate, the date that is the day following the certification by the appropriate election official of the results of such vote in which the vote affirms the adoption and effectiveness of the 2010 Amended Plan and the 2010 Amended Plan Ordinance; or

(3) If no timely and valid CEQA action is filed in a court of competent jurisdiction challenging the certification and/or use of the 2010 Amended Plan EIR in connection with the adoption of the 2010 Amended Plan and the 2010 Amended Plan Ordinance, the date that is thirty-one (31) days after the filing of the required CEQA notice of determination in connection with adoption of the 2010 Amended Plan and the 2010 Amended Plan Ordinance; or

(4) If a timely and valid CEQA action is filed in a court of competent jurisdiction challenging the certification and/or use of the 2010 Amended Plan EIR in connection with the adoption of the 2010 Amended Plan and the 2010 Amended Plan Ordinance, the date that is the day following the filing by the applicable court of competent jurisdiction of a non-appealable final judgment in such action denying such action and affirming and upholding the validity of the certification and/or use of the 2010 Amended Plan EIR in connection with the adoption of the 2010 Amended Plan and the 2010 Amended Plan Ordinance, such that the 2010 Amended Plan is allowed to become effective; or

(5) If no timely and valid Community Redevelopment Law action is filed in a court of competent jurisdiction challenging the adoption and/or effectiveness of the 2010 Amended Plan and the 2010 Amended Plan Ordinance, the date that is ninety-one (91) days after the adoption of the 2010 Amended Plan Ordinance; or

(6) If a timely and valid Community Redevelopment Law action is filed in a court of competent jurisdiction challenging the adoption and/or effectiveness of the 2010 Amended Plan and the 2010 Amended Plan Ordinance, the date that is the day following the filing by the applicable court of competent jurisdiction of a non-appealable final judgment in such action denying such action and affirming and upholding the adoption, validity and effectiveness of the 2010 Amended Plan and the 2010 Amended Plan Ordinance, such that the 2010 Amended Plan is allowed to become effective.

(ttt) " 2010 Amended Plan EIR" means the Environmental Impact Report prepared for the 2010 Amended Plan and certified by the City Council in accordance with CEQA.

(uuu) " 2010 Amended Plan Ordinance" means the ordinance adopted by the City Council approving the 2010 Amended Plan in accordance with the Community Redevelopment Law.

Section 1.2 Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

Exhibit A List of Addresses for Notice Purposes
Exhibit B Sample Calculations
Exhibit C List of Independent Advisors
Exhibit D Payment Factors For Participating Entities

Section 1.3 Effectiveness of Third Amendment and Restatement. The Third Amendment and Restatement of this Agreement executed by the parties as of September 1, 2009 shall become effective only upon the 2010 Amended Plan Effective Date. Upon the Agency's determination of the 2010 Amended Plan Effective Date, the Agency shall promptly provide the Participating Entities with written notice specifying the 2010 Amended Plan Effective Date. Unless and until the Third Amendment and Restatement of this Agreement becomes effective, the Agreement in the form of the Second Amendment and Restatement executed as of March 1, 1999, and without the terms contained in the Third Amendment and Restatement, shall be in full force and effect.

ARTICLE 2
INTERCHANGE FINANCING

Section 2.1 Interchange Financing Overview. The provisions of this Article 2 and of Article 3 are intended to ensure the efficient and limited use of Potential Tax Increment Revenue, in combination with other available funding sources, to enable timely completion on a priority basis of the Interchange improvements and payment of all Interchange Improvement Costs.

Section 2.2 Traffic Impact Fee Contribution. Beginning in Fiscal Year 1993-94 and continuing through and including Fiscal Year 1997-98, the City shall pay each Fiscal Year to the Local Interchange Financing Authority, Caltrans, Caltrans' designee, or other third party contractor(s), for purposes of defraying Interchange Improvement Costs, an amount equal to thirty percent (30%) of the Traffic Impact Fees received by the City during such Fiscal Year.

Section 2.3 Other Funding Sources. Working with Caltrans and other applicable federal, state, and local transportation entities, the City, the Agency, and the County shall exercise diligent good faith efforts to obtain and apply toward the payment of Interchange Improvement Costs other available or potentially available revenues, including revenues from the following sources: the State-Local Transportation Partnership Program, the State Transportation Improvement Program (through allocations to both Alameda County and Santa Clara County), Measure B funds administered by the Alameda County Transportation Authority, and payments by the City of Milpitas and Redevelopment Agency of the City of Milpitas. The Proposed Interchange Financing Program FY 2008-2009, submitted to the County on January 29, 2009 in accordance with Section 2.5, presents the City's and Agency's best estimate, as of the date of execution of the Third Amendment and Restatement of this Agreement, of the other revenue sources that are or may become available to pay portions of the Interchange Improvement Costs, and reflects compliance as of the date of the Third Amendment and Restatement of this Agreement with the good faith covenant set forth above.

Section 2.4 Annual Report. Beginning for Fiscal Year 1993-94 and continuing for each Fiscal Year through and including the Interchange Financing Completion Date, the Agency and City shall prepare and submit to each Participating Entity, within one hundred eighty (180) days after the end of each Fiscal Year, a report (an "Annual Report") regarding the status of construction and financing of the Interchanges, including:

(a) a summary of land acquisition, utility relocation, design, environmental assessment, and construction work undertaken for the respective Interchanges during the most recently completed Fiscal Year and anticipated to be undertaken during the current Fiscal Year;

(b) a summary of amounts expended, and the source of such amounts, in connection with improvement activities for the respective Interchanges undertaken during the most recently completed Fiscal Year;

(c) a statement of the amounts of Claimed Tax Increment Revenue expended during the most recently completed Fiscal Year for the expenditure categories delineated in Section 3.2, including a statement of the amounts of Claimed Tax Increment Revenue expended for Interchange Improvement Costs (either on a pay-as-you-go basis or through repayment of Interchange Indebtedness);

(d) a summary of the type, amount and repayment terms of the Interchange Indebtedness and Other Authorized Indebtedness issued and outstanding as of the date of the Annual Report; and

(e) a statement of the amount of Traffic Impact Fees required to be contributed by the City during the most recently completed Fiscal Year pursuant to Section 2.2 (including the basis for determining such amount), and a statement of the amount of Traffic Impact Fees actually contributed.

Section 2.5 Interchange Financing Program.

(a) Proposed Program. By not later than sixty (60) days after execution by all parties of the Second Amendment and Restatement of this Agreement and thereafter by not later than January 31 of each succeeding Fiscal Year, continuing through the Interchange Financing Completion Date, the Agency shall submit to the County for approval a proposed program for completing the financing of the Uncompleted Interchanges (a "Proposed Interchange Financing Program") containing the following elements:

(1) the Annual Report required pursuant to Section 2.4 and containing all of the information set forth in Section 2.4;

(2) a detailed estimate by major cost category of all Interchange Improvement Costs remaining to be paid to complete the improvement of the Uncompleted Interchanges (the "Remaining Interchange Improvement Costs") based upon (and attaching) the best available engineering information;

(3) a detailed estimate of the aggregate amount of all funding sources currently or anticipated to be available to pay the Remaining Interchange Improvement Costs (the "Anticipated Interchange Funds"), including the general nature of each funding source (e.g. proceeds of Interchange Indebtedness, Previously Designated Interchange Tax Increment Revenue, future pay-as-you go Claimed Tax Increment Revenue, State Transportation Improvement Program, City of Milpitas, etc.), the anticipated amount of each funding source by Fiscal Year, the current status of availability of each funding source (e.g. cash-on-hand, contractual commitment, grant award, budget allocation, etc.), and supporting back-up for such funding availability (e.g. bank or other statements evidencing cash-on-hand, contracts, funding letters, etc.);

(4) a "sources and uses" cash flow budget (the "Cash Flow Budget"), showing for each Fiscal Year until anticipated completion of the Uncompleted Interchanges the anticipated expenditures for Remaining Interchange Improvement Costs (by major cost category) and the anticipated application of Anticipated Interchange Funds (by major funding source) to pay such Remaining Interchange Improvement Costs; and

(5) a summary of Claimed Tax Increment Revenue needed each Fiscal Year, either for debt service on Interchange Indebtedness or to make pay-as-you-go payments of Interchange Improvement Costs, in order to produce the Agency's portion of Anticipated Interchange Funds described in element (3) above of the Proposed Interchange Financing Program. The Claimed Tax Increment Revenue needed for this purpose and identified in this element of the Proposed Interchange Financing Program is referred to as "Interchange-Committed Tax Increment Revenue".

If the otherwise Anticipated Interchange Funds are less than the sum of Remaining Interchange Improvement Costs plus any Subordination Shortfall Amount (as defined in Section 4.5(d), the Proposed Interchange Financing Program shall also contain a proposed method or program to fill such funding shortfall (a "Funding Shortfall"), which method or program shall be based, among other matters, upon a good faith consideration by the City and the Agency of the commitment, consistent with applicable law, of sales tax revenue generated in the Project Area and received by the City ("City Sales Tax Revenue") and of Traffic Impact Fees (in addition to the amount of such fees already required to be paid pursuant to Section 2.2) to reduce or eliminate such Funding Shortfall.

If the Anticipated Interchange Funds exceed the sum of Remaining Interchange Improvement Costs plus any Subordination Shortfall Amount, the Agency may propose either or both of the following as part of its proposed Interchange Financing Program:

(i) That the Agency be permitted to release a specified amount of Previously Designated Interchange Tax Increment Revenue from use to pay Interchange Improvement Costs, so that such released amount (the "Released Funds") would no longer constitute Interchange-Committed Tax Increment Revenue and could instead be used to pay for costs of the Project other than Interchange Improvement Costs. Any such proposal shall reasonably demonstrate that the Released Funds are not needed to pay Remaining Interchange Costs or any Subordination Shortfall Amount; and/or

(ii) That the Agency be permitted to issue or incur Other Authorized Indebtedness, the proceeds of which would be used to pay for costs of the Project other than Interchange Improvement Costs. Any such proposal shall: (A) set forth the anticipated terms of the proposed Other Authorized Indebtedness, including the anticipated principal amount and anticipated debt service schedule for all debt service that would be payable from Claimed Tax Increment Revenue; and (B) reasonably demonstrate that there is anticipated to be available sufficient Claimed Tax Increment Revenue each Fiscal Year (i) to provide all Interchange-Committed Tax Increment Revenue (as described in element (5) above of the Proposed Interchange Financing Program and exclusive of any proposed Released Funds), (ii) to meet all other statutory and contractual obligations of the Agency (including the obligation to make payments to the Participating Entities pursuant to Article 4 of this Agreement), (iii) to repay any Subordination Shortfall Amount, and (iv) to pay the anticipated debt service on the proposed Other Authorized Indebtedness.

The Proposed Interchange Financing Program submitted for the Fiscal Year in which the Interchange Financing Completion Date is achieved shall prominently state such achievement and indicate the date that constitutes the Interchange Financing Completion Date. The County's approval of such Proposed Interchange Financing Program in accordance with the provisions of this Section 2.5 shall constitute a conclusive determination that the Interchange Financing Completion Date has been achieved, and thereafter no further Proposed Interchange Financing Programs shall be required to be submitted by the Agency.

(b) Standard for Approval of Proposed Program. The County shall approve a Proposed Interchange Financing Program if it meets the following objective standards as determined in accordance with the procedure set forth in subsection (c) below:

(1) the Proposed Interchange Financing Program contains each of the mandatory elements set forth in subsection (a) above;

(2) the estimate of Remaining Interchange Improvement Costs constitutes a reasonable estimate based on the best available engineering information;

(3) the estimate of Anticipated Interchange Funds constitutes a reasonable estimate, and the evidence of availability of such Anticipated Interchange Funds indicates that such funds either are available, or are reasonably likely to become available (taking into account the nature of the funding source and the level of funding commitment typically provided at the applicable stage of planning and construction by or in connection with the funding source), to pay the Remaining Interchange Improvement Costs in accordance with the Cash Flow Budget contained in the Proposed Interchange Financing Program;

(4) the Cash Flow Budget sets forth a schedule for completing the Uncompleted Interchanges as rapidly as is reasonable under the circumstances, taking into account, among other matters, reasonable design and construction schedules, outstanding environmental and regional transportation system issues, and the status of decision-making by Caltrans' and other involved entities beyond the control of the City and Agency;

(5) if there is an identified Funding Shortfall, the Proposed Interchange Financing Program evidences a good faith consideration by the City and the Agency under the applicable circumstances (including the City's overall budget status) to commit City Sales Tax Revenue and/or additional Traffic Impact Fees toward reducing or eliminating such Funding Shortfall;

(6) if the Proposed Interchange Program proposes that a specified amount of Previously Designated Interchange Tax Increment Revenue be released to constitute Released Funds, such proposal sets forth a reasonable demonstration that the proposed Released Funds are not needed to pay Remaining Interchange Costs or any Subordination Shortfall Amount; and

(7) if the Proposed Interchange Financing Program proposes the issuance of Other Authorized Indebtedness, such proposal sets forth a reasonable demonstration that there is anticipated to be available sufficient Claimed Tax Increment Revenue each Fiscal Year (i) to provide all Interchange-Committed Tax Increment Revenue (as described in element (5) of the Proposed Interchange Financing Program), (ii) to meet all other statutory and contractual obligations of the Agency (including the obligation to make payments to the Participating Entities pursuant to Article 4 of this Agreement), (iii) to repay any Subordination Shortfall Amount, and (iv) to pay the anticipated debt service on the proposed Other Authorized Indebtedness.

(c) Process for Approval of Program. Representatives of the Agency and the County shall meet within fifteen (15) days after the County receives a Proposed Interchange Financing Program to review and address issues related to the Proposed Interchange Financing Program. Within fifteen (15) days after such meeting (or if the County does not attend a meeting called for in the previous sentence and scheduled by the Agency, within thirty (30) days after the County receives a Proposed Interchange Financing Program), the County shall provide written notice that either (1) it approves the Proposed Interchange Financing Program, or (2) it elects to have a qualified independent advisor (an "Independent Advisor") determine whether the Proposed Interchange Financing Program meets the standards for approval set forth in subsection (b) above. If the County either notifies the Agency in writing that it approves the Proposed Interchange Financing Program or fails to elect in writing within such fifteen (15) day period to have an Independent Advisor consider the matter as provided above, the Proposed Interchange Financing Program submitted by the Agency shall thereafter constitute an Approved Interchange Financing Program.

If the County elects to have the matter referred to an Independent Advisor, the County and the Agency shall meet within ten (10) days to select in reasonable good faith an Independent Advisor from among the list attached to this Agreement as Exhibit C (or to select

another mutually acceptable person or entity to serve as the Independent Advisor). If the County and the Agency cannot agree upon an Independent Advisor within such ten (10) day period, either the County or the Agency may apply to the Alameda County Superior Court to select the Independent Advisor from among the list attached as Exhibit C.

Upon selection, the County and the Agency shall jointly contract for the services of the Independent Advisor. The Independent Advisor shall be instructed to render its determination, as expeditiously as is reasonable, regarding whether the Proposed Interchange Financing Program meets the standards for approval set forth in subsection (b) above, and, if not, to set forth in detail the basis for its determination that the standards have not been met. The Independent Advisor may employ such subcontractors as it deems necessary, subject to the reasonable approval of the County and the Agency. The cost for the services of the Independent Advisor (and any subcontractors) shall be paid by, and shall constitute a General Administrative Cost of, the Agency. The County and the Agency shall cooperate with the Independent Advisor in the Independent Advisor's performance of its responsibilities.

If the Independent Advisor determines that the Proposed Interchange Financing Program meets the standards for approval set forth in subsection (b) above, such Proposed Interchange Financing Program shall thereafter constitute an Approved Interchange Financing Program. If the Independent Advisor determines that the Proposed Interchange Financing Program does not meet the standards for approval set forth in subsection (b) above, the Agency shall, as promptly as possible, submit a revised Proposed Interchange Financing Program that addresses the reasons for the Independent Advisor's determination. The Independent Advisor shall thereupon consider the revised Proposed Interchange Financing Program, and the process described above in this paragraph shall continue until the Independent Advisor determines that a particular revised Proposed Interchange Financing Program meets the standard to constitute an Approved Interchange Financing Program.

The parties acknowledge, based on the Agency's representation and without other independent investigation or inquiry, that the Agency has submitted and the County has approved all Proposed Interchange Financing Programs due under this Section 2.5 as of the date of the Third Amendment and Restatement.

(d) Amendment of Approved Program. The Agency may submit a proposed amendment to an Approved Interchange Financing Program during the period prior to the time for submission of the next annual Proposed Interchange Financing Program. The Agency and the County shall thereupon follow the procedures set forth in subsection (c) above to determine if such proposed amendment meets the standard to become a part of (and to modify) the previously Approved Interchange Financing Program.

Section 2.6 Agency Actions Consistent With Approved Program; Issuance of Indebtedness.

(a) General. Upon approval of the first Approved Interchange Financing Program and continuing through the Interchange Financing Completion Date, the Agency shall

conduct its actions with respect to the use of Claimed Tax Increment Revenue in a manner consistent with the most recent Approved Interchange Financing Plan.

(b) Limits on Indebtedness. Following execution of the Second Amendment and Restatement of this Agreement and continuing through the Interchange Financing Completion Date, the Agency shall not enter into any unconditional new indebtedness payable from Claimed Tax Increment Revenue except as follows:

(1) Indebtedness constituting Interchange Indebtedness or a short-term obligation to pay Interchange Improvement Costs;

(2) Indebtedness constituting Other Authorized Indebtedness;

(3) indebtedness secured by a pledge of the portion of Claimed Tax Increment Revenue that is deposited in the Housing Fund ("Housing Fund Indebtedness");

(4) indebtedness payable from Released Funds as designated in the most recent Approved Financing Program; and

(5) short-term obligations (obligations currently due or due in less than a year) to pay Project costs other than Interchange Improvement Costs, but only if and to the extent sufficient Claimed Tax Increment Revenue is available to pay such short-term obligations in the applicable Fiscal Year after all Interchange-Committed Tax Increment Revenue scheduled for expenditure in the applicable Fiscal Year, as set forth in the most recent Approved Interchange Financing Program, has been expended or otherwise budgeted and provided for.

The limitations on issuance or incurrence of indebtedness set forth in this subsection (b) shall not apply after the Interchange Financing Completion Date.

(c) Additional Provisions Regarding Other Authorized Indebtedness. For Other Authorized Indebtedness scheduled to be issued or incurred on or before the Interchange Financing Completion Date, the Agency may (but shall be under no obligation to) request from the County a certificate evidencing the County's concurrence that the proposed issuance or incurrence meets the standard of subparagraph (2) of the definition of Other Authorized Indebtedness (see Section 1.1 (mm) above) and, therefore, constitutes Other Authorized Indebtedness for purposes of this Agreement. Such Agency request shall be made not earlier than sixty (60) days nor later than thirty (30) days prior to issuance or incurrence of the Other Authorized Indebtedness, and shall be accompanied by the proposed bond resolution, trust indenture, loan agreement or other similar document evidencing the indebtedness, together with such supporting financial information as will reasonably enable the County to evaluate the indebtedness. If the proposed issuance or incurrence meets the standard of subparagraph (2) of the definition of Other Authorized Indebtedness, the County shall, within thirty (30) days of receipt of the Agency's request and required accompanying documents, execute and deliver to the Agency a certificate to the effect that the proposed issuance or incurrence meets the standard of and constitutes Other Approved Indebtedness for purposes of this Agreement.

The Agency may issue or incur Interchange Indebtedness and Other Authorized Indebtedness as part of the same indebtedness or incurrence, subject to a common pledge of Claimed Tax Increment Revenue (other than the portion of Claimed Tax Increment deposited in the Housing Fund).

ARTICLE 3
TREATMENT OF CLAIMED TAX INCREMENT REVENUE

Section 3.1 Limitation on Claimed Tax Increment Revenue.

(a) As authorized by Section 2.5 of the Agreement in effect prior to the execution by all parties of the Second Amendment and Restatement, for Fiscal Years 1993-94 through 1997-98 the Agency claimed the following portions of Potential Tax Increment to implement the Project and to make payments for the activities described in Section 2.6 of the Agreement in effect prior to the execution by all parties of the Second Amendment and Restatement:

Fiscal Year	% of Potential Tax Increment Revenue That Was Claimed	% of Override Tax Increment Revenue That Was Claimed
1993-94	75%	100%
1994-95	75%	100%
1995-96	75%	100%
1996-97	75%	100%
1997-98	67%	100%

(b) To continue to minimize the fiscal effects of the redevelopment program on the Participating Entities, from Fiscal Year 1998-99 through and including the Project Completion Fiscal Year, the Agency shall claim as Claimed Tax Increment Revenue:

(1) For any installment of Potential Tax Increment Revenue receivable by the Agency prior to the execution by all parties of the Second Amendment and Restatement of this Agreement, an amount equal to (A) not more than sixty-seven percent (67%) of the Basic Tax Increment Revenue, plus (B) one hundred percent (100%) of the Override Tax Increment Revenue; and

(2) For any installment of Potential Tax Increment Revenue receivable by the Agency after the execution by all parties of the Second Amendment and Restatement of this Agreement, an amount equal to (X) one hundred percent (100%) of the Basic Tax Increment Revenue, plus (Y) one hundred percent (100%) of the Override Tax Increment Revenue; provided, however, that if the Second Amendment and Restatement of this Agreement becomes executed by all the parties after the Agency has submitted its statement of indebtedness for a given Fiscal Year pursuant to Health and Safety Code Section 33675 based on claiming the amounts specified in subparagraph (1) above, the Agency shall be deemed to have satisfied its obligation under this subparagraph (2) for that Fiscal Year if it attempts in good faith to submit

to the County Auditor-Controller an amended statement of indebtedness that would permit the Agency to instead claim the amounts specified in this subparagraph (2) and attempts in good faith to cause the County Auditor-Controller to accept such amended statement of indebtedness and to allocate to the Agency the amounts specified in this subparagraph (2).

The amounts claimed by the Agency pursuant to this subsection (b) shall be used to implement the Project, including priority completion of the Interchange improvements, and to make the payments for the activities described in Section 3.2.

(c) Following the Project Completion Fiscal Year, the Agency shall claim no further amount of Potential Tax Increment Revenue.

Section 3.2 Application of Claimed Tax Increment Revenue.

(a) Subject to the provisions of subsection (d) below, the Agency shall apply the Claimed Tax Increment Revenue it receives prior to the execution by all parties of the Second Amendment and Restatement of this Agreement for the following purposes in the following priority order:

(1) First, to make the deposit to the Housing Fund required pursuant to Health and Safety Code Section 33334.2;

(2) Second, to make any other payments mandated by the Community Redevelopment Law or other applicable statute;

(3) Third, to pay principal, interest, and any other amounts due during the Fiscal Year with respect to Interchange Indebtedness;

(4) Fourth, to pay the amounts due to the Participating Entities pursuant to the provisions of Article 4, and to pay the amounts due to the Education Districts pursuant to the provisions of agreements entered into with such Education Districts under authority of the Community Redevelopment Law.

(5) Fifth, to pay General Administrative Costs in an amount not exceeding the Maximum Administrative Cost Amount for the applicable Fiscal Year;

(6) Sixth, to pay currently due Interchange Improvement Costs for which other sources of revenue are not available or committed; and

(7) Seventh, using the balance, if any, of Claimed Tax Increment Revenue, to prepay outstanding Interchange Indebtedness (including purchase of outstanding bonds and payment of any applicable redemption premium), and/or to set aside funds in a defeasance or other similar account for future repayment of outstanding Interchange Indebtedness.

(b) Subject to the provisions of subsection (d) below, beginning with the first installment of Claimed Tax Increment Revenue that the Agency receives after execution by all parties of the Second Amendment and Restatement of this Agreement, and continuing through and including the Project Completion Fiscal Year, the Agency shall apply the Claimed Tax Increment Revenue for the following purposes in the following priority order:

(1) First, to make the deposits to the Housing Fund required pursuant to Health and Safety Code Section 33334.2 (which deposits may, in turn, be used to make debt service payments on Housing Fund Indebtedness);

(2) Second, to make any other payments mandated by the Community Redevelopment Law or other applicable statute;

(3) Third, to pay principal, interest, and any other amounts due during the Fiscal Year with respect to Interchange Indebtedness and Other Authorized Indebtedness that constitutes Senior Position Indebtedness;

(4) Fourth, to pay the amounts due to the Participating Entities pursuant to the provisions of Article 4, and to pay the amounts due to the Education Districts pursuant to the provisions of agreements entered into with such Education Districts under authority of the Community Redevelopment Law;

(5) Fifth, to pay General Administrative Costs;

(6) Sixth, to pay principal, interest, and any other amounts due during the Fiscal Year with respect to Interchange Indebtedness and Other Authorized Indebtedness that constitutes Junior Position Indebtedness;

(7) Seventh, to pay short-term obligations (obligations currently due or due in less than one year) that constitute Interchange Improvements Costs;

(8) Eighth, to pay short-term obligations (obligations currently due or due in less than a year) of the Project other than Interchange Improvement Costs; provided, however, that prior to the Interchange Financing Completion Date, Claimed Tax Increment Revenue may be used for this purpose in any given Fiscal Year only if and to the extent that sufficient Claimed Tax Increment Revenue is available to pay such short-term obligations in the applicable Fiscal Year after all Interchange-Committed Tax Increment Revenue scheduled for expenditure in the applicable Fiscal Year, as set forth in the most recent Approved Interchange Financing Program, has been expended or otherwise budgeted and provided for; and

(9) Ninth, using the balance, if any, of Claimed Tax Increment Revenue, to prepay outstanding Interchange Indebtedness and Other Authorized Indebtedness (including purchase of outstanding bonds and payment of any applicable redemption premium), and/or to set aside funds in a defeasance or other similar account for future repayment of outstanding Interchange Indebtedness and Other Authorized Indebtedness.

(c) The parties understand and agree that the claim by the Agency of Claimed Tax Increment Revenue in the amounts set forth in Section 3.1 and the application by the Agency of such Claimed Tax Increment Revenue for the purposes and in the manner set forth in this Section 3.2 will promote timely and cost effective completion of the Project (including priority completion of the Interchanges) as contemplated by Section 2.1, the 1998 Amended Plan, and the 2010 Amended Plan; and that such actions constitute an indebtedness obligation of the Agency for the benefit of the Participating Entities.

(d) Notwithstanding any other provision of this Agreement, any Claimed Tax Increment Revenue that constitutes Released Funds as designated in the most recent Approved Interchange Financing Program may be used to pay for costs of the Project other than Interchange Improvement Costs.

ARTICLE 4
PAYMENTS TO PARTICIPATING ENTITIES

Section 4.1 Payments to County. Subject to the conditions, exceptions, modifications, and limitations set forth in this Article 4, the Agency shall pay to the County the following amounts:

(a) Fiscal Year 1994-95 Through 1996-97. Beginning in Fiscal Year 1994-95 and continuing through and including Fiscal Year 1996-97, the Agency shall pay to the County each Fiscal Year an amount of Claimed Tax Increment Revenue which, when added to the sum of (1) the portion of Unclaimed Tax Increment Revenue for the Fiscal Year that is directly allocated to the County as normal property taxes plus (2) the Imputed ERAF Contribution for the County for the Fiscal Year, equals seventy-five percent (75%) of the County Share of Basic Tax Increment Revenue for the Fiscal Year. The parties acknowledge that, as of the execution of the Second Amendment and Restatement of this Agreement, the Agency has made all of the payments to the County required by this subsection (a).

(b) Fiscal Year 1997-98 Through Final Pre-Third Amendment Fiscal Year. Beginning in Fiscal Year 1997-98 and continuing through and including the Final Pre-Third Amendment Fiscal Year, the Agency shall pay to the County each Fiscal Year an amount of Claimed Tax Increment Revenue which, when added to the sum of (1) the portion of Unclaimed Tax Increment Revenue for that Fiscal Year that is directly allocated to the County as normal property taxes plus (2) the Imputed ERAF Contribution for the County for the Fiscal Year, equals fifty percent (50%) of the County Share of Basic Tax Increment Revenue for the Fiscal Year. By way of illustration only, Part III of Exhibit B to this Agreement contains a sample calculation of the payment due pursuant to this subsection (b). The parties acknowledge that, as of the date of the Third Amendment and Restatement of this Agreement, the Agency has made the payments to the County required by this subsection (b) through and including Fiscal Year 2008-09.

(c) Third Amendment Fiscal Year Through Project Completion Fiscal Year. Beginning with the Third Amendment Fiscal Year and continuing through and including the

Project Completion Fiscal Year, the Agency shall pay to the County each Fiscal Year an amount of Claimed Tax Increment Revenue equal to the sum of:

(1) The Fixed ERAF Contribution Amount for the County plus

(2) The product of (i) the Basic Tax Increment for the Fiscal Year multiplied by (ii) the County's Adjusted AB8 Factor.

By way of illustration only, following is a calculation of the payment due by the Agency to the County in a particular Fiscal Year that is the subject of this subsection (c) in which the Basic Tax Increment is assumed (for illustrative purposes only) to be $30,000,000. As shown in Column (2) of Exhibit D, the County's Fixed ERAF Contribution Amount is $1,810,139.05. As shown in Column (4) of Exhibit D, the County's Adjusted AB8 Factor is 0.20025774. Given these assumptions and factors, the payment due to the County under this subsection (c) would be:

County's Fixed ERAF Contribution + (Basic Tax Increment x County's Adjusted AB8 Factor) =

$1,810,139.05 + ($30,000,000 x 0.20025774) =

$1,810,139.05 + $6,007,732.20 =

$7,817,871.25

Section 4.2 Payments to Non-County Participants. Subject to the conditions, exceptions, modifications, and limitations set forth in this Article 4, the Agency shall pay to each Non-County Participant the following amounts:

(a) Fiscal Year 1994-95 Through Final Pre-Third Amendment Fiscal Year (Basic Tax Increment Revenue). Beginning in Fiscal Year 1994-95 and continuing through and including the Final Pre-Third Amendment Fiscal Year, the Agency shall pay to each Non-County Participant each Fiscal Year an amount of Claimed Tax Increment Revenue which, when added to the sum of (1) the portion of Unclaimed Tax Increment Revenue for the Fiscal Year that is directly allocated to that Non-County Participant as normal property taxes plus (2) the Imputed ERAF Contribution for that Non-County Participant for the Fiscal Year, equals fifty percent (50%) of that Non-County Participant's Share of Basic Tax Increment Revenue for the Fiscal Year. By way of illustration only, Part III of Exhibit B to this Agreement contains a sample calculation of the payment due pursuant to this subsection (a). The parties acknowledge that, as of the date of the Third Amendment and Restatement of this Agreement, the Agency has made all the payments to the Non-County Participants required by this subsection (a) through and including Fiscal Year 2008-09.

(b) Third Amendment Fiscal Year Through Project Completion Fiscal Year (Basic Tax Increment Revenue).

(1) Non-ERAF-impacted Entities. Beginning with the Third Amendment Fiscal Year and continuing through and including the Project Completion Fiscal Year, the Agency shall pay to each Non-ERAF-impacted Entity, an amount of Claimed Tax Increment Revenue equal to the product of (i) the Basic Tax Increment for the Fiscal Year multiplied by (ii) the applicable Non-ERAF-impacted Entity's Unadjusted AB8 Factor multiplied by (iii) fifty percent (50%).

By way of illustration only, following is a calculation of the payment due by the Agency to the East Bay Regional Park District ("EBRPD", as an example of a Non-ERAF-impacted Entity) in a particular Fiscal Year that is the subject of this subsection (b)(1) in which the Basic Tax Increment is assumed (for illustrative purposes only) to be $30,000,000. As shown in Column (3) of Exhibit D, EBRPD's Unadjusted AB8 Factor is 0.03315866. Given these assumptions and factors, the payment due to EBRPD under this subsection (b)(1) would be:

Basic Tax Increment x EBRPD's Unadjusted AB8 Factor x 50% =

$30,000,000 x 0.03315866 x 50% =

$497,379.90

(2) ERAF-impacted Entities. Beginning with the Third Amendment Fiscal Year and continuing through and including the Project Completion Fiscal Year, the Agency shall pay to each ERAF-impacted Entity (other than the County, which is instead subject to the provisions of Section 4.1(c)), an amount of Claimed Tax Increment Revenue equal to the sum of:

(i) The Fixed ERAF Contribution Amount for the applicable ERAF-impacted Entity plus

(ii) The product of (A) the Basic Tax Increment for the Fiscal Year multiplied by (B) the applicable ERAF-impacted Entity's Adjusted AB8 Factor.

By way of illustration only, following is a calculation of the payment due by the Agency to the Alameda County Water District ("ACWD", as an example of an ERAF-impacted Entity other than the County) in a particular Fiscal Year that is the subject of this subsection (b)(2) in which the Basic Tax Increment is assumed (for illustrative purposes only) to be $30,000,000. As shown in Column (2) of Exhibit D, ACWD's Fixed ERAF Contribution Amount is $52,632.97. As shown in Column (4) of Exhibit D, ACWD's Adjusted AB8 Factor is 0.00923226. Given these assumptions and factors, the payment due to ACWD under this subsection (b)(2) would be:

ACWD's Fixed ERAF Contribution + (Basic Tax Increment x ACWD's Adjusted AB8 Factor) =

$52,632.97 + ($30,000,000 x 0.00923226) =

$52,632.97 + $276,967.80 =

$329,600.77

(c) Fiscal Year 1993-94 Through Project Completion Fiscal Year (Override Tax Increment Revenue). Beginning in Fiscal Year 1993-94 and continuing through and including the Project Completion Fiscal Year, the Agency shall pay to each Non-County Participant for which an Override Tax Rate is levied, an amount equal to eighty percent (80%) of the portion of Override Tax Increment Revenue that is attributable to the levy of that Non-County Participant's Override Tax Rate. The parties acknowledge that, as of the date of the Third Amendment and Restatement of this Agreement, the Agency has made all the payments to the eligible Non-County Participants required by this subsection (c) through and including Fiscal Year 2008-09.

(d) Lump Sum Payment Alternative. In lieu of the annual payments described above, the Agency and a particular Non-County Participant may agree upon a lump sum payment or payments by the Agency that will achieve the economic intent of the annual payments, so long as such lump sum payment(s) is/are otherwise consistent with the applicable provisions of the Community Redevelopment Law. Such lump sum payment(s) may be documented by implementation letter between the Agency and the Non-County Participant without further amendment of this Agreement.

Section 4.3 Time of Payment. The Agency shall make the payments required pursuant to Sections 4.1 and 4.2 for a given Fiscal Year within thirty (30) days after the end of such Fiscal Year. Each payment made by the Agency shall be accompanied by a statement setting forth in reasonable detail the basis on which the determination of the amount of payment has been made.

Section 4.4 Limitation on Payments. Notwithstanding any other provision of this Agreement, the sum of the payments made to each Participating Entity by the Agency pursuant to this Article 4 for any given Fiscal Year shall not exceed the amount that each Participating Entity would otherwise receive from property taxes from the Project Area for that given Fiscal Year had the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan not provided for the division of taxes pursuant to Health and Safety Code Section 33670.

Section 4.5 Priority of Payments.

(a) Subordination of Payments. The Participating Entities' rights to payment under this Agreement shall be subordinate to any future Agency pledge of all or any portion of the Claimed Tax Increment Revenue otherwise payable to the Participating Entities under this Agreement in order to secure payment of: (1) Housing Fund Indebtedness; and (2) Interchange Indebtedness and Other Authorized Indebtedness for which such subordination is approved in

accordance with the standards and procedures of subsection (b) below (such Interchange Indebtedness and Other Authorized Indebtedness is defined to be Senior Position Indebtedness).

(b) Agency Request and County Approval. The Agency may request the Participating Entities to subordinate their respective rights to receive payments under this Agreement to the Agency's obligation to make payments with respect to specified Interchange Indebtedness and/or Other Authorized Indebtedness. The Non-County Participants hereby appoint the County as their agent for purposes of considering and, if appropriate under the terms of this subsection (b), approving any such requests by the Agency. The Participating Entities agree that the County's approval of such requests (on its own behalf and on behalf of the Non-County Participants) will not be unreasonably withheld provided that the Agency first demonstrates to the County's satisfaction the Agency's anticipated ability to repay such Interchange Indebtedness and/or Other Authorized Indebtedness without demand being made on the payments due to the Participating Entities under the terms of this Agreement. Such demonstration by the Agency shall show that the subordinated payments will be used in the cash-flow of the financing only for additional security (debt service coverage) and that the anticipated Claimed Tax Increment Revenue will be adequate, over the term of the applicable Interchange Indebtedness and/or Other Authorized Indebtedness, to pay 100% of the actual debt service thereon, to pay the Agency's obligations under this Agreement, and to pay any other obligations of the Agency, whether statutory or contractual, which are or would be superior to the Agency's obligations under this Agreement. Any such demonstration shall include, without limitation, revenue forecasts and debt service schedules.

The Agency shall not enter into an Interchange Indebtedness and/or Other Authorized Indebtedness if, at the time of issuance or incurrence of such Interchange Indebtedness and/or Other Authorized Indebtedness, it is reasonably foreseeable that an event or events will cause the need to apply any portion of the subordinated payments to actual payment of debt service on such Interchange Indebtedness and/or Other Authorized Indebtedness. The parties expressly agree that, among other events, future natural disasters or general downturns in the national, state or regional economy shall not be deemed to constitute reasonably foreseeable events within the meaning of the preceding sentence. In addition, the Agency shall not take any action to cause the removal of taxable property from the property tax roll if such removal would cause the need to apply any portion of the subordinated payments to the actual payment of debt service on any Interchange Indebtedness and/or Other Authorized Indebtedness.

(c) Execution of Documents. Upon approval by the County of an Agency subordination request in accordance with the standards and procedures of subsection (b) above, a duly authorized representative of the County is hereby authorized by the Non-County Participants and shall, on behalf of itself and each Non-County Participant, execute any documents reasonably requested by the Agency and consistent with this Section 4.5 to evidence the subordination of the Participating Entities' payments to the proposed Senior Position Indebtedness provided for in this Section 4.5; provided, however, that, if required by Agency bond counsel, a duly authorized representative of each Participating Entity shall separately execute such subordination documents.

(d) Effect of Revenue Shortfall. If, as a result of the subordination provided for in this Section 4.5, the payments to the Participating Entities are reduced below the amount otherwise payable to them pursuant to this Agreement, then such reductions shall be treated as an advance by the Participating Entities which shall be repaid by the Agency. The unpaid principal balance thereof shall bear interest at the rate paid by the State of California Local Agency Investment Fund or its successor entity. The advances and accrued interest (together, the "Subordination Shortfall Amount") shall be considered a Funding Shortfall (as defined in Section 2.5(a)) and shall be repaid as promptly as possible and in any event the Agency shall use all Claimed Tax Increment Revenue available to it, after payment of principal and interest on the Senior Position Indebtedness to which the subordination applies and payment of any other obligations which are superior to the Agency's obligations under this Agreement (including statutory obligations, such as the Agency's housing set-aside obligations under Health and Safety Code Section 33334.2), along with certain other revenue sources described in Section 2.5(a)(5) to repay such Subordination Shortfall Amount.

Section 4.6 Section 33676 Election Superseded. The Participating Entities acknowledge that this Agreement supersedes any purported right to election under Health and Safety Code Section 33676 with respect to the 1993 Amended Plan, the 1998 Amended Plan, or the 2010 Amended Plan. The Participating Entities shall not make any election pursuant to Health and Safety Code Section 33676, and this Agreement supersedes any election previously made or purported to be made by any Participating Entity pursuant to Health and Safety Code Section 33676. Any such election or purported election shall be null and void. Each involved Participating Entity shall take any action required by the County Auditor-Controller or other responsible County official required to rescind any such prior election and to notify the County Auditor-Controller or other responsible County official that the involved Participating Entity has elected not to receive any amounts pursuant to Health and Safety Code Section 33676. The Participating Entities shall receive no payment of Claimed Tax Increment Revenue other than as provided in this Agreement or in a separate agreement executed in accordance with the provisions of the Community Redevelopment Law.

Section 4.7 Indebtedness of the Agency. The obligation of the Agency to claim the Claimed Tax Increment Revenue and to make the payments of Claimed Tax Increment Revenue in the manner specified in Sections 3.1, 3.2, 4.1, and 4.2 shall constitute an indebtedness of the Agency incurred in carrying out the Project and a pledge of Potential Tax Increment Revenue from the Project to repay such indebtedness under the provisions of Article XVI, Section 16 of Article XVI of the Constitution of the State of California and under the Community Redevelopment Law.

Section 4.8 Future Changes In AB8 Factors. If the proportionate shares of property taxes (commonly referred to as the "AB8 factors") allocable to the County and one or more Non-County Participant(s) is materially changed in a comparable manner due to subsequent legislation or a subsequent property tax allocation system implemented by the State or the County, resulting in a material increase or decrease in the aggregate payments required to be made by the Agency under this Agreement, the Agency and the County shall confer in good faith promptly after such change in AB8 factors to determine any modification of this Agreement that is appropriate to achieve, as nearly as practicable, the aggregate payment amounts by the Agency

originally intended by the parties when the Agreement was initially executed and subsequently amended and restated. Any modification of this Agreement agreed upon by the Agency and the County in good faith to achieve the objective set forth in the proceeding sentence shall be memorialized in an amendment of this Agreement which, upon execution by the Agency and the County, shall become binding upon all parties to this Agreement as if executed by all parties. The Non-County Participants hereby appoint the County as their agent for purposes of the consultations and execution of amendments described above, it being understood and agreed by the parties that in the circumstances described in this Section 4.8, the County's economic interest will be comparable to that of the comparably affected Non-County Participants(s) and that the County has the necessary financial expertise to adequately represent the Non-County Participant(s) in such matter.

All other amendments of this Agreement shall require execution by all parties hereto, as more fully set forth in Section 5.7. The provisions of this Section 4.8 shall not apply to any situation in which the change in AB8 factors would result in an increase in Agency payments under this Agreement to some Participating Entities and a decrease in Agency payments to other Participating Entities.

ARTICLE 5
GENERAL PROVISIONS

Section 5.1 Elimination of Financial Burden; No Contest of Plan. The Participating Entities each acknowledge and agree that the payments to be made and the actions to be undertaken by the Agency and the City pursuant to this Agreement will effectively eliminate any financial burden or detriment that would otherwise be caused by the adoption of the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan, and by the implementation of the Project. In consideration of such payments and actions, each Participating Entity agrees to forgo any right or remedy it may have in law or equity to contest the preparation, adoption, or validity of the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan (including, without limitation, any right or remedy pursuant to the California Environmental Quality Act) and the implementation of the Project contemplated to be undertaken pursuant to the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan. Each Participating Entity further declares its support for the efforts of the Agency and the City in connection with the preparation, adoption and implementation of the 1993 Amended Plan, the 1998 Amended Plan, and the 2010 Amended Plan.

Section 5.2 Notices. All notices, statements, or other communications made pursuant to this Agreement to another party or parties shall be in writing, and shall be sufficiently given and served upon the party if sent by United States certified mail, return receipt requested, postage prepaid, and addressed to the applicable party in the manner specified in the attached Exhibit A.

Any party may change its address for notice purposes by written notice to the other parties prepared and delivered in accordance with the provisions of this Section 5.2.

Section 5.3 No Third Party Beneficiaries. No person or entity other than the Agency, the City, the Participating Entities and their permitted successors and assigns, shall have any right of action under this Agreement.

Section 5.4 Litigation Regarding Agreement. In the event litigation is initiated attacking the validity of this Agreement, each party shall in good faith defend and seek to uphold the Agreement. In the event that all or any part of the modifications made in the Third Amendment and Restatement of this Agreement are held to be invalid by a court of competent jurisdiction, the parties agree that as of the effective date of such determination all of the modifications made in the Third Amendment and Restatement of this Agreement, except this provision, shall be void and the terms and provisions of the Second Amendment and Restatement executed as of March 1, 1999, shall continue to be in full force and effect.

Section 5.5 State Law. This Agreement, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of California.

Section 5.6 Attorneys' Fees. In any action which a party brings to enforce its rights hereunder, the unsuccessful party shall pay all costs incurred by the prevailing party, including reasonable attorneys' fees.

Section 5.7 Entire Agreement. This Agreement (as fully amended and restated through the Third Amendment and Restatement) constitutes the entire and integrated agreement of the Agency, the City, and the Participating Entities and supersedes all prior negotiations, representations, or agreements, either written or oral, including without limitation, the Former County Agreement and the versions of this Agreement in effect prior to the execution of the Third Amendment and Restatement. Except for amendments described in Section 4.8 (which amendments shall be processed and become effective in the manner described in Section 4.8), this Agreement may be further amended only by written instrument executed by the Agency, the City, and the Participating Entities.

Section 5.8 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed and subsequently amended and restated this Agreement as of the dates set forth in the opening paragraph of this Agreement.

For Attestation and/or Approval as to Form (Optional)	For Execution (Required)
	REDEVELOPMENT AGENCY OF THE CITY OF FREMONT
_____	By: _____
	Print Name: _____
	Title: _____
	CITY OF FREMONT
_____	By: _____
	Print Name: _____
	Title: _____
	COUNTY OF ALAMEDA, ALAMEDA COUNTY LIBRARY DISTRICT, AND ALAMEDA COUNTY FLOOD CONTROL DISTRICT
_____	By: _____
	Print Name: _____
	Title: _____
	AC TRANSIT DISTRICT
_____	By: _____
	Print Name: _____
	Title: _____

as to Form (Optional)

(Required)

ALAMEDA COUNTY MOSQUITO ABATEMENT DISTRICT

By: _____

Print Name: _____

Title: _____

ALAMEDA COUNTY RESOURCE CONSERVATION DISTRICT

By: _____

Print Name: _____

Title: _____

ALAMEDA COUNTY WATER DISTRICT

By: _____

Print Name: _____

Title: _____

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

By: _____

Print Name: _____

Title: _____

BAY AREA RAPID TRANSIT DISTRICT

By: _____

Print Name: _____

Title: _____

For Attestation and/or Approval
as to Form (Optional)

For Execution
(Required)

EAST BAY REGIONAL PARK DISTRICT

_____

By: _____

Print Name: _____

Title: _____

WASHINGTON HOSPITAL DISTRICT

_____

By: _____

Print Name: _____

Title: _____

EXHIBIT A

LIST OF ADDRESSES FOR NOTICE PURPOSES

Redevelopment Agency of the
City of Fremont
39550 Liberty Street
P.O. Box 5006
Fremont, CA 94538-5006
Attn: Executive Director

City of Fremont
3300 Capitol Avenue
P.O. Box 5006
Fremont, CA 94537-5006
Attn: City Manager

County of Alameda
Board of Supervisors
1221 Oak Street, Room 536
Oakland, CA 94612
Attn: County Administrator

AC Transit District
1600 Franklin Street
Oakland, CA 94612

Alameda County Flood Control District
379 Elmhurst Street
Hayward, CA 94544

Alameda County Library District
2450 Stevenson Blvd.
Fremont, CA 94538

Alameda County Mosquito Abatement District
23187 Connecticut Street
Hayward, CA 94545

Alameda County Resource Conservation District
3585 Greenville Road, Suite 2
Livermore, CA 94550

Alameda County Water District
43885 South Grimmer Blvd.
Fremont, CA 94538

Bay Area Air Quality Management
District
939 Ellis Street, 7th Floor
San Francisco, CA 94109

Bay Area Rapid Transit District
800 Madison Street
P.O. Box 12688
Oakland, CA 94604

East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

Washington Hospital District
Board of Directors
2000 Mowry Avenue
Fremont, CA 94538

EXHIBIT B

SAMPLE CALCULATIONS

[To Be Attached; Same As Exhibit B Attached to Second Amendment and Restatement]

EXHIBIT C

LIST OF INDEPENDENT ADVISORS

[To Be Attached; Same As Exhibit C Attached to Second Amendment and Restatement]

EXHIBIT D

PAYMENT FACTORS FOR PARTICIPATING ENTITIES

(1) Participating Entity	(2) Fixed ERAF Contribution Amount[1]	(3) Unadjusted AB8 Factor	(4) Adjusted AB8 Factor
County of Alameda	$1,810,139.05	0.39366568	0.20025774
Alameda County Library District	243,273.75	0.05007097	0.02435954
Alameda County Flood Control District—Clean Water Program	7,523.14	0.00235956	0.00141337
Alameda County Flood Control District—Zone 6	110,162.38	0.03409877	0.02192551
AC Transit District	0.00	0.03569335	0.03569335
Alameda County Mosquito Abatement District	5,677.40	0.00157416	0.00097221
Alameda County Resource Conservation District	470.91	0.00031203	0.00026192
Alameda County Water District	52,632.97	0.01483807	0.00923226
Bay Area Air Quality Management District	0.00	0.00236130	0.00236130
Bay Area Rapid Transit District	0.00	0.00693438	0.00693437
East Bay Regional Park District	0.00	0.03315866	0.03315866
Washington Hospital District	0.00	0.00000000[2]	0.00000000[3]

[1] Participating Entities with a 0.00 in this column are multi-county entities that are not subject to an ERAF payment obligation.

[2] Washington Hospital District received a pass-through payment under this Agreement as initially executed because, at that time, it levied an override bond property tax, but it never received any portion of the Basic Tax Increment Revenue. Consequently, the County assigns an Unadjusted AB8 Factor and an Adjusted AB8 Factor of 0.000000 to that District.

[3] See footnote 2 above.

AGENDA: 5

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members of the Board of Directors

From: Jack Broadbent
Executive Officer/APCO

Date: November 12, 2009

Re: Adjust Pay Range for the Strategic Facilities Manager Classification to 148M in accordance with all other District Manager Classifications

RECOMMENDATION

Approve increasing the Pay Range for the Strategic Facilities Manager Job Classification from Pay Range 134M ($77,250 to $93,898 per year) to Pay Range 148M ($108,699 to $132,125 per year), effective upon Board approval.

DISCUSSION

All of the Air District's section manager classifications are set at Pay Range 148M except for the Strategic Facilities Manager classification. Equalizing section manager classifications will provide assignment flexibility and professional development and make effective use of existing resources.

BUDGET CONSIDERATION/FINANCIAL IMPACT

There is no financial impact beyond what is contemplated in the current budget.

Respectfully Submitted,

Jack Broadbent
Executive Officer/APCO

Reviewed by: Jack M. Colbourn

AGENDA: 6

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 10, 2009

Re: Report of the Nominating Committee Meeting of November 4, 2009

RECOMMENDED ACTIONS

A) The Committee recommends Board of Directors' approval of Board Officers:

Chairperson Brad Wagenknecht

Vice Chairperson Tom Bates

Secretary John Gioia

BACKGROUND

The Nominating Committee met on Wednesday, November 4, 2009. The Committee considered the 2010 Board Officers for the 2010 Term of Office.

Attached is the staff report presented in the Nominating Committee packet.

Chairperson, Pamela Torliatt will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

A) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Reviewed by: Jennifer Chicconi

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

OFFICE OF DISTRICT COUNSEL

MEMORANDUM

DATE: October 28, 2009

TO: Pamela Torliatt, Chairperson
And Members of the Nominating Committee of the Board of Directors

FROM: Brian C. Bunger
District Counsel

SUBJECT: Criteria for Recommendation of Officers of the Board of Directors

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The function of the Nominating Committee is "to recommend to the Board the officers for each calendar year." Bay Area Air Quality Management District Administrative Code ("Admin. Code"), Division I, Section 6.8. In order to assist with this function, this Memorandum discusses the criteria to be applied by the Nominating Committee in making its recommendations for officers to the Board.

The Administrative Code contains certain criteria that the Nominating Committee must follow in making its recommendation for officers of the Board.

First, "the Committee shall not be bound by a recommendation of a previous Nominating Committee." Admin. Code, Div. I, § 6.8.

Second, "[t]he Committee need not follow a strict rule of rotation between supervisor and city members but may take into account their proportionate membership on the Board of Directors." Admin Code, Div. I, § 6.8.

Third, Section 6.8 further requires that "the Committee shall take into account the provisions of Section I-2.7." Admin. Code, Div. I, § 6.8.

Section 2.7 of Division I of the Administrative Code sets forth a policy of the Board to rotate the positions of the Chairperson, Vice Chairperson and Board Secretary among the members of the Board "in a manner to assure participation in the affairs of the District from a wide representation of the membership." Admin. Code, Div. I § 2.7. In this regard, Section 2.7 provides that "[I]n making its recommendations, the Nominating Committee shall take into account such factors as representation by those members appointed by Boards of Supervisors, those members appointed by City selection committees, those members from large counties, and those from small counties." Admin. Code, Div. I § 2.7.

Thus, the Board has expressed a policy of rotating officer positions in order to ensure broad participation by all Board members in the affairs of the District. However, the Nominating Committee is not required to follow a strict rule of rotation between supervisor and city members. Nor is the Committee to be bound by the actions of any prior Nominating Committee. Finally, the Nominating Committee must take into account such factors as representation of supervisor and city members on the Board and the representation of members from large and small counties.

For your convenience, attached are copies of the pertinent sections of the District's Administrative Code.

ADMINISTRATIVE CODE – SELECTED PROVISIONS

SECTION 2 BOARD OF DIRECTORS, OFFICERS - DUTIES

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

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

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

2.2 CHAIRPERSON. (Revised 1/14/09)

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

2.3 VICE CHAIRPERSON.

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

2.4 BOARD SECRETARY.

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

2.5 MEETING ROLL CALL.

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

2.6 QUORUM.

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

2.7 OFFICER ROTATION.

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

SECTION 6 BOARD OF DIRECTORS, COMMITTEES

6.8 NOMINATING COMMITTEE. (Revised 10/4/95)

The Nominating Committee will consist of the Chairperson of the Board, the past Chairperson of the Board and three (3) appointees of the Chairperson of the Board, or in the event the past Chairperson of the Board is no longer serving on the Board, four (4) appointees of the Chairperson of the Board. The Nominating Committee shall be appointed no later than the second Board Meeting in November of each year and shall serve until the appointment of a new Committee. It is the function of the Nominating Committee to recommend to the Board the officers for each calendar year. In making its recommendation, the Committee shall not be bound by a recommendation of a previous Nominating Committee. The Committee need not follow a strict rule of rotation between supervisor and city members but may take into account their proportionate membership on the Board of Directors. Additionally, the Committee shall take into account the provisions of Section I-2.7.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 10, 2009

Re: Report of the Mobile Source Committee Meeting of November 5, 2009

RECOMMENDED ACTIONS

The Committee recommends Board of Directors' approval of the following items:

A) Carl Moyer Program Year 11 Projects:

1. Approve Carl Moyer Program Year 11 projects with proposed grant awards over $100,000; and
2. Authorize the Executive Officer/APCO to execute all necessary agreements for the recommended Carl Moyer Program Year 11 projects.

B) Extension of Contracts and Request to Reserve $4.5 Million in Mobile Source Incentive Funds for Vehicle Buy Back Program:

1. Authorize the Executive Officer/APCO to execute contract extensions for vehicle scrapping and related services with Environmental Engineering Studies, Inc and Pick-N-Pull, which will distribute, on a reimbursement basis, up to approximately $4.5 million in Mobile Source Incentive Funds until April 1, 2010, at which time the Air District's Vehicle Buy Back (VBB) program will cease temporarily and be reactivated in the likely event that the California Bureau of Automotive Repair (BAR) program runs out of funding; and
2. Allocate an additional $4.5 million in Mobile Source Incentive Funds (MSIF) to fund the VBB Program during fiscal Year 2009/2010 and increase the VBB Program FY 2009/2010 budget accordingly.

C) Proposed Revisions To Transportation Fund For Clean Air Regional Fund Projects:

1. Approved proposed revisions to three (3) Transportation Fund for Clean Air Regional Fund Projects.

D) Fiscal Year (FY) 2008/2009 Transportation Fund For Clean Air (TFCA) Expenditures And Effectiveness Report:

1. Approve Fiscal Year (FY) 2008/2009 Transportation Fund for Clean Air (TFCA) Expenditures and Effectiveness Report.

E) Proposed Revisions to Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year (FY) 2009/2010:

1. Approve the proposed revisions for FY 2009/2010 Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria.

BACKGROUND

The Mobile Source Committee met on Thursday, November 5, 2009. The Committee considered and received the following reports and recommendations:

A) Consideration Of Approval For Carl Moyer Program Year 11 Projects With Proposed Grant Awards Over $100,000;

B) Consideration of Extension of Contracts and Request to Reserve $4.5 Million in Mobile Source Incentive Funds for Vehicle Buy Back Program;

C) Consideration Of Approval Of Proposed Revisions To Transportation Fund For Clean Air Regional Fund Projects;

D) Consideration Of Approval Of Fiscal Year (FY) 2008/2009 Transportation Fund For Clean Air (TFCA) Expenditures And Effectiveness Report;

E) Consideration of Proposed Revisions to Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year (FY) 2009/2010

Attached are the staff reports presented in the Mobile Source Committee packet.

Chairperson, Scott Haggerty will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

A) None. Through the CMP the Air District distributes "pass-through" funds from the ARB to public agencies and private entities on a reimbursement basis. Therefore, the grant funds awarded do not directly impact the Air District's budget. The requested amount of additional MSIF funding would come from the $2 surcharge in motor vehicle registration fees (authorized by AB923) collected within the Air District's jurisdiction.

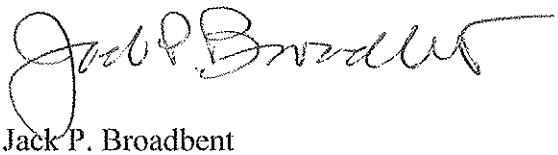
B) Staff's recommendation would result in a net increase to the District's Strategic Incentives Division Vehicle Buy Back Program FY 09/10 budget in the amount of $4.5 million. The requested amount of additional funding to cover costs associated with the retirement of vehicles would come from the Mobile Source Incentive Fund.

C) None. TFCA revenues are generated from a dedicated outside funding source. TFCA allocations do not impact the District's general fund or operating budget.

D) None.

E) None. TFCA revenues are generated from a dedicated outside funding source. TFCA allocations do not impact the District's general fund or operating budget.

Respectfully submitted,



Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Reviewed by: Jennifer Chicconi

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 29, 2009

Re: Consideration of approval for Carl Moyer Program (CMP) Year 11 projects with proposed grant awards over $100,000

RECOMMENDATIONS

Request the Committee recommend that the Air District Board of Directors:

1. Approve Carl Moyer Program Year 11, projects with proposed grant awards over $100,000; and
2. Authorize the Executive Officer/ APCO to enter into agreements for the recommended Carl Moyer Program Year 11, projects.

BACKGROUND

The Bay Area Air Quality Management District (Air District) has participated in the Carl Moyer Program (CMP), in cooperation with the California Air Resources Board (ARB), since the program began in fiscal year 1998/1999. The CMP provides grants to public and private entities to reduce emissions of oxides of nitrogen (NOx), reactive organic gases (ROG) and particulate matter (PM) from existing heavy-duty engines by either replacing or retrofitting them. Eligible heavy-duty diesel engine applications include on-road trucks and buses, off-road equipment, marine vessels, locomotives, stationary agricultural pump engines, forklifts, and airport ground support equipment.

Assembly Bill 923 (AB 923 - Firebaugh), enacted in 2004 (codified as Health and Safety Code Section 44225), authorized local air districts to increase their motor vehicle registration surcharge up to an additional $2 per vehicle. The revenues from the additional $2 surcharge are deposited in the Air District's Mobile Source Incentive Fund (MSIF). AB 923 stipulates that air districts may use the revenues generated by the additional $2 surcharge for projects eligible for grants under the CMP.

On February 4, 2009, the Air District Board of Directors authorized Air District participation in Year 11, of the CMP, and authorized the Executive Office/ APCO to execute Grant Agreements and amendments for projects funded with CMP funds or MSIF revenues, with individual grant award amounts up to $100,000. Projects with grant award amounts over $100,000 are brought to the Committee for consideration at least on a quarterly basis. Staff reviews and evaluates the Year 11 CMP grant applications based upon: the 2008 CMP guidelines and subsequent

advisories issued by ARB, the Air District's CMP Year 11 procedures approved by ARB, and applicable regulations. Below is a list of Board CMP Year 11 project allocations to date.

Board Actions on CMP Projects Greater than $100,000

- June 3, 2009 – approved 13 projects for a total allocation of $5,789,626
- July 1, 2009 – approved 14 projects for a total allocation of $6,844,216
- October 7, 2009 – approved 9 projects for a total allocation of $2,344,567

More than 90% of the funds allocated to eligible projects have been awarded to projects that reduce emissions in highly impacted Bay Area communities.

DISCUSSION

As of October 27, 2009, the Air District had received 120 CMP grant applications requesting more than $20 million in incentive funds for potential emission reduction projects. Of the applications that have been evaluated between September 22, 2009 and October 27, 2009, eight eligible projects have individual grant awards over $100,000. Attachment 1 lists the eight projects that staff recommends be awarded grants for an aggregate of $2,962,895 in funding, using a combination of CMP funds and MSIF revenues. More than 60% of these funds will go to projects that will reduce emissions in impacted communities.

Attachment 2 to this staff report lists all of the eligible projects (Table 2) that have been received by the Air District as of October 27, 2009, and summarizes the allocation of funding by equipment category (Figure 1), and county (Figure 2). Staff requests the Committee recommend the Air District's Board of Directors approve CMP Year 11, projects with proposed grant awards over $100,000, as listed in Attachment 1, and authorize the Executive Officer/ APCO to enter into agreements for these projects.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. Through the CMP the Air District distributes "pass-through" funds from the ARB to public agencies and private entities on a reimbursement basis. Therefore, the grant funds awarded do not directly impact the Air District's budget. The requested amount of additional MSIF funding would come from the $2 surcharge in motor vehicle registration fees (authorized by AB923) collected within the Air District's jurisdiction.

Respectfully submitted,

Jack P. Broadbent
Executive Director/APCO

Prepared by: Anthony Fournier
Reviewed by: Karen Schkolnick

Attachment 1: Projects with individual grant awards greater than $100,000
Attachment 2: Summary of all eligible projects as of October 27, 2009

Attachment 1: BAAQMD Year 11 Carl Moyer Program/ MSIF projects with grant awards greater than $100k (Evaluated between 9/22/09 and 10/27/09)

1 Project #: 11MOY11 **Applicant Name:** New Salmon Queen Sportfishing, LLC — 2 engines

Unit #	Equipment category	Project type	Cost-effectiveness	Proposed award	NOx (TPY)	ROG (TPY)	PM (TPY)	AB1390 Designation
New Salmon Queen-main-2	Marine	Repower	$15,377.78	$90,947.00	1.269	0.000	0.043	AB1390
New Salmon Queen-main-1	Marine	Repower	$15,377.78	$90,947.00	1.269	0.000	0.043	AB1390
		Project Totals		$181,894.00	2.538	0.000	0.086	

2 Project #: 11MOY102 **Applicant Name:** DeBernardi Dairy, Inc. — 1 engine

Unit #	Equipment category	Project type	Cost-effectiveness	Proposed award	NOx (TPY)	ROG (TPY)	PM (TPY)	AB1390 Designation
1	Off-Road	Replacement	$13,730.53	$132,853.00	0.907	0.152	0.056	Not AB1390
		Project Totals		$132,853.00	0.907	0.152	0.056	

3 Project #: 11MOY107 **Applicant Name:** California Northern Railroad — 1 engine

Unit #	Equipment category	Project type	Cost-effectiveness	Proposed award	NOx (TPY)	ROG (TPY)	PM (TPY)	AB1390 Designation
CFNR 104	Locomotive	New purchase	$15,998.35	$879,450.00	3.900	0.379	0.124	AB1390
		Project Totals		$879,450.00	3.900	0.379	0.124	

4 Project #: 11MOY111 **Applicant Name:** Westar Marine Services — 2 engines

Unit #	Equipment category	Project type	Cost-effectiveness	Proposed award	NOx (TPY)	ROG (TPY)	PM (TPY)	AB1390 Designation
Prowler-main-2	Marine	Repower only	$15,772.39	$79,674.00	0.449	0.000	0.015	AB1390
Prowler-main-1	Marine	Repower only	$15,772.39	$79,674.00	0.449	0.000	0.015	AB1390
		Project Totals		$159,348.00	0.898	0.000	0.030	

5	Project #: 11MOY112	Applicant Name: Evergreen Supply						2 engines
Unit #	Equipment category	Project type	Cost-effectiveness	Proposed award	NOx (TPY)	ROG (TPY)	PM (TPY)	AB1390 Designation
446	Off-Road	Replacement	$15,819.33	$71,578.00	0.479	0.083	0.023	AB1390
550	Off-Road	Replacement	$14,272.16	$149,125.00	1.132	0.134	0.054	AB1390
			Project Totals	$220,703.00	1.611	0.217	0.077	

6	Project #: 11MOY116	Applicant Name: Livermore Sanitation, Inc.						29 engines
Unit #	Equipment category	Project type	Cost-effectiveness	Proposed award	NOx (TPY)	ROG (TPY)	PM (TPY)	AB1390 Designation
LS-8	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-7	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-6	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-10	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-5	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-3	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-12	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-1	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-2	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-26	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-18	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-17	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-23	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-0	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-11	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-22	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-21	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-19	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390

LS-25	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-14	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-27	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-28	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-16	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-13	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-15	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-24	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-4	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-9	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
LS-20	On-Road	New purchase	$15,971.94	$24,700.00	0.190	0.000	0.000	Not AB1390
			Project Totals	$716,300.00	5.510	0.000	0.000	

7 Project #: 11MOY118 **Applicant Name:** *Marin Sanitary Services* — 3 engines

Unit #	Equipment category	Project type	Cost-effectiveness	Proposed award	NOx (TPY)	ROG (TPY)	PM (TPY)	AB1390 Designation
RL-4	Off-Road	Replacement	$15,972.99	$64,000.00	0.580	0.111	0.039	Not AB1390
L-8	Off-Road	Replacement	$15,978.71	$90,800.00	1.214	0.172	0.035	Not AB1390
L-2	Off-Road	Replacement	$15,998.80	$214,125.00	2.225	0.307	0.114	Not AB1390
			Project Totals	$368,925.00	4.019	0.590	0.188	

8 Project #: 11MOY120 **Applicant Name:** *Sonoma-Cutrer Vineyards* — 14 engines

Unit #	Equipment category	Project type	Cost-effectiveness	Proposed award	NOx (TPY)	ROG (TPY)	PM (TPY)	AB1390 Designation
Les Pierres-510U30015	Agriculture	Repower only	$13,437.66	$21,673.00	0.332	0.042	0.010	Not AB1390
Curter-510U22243	Agriculture	Repower only	$9,442.68	$21,673.00	0.473	0.060	0.015	Not AB1390
Shiloh-510U21428	Agriculture	Repower only	$15,435.54	$21,673.00	0.134	0.017	0.004	Not AB1390
Shiloh-510U29109	Agriculture	Repower only	$15,435.54	$21,673.00	0.134	0.017	0.004	Not AB1390
Shiloh-510U30036	Agriculture	Repower only	$15,435.54	$21,673.00	0.134	0.017	0.004	Not AB1390

Shiloh-510U29108	Agriculture	Repower only	$15,435.54	$21,673.00	0.134	0.017	0.004	Not AB1390
Les Pierres-510U25307	Agriculture	Repower only	$13,437.66	$21,673.00	0.332	0.042	0.010	Not AB1390
Les Pierres-510U25300	Agriculture	Repower only	$13,437.66	$21,673.00	0.332	0.042	0.010	Not AB1390
Les Pierres-510U25768	Agriculture	Repower only	$13,437.66	$21,673.00	0.332	0.042	0.010	Not AB1390
Curter-510U21424	Agriculture	Repower only	$9,442.68	$21,673.00	0.473	0.060	0.015	Not AB1390
Curter-510U2240	Agriculture	Repower only	$9,442.68	$21,673.00	0.473	0.060	0.015	Not AB1390
Curter-510U24209	Agriculture	Repower only	$9,442.68	$21,673.00	0.473	0.060	0.015	Not AB1390
Kent-44967007	Agriculture	Repower only	$12,182.93	$21,673.00	0.119	0.022	0.008	Not AB1390
Shiloh-510U30037	Agriculture	Repower only	$15,435.54	$21,673.00	0.134	0.017	0.004	Not AB1390
			Project Totals	$303,422.00	4.009	0.515	0.128	

Summary:

Projects	*Engines*	*Proposed award*	*NOx (TPY)*	*ROG (TPY)*	*PM (TPY)*
8	*54*	*$2,962,895.00*	*23.392*	*1.853*	*0.689*

Attachment 2

Summary of all CMP Yr 11/ MSIF approved/ eligible projects (4/15/09 to 10/27/09)

Project #	Equipment category	# of engines	Proposed contract award	Applicant name	NOx (TPY)	ROG (TPY)	PM (TPY)	Board approval date	County
11MOY1	Marine	2	$ 274,156.00	Robert S. Tuckey	3.435	0.065	0.101	6/3/2009	San Mateo
11MOY2	Marine	2	$ 149,356.00	Blue and Gold Fleet LP	5.368	0.148	0.178	6/3/2009	San Francisco
11MOY3	Agriculture	6	$ 159,834.00	Gallo Family Vineyards	1.550	0.186	0.052	7/1/2009	Sonoma, Napa
11MOY5	Marine	2	$ 155,330.00	Kelli Dickinson	3.306	0.042	0.114	6/3/2009	Solano
11MOY6	Marine	2	$ 152,088.00	Jacqueline G. Douglas	1.296	-0.014	0.045	6/3/2009	San Francisco
11MOY7	Marine	1	$ 72,300.00	Frank A. Rescino	1.638	0.010	0.058	APCO	San Francisco
11MOY8	Marine	2	$ 137,500.00	Chuck Louie	1.572	0.016	0.054	6/3/2009	San Francisco
11MOY9	Marine	1	$ 103,830.00	Erik Anfinson	0.562	-0.004	0.019	6/3/2009	Marin
11MOY10	Marine	2	$ 90,996.00	Golden Gate Bridge Highway and Transportation Dist	0.828	0.003	0.022	APCO	San Francisco
11MOY11	Marine	2	$ 181,894.00	New Salmon Queen Sportfishing, LLC	2.538	0.000	0.086	11/18/2009	Alameda
11MOY12	Agriculture	1	$ 23,193.00	Ricioli Brothers	0.486	0.059	0.016	APCO	Sonoma
11MOY13	Marine	3	$ 227,461.00	Fly Rose Marine, Inc.	2.918	0.085	0.098	7/1/2009	Santa Clara
11MOY14	Off-road	4	$ 215,318.00	Fremont Paving	1.294	0.204	0.101	6/3/2009	Alameda
11MOY17	Marine	2	$ 182,160.00	David Underwood	1.557	0.055	0.059	7/1/2009	Solano
11MOY18	Marine	1	$ 51,440.00	Shon Harbarth	1.430	0.036	0.042	APCO	Contra Costa
11MOY19	Marine	2	$ 217,544.00	City of Alameda	15.069	-0.083	0.447	6/3/2009	Alameda
11MOY20	Marine	8	$ 3,791,855.00	City of Vallejo	92.783	1.475	2.756	6/3/2009	Solano
11MOY21	Off-Road	1	$ 12,974.00	Thomas D. Eychner Co., Inc.	0.059	0.017	0.005	APCO	Contra Costa
11MOY22	Marine	1	$ 41,488.00	Bay Marine Services, Inc.	0.975	0.028	0.032	APCO	Marin
11MOY23	Marine	1	$ 65,240.00	Andy Guiliano	0.455	0.000	0.015	APCO	Contra Costa
11MOY24	Locomotive	1	$ 101,400.00	Richmond Pacific Railroad	1.052	0.020	0.007	6/3/2009	Contra Costa
11MOY26	Marine	2	$ 165,898.00	State of California, State Parks Depertment	1.156	0.026	0.038	7/1/2009	Marin
11MOY27	Marine	2	$ 178,962.00	City and County of San Francisco, San Francisco Police Department	2.253	-0.034	0.079	7/1/2009	San Francisco
11MOY30	Off-road	5	$ 112,368.00	J. Flores Construction Company	0.364	0.067	0.066	6/3/2009	San Francisco
11MOY33	Marine	2	$ 144,504.00	Brian Guiles	1.329	-0.007	0.046	7/1/2009	Marin
11MOY34	Marine	2	$ 209,056.00	Bodega Bay Sportfishers, Inc.	2.644	0.040	0.084	7/1/2009	Sonoma
11MOY35	Marine	2	$ 49,830.00	Matt Butler	1.148	0.030	0.042	APCO	Marin
11MOY36	Marine	2	$ 106,394.00	Geoff and David Bettencourt	2.670	0.116	0.094	7/1/2009	San Mateo
11MOY37	Off-Road	1	$ 58,384.00	Trucrew, Inc.	0.663	0.081	0.028	APCO	Contra Costa
11MOY39	Marine	2	$ 61,616.00	Harry Vogal	0.423	0.002	0.015	APCO	San Francisco
11MOY40	Marine	1	$ 102,984.00	James Gregory Smith	1.685	-0.001	0.057	7/1/2009	Contra Costa
11MOY41	Marine	2	$ 199,466.00	Bay Marine Services, Inc.	7.122	0.196	0.230	7/1/2009	Marin
11MOY44	Locomotive	5	$ 2,609,010.00	California Department of Transportation	49.088	1.158	0.394	7/1/2009	Solano, Contra Costa, Alameda, Santa Clara
11MOY46	Marine	3	$ 2,068,071.00	APL Maritime Services, Ltd.	22.710	0.810	12.420	7/1/2009	Alameda
11MOY48	Off-Road	1	$ 80,950.00	Contra Costa Topsoil, Inc	0.536	0.072	0.027	APCO	Contra Costa
11MOY51	Off-Road	4	$ 191,709.00	Stroer & Graff, Inc.	5.007	0.650	0.181	7/1/2009	Contra Costa
11MOY52	Off-Road	4	$ 275,481.00	Salt River Construction Corp.	3.568	0.461	0.142	7/1/2009	Marin
11MOY54	Off-Road	2	$ 27,117.00	St. Francis Electric	0.264	0.052	0.014	APCO	Alameda

Project #	Equipment category	# of engines	Proposed contract award	Applicant name	NOx (TPY)	ROG (TPY)	PM (TPY)	Board approval date	County
11MOY55	Agriculture	2	$ 42,180.00	Huneeus Vintners, LLC	0.450	0.058	0.014	APCO	Napa
11MOY57	Marine	2	$ 549,327.00	Harley Marine Services, Inc.	41.739	0.672	1.241	10/7/2009	Alameda
11MOY59	Off-Road	3	$ 74,567.00	Alameda County Water District	0.069	0.081	0.045	APCO	Alameda
11MOY63	Marine	2	$ 108,624.00	Salt River Construction Corporation	2.211	0.061	0.068	10/7/2009	Marin
11MOY64	Off-Road	7	$ 154,249.00	Stroer & Graff, Inc.	1.966	0.240	0.064	10/7/2009	Contra Costa
11MOY65	Marine	2	$ 179,896.00	C-Gull II Sportfishing Inc.	2.131	0.000	0.072	10/7/2009	Alameda
11MOY66	Agriculture	1	$ 39,940.00	Arthur Kunde and Sons, Inc.	0.211	0.026	0.009	APCO	Sonoma
11MOY72	Off-Road	2	$ 41,388.00	TMT Enterprises, Inc.	0.099	0.000	0.024	APCO	Santa Clara
11MOY73	Marine	2	$ 203,232.00	Edward Gallia	2.983	0.000	0.101	10/7/2009	Contra Costa
11MOY74	Marine	2	$ 75,666.00	Marin County Sheriff's Office	1.706	0.018	0.056	APCO	Marin
11MOY76	Marine	2	$ 166,182.00	Blue Runner, Inc.	1.124	0.022	0.038	10/7/2009	Marin
11MOY79	Off-Road	1	$ 81,195.00	Kingsborough Atlas Tree Surgery, Inc.	0.654	0.087	0.020	APCO	Sonoma
11MOY82	Off-Road	2	$ 153,350.00	West Coast Aggregates, Inc.	1.614	0.203	0.081	10/7/2009	San Mateo
11MOY84	Off-Road	2	$ 75,075.00	Trucrew, Inc.	0.873	0.129	0.034	APCO	Contra Costa
11MOY85	Off-Road	1	$ 209,292.00	Mission Trail Waste Systems	1.157	0.226	0.103	10/7/2009	Santa Clara
11MOY91	Off-Road	2	$ 620,415.00	Howard Misle	3.965	0.559	0.210	10/7/2009	Santa Clara
11MOY97	Off-Road	1	$ 47,790.00	Terry Barnard	0.274	0.055	0.017	APCO	Santa Clara
11MOY99	Off-Road	1	$ 18,682.00	Galante Brothers General Engineering, Inc	0.092	0.019	0.008	APCO	Santa Clara
11MOY100	Off-Road	2	$ 83,490.00	G & G Heavy Equipment	0.773	0.144	0.048	APCO	Sonoma
11MOY102	Off-Road	1	$ 132,853.00	DeBernardi Dairy, Inc.	0.907	0.152	0.056	11/18/2009	Sonoma
11MOY106	On-Road	2	$ 10,000.00	North Bay Construction, Inc.	0.000	0.000	0.018	APCO	Sonoma
11MOY107	Locomotive	1	$ 879,450.00	California Northern Railroad	3.900	0.379	0.124	11/18/2009	Napa
11MOY109	Off-Road	1	$ 55,809.00	McCall Dairy	0.604	0.075	0.019	APCO	Sonoma
11MOY111	Marine	2	$ 159,348.00	Westar Marine Services	0.898	0.000	0.030	11/18/2009	San Francisco
11MOY112	Off-Road	2	$ 220,703.00	Evergreen Supply	1.611	0.217	0.077	11/18/2009	Santa Clara
11MOY113	Marine	1	$ 89,565.00	S&J Fisheries	0.961	0.027	0.028	APCO	San Mateo
11MOY116	On-road	29	$ 716,300.00	Livermore Sanitation, Inc.	5.510	0.000	0.000	11/18/2009	Alameda
11MOY118	Off-Road	3	$ 368,925.00	Marin Sanitary Services	4.019	0.590	0.188	11/18/2009	Marin
11MOY120	Agriculture	14	$ 303,422.00	Sonoma-Cutrer Vineyards	4.009	0.515	0.128	11/18/2009	Sonoma
67	**Projects**	**184**	**$ 18,910,072.00**		**329.309**	**10.621**	**21.186**		

Figure 1: CMP/ MSIF Funding Distribution by Equipment Category as of 10/27/09

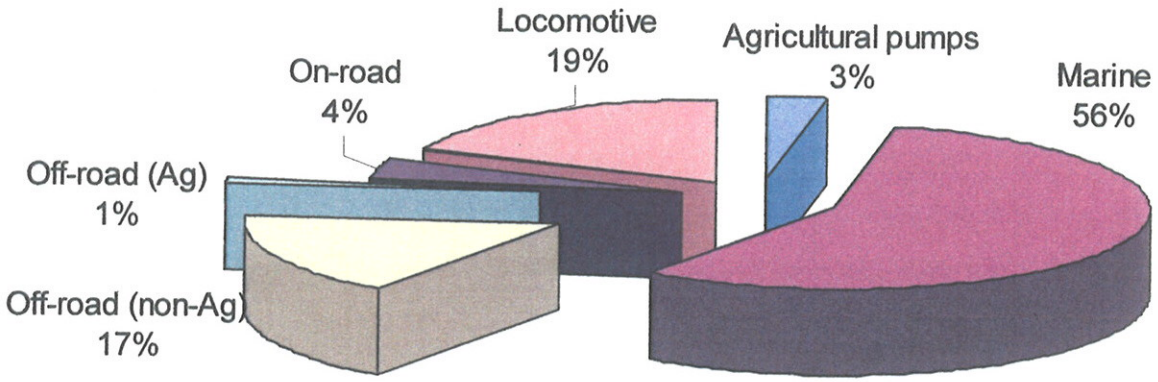
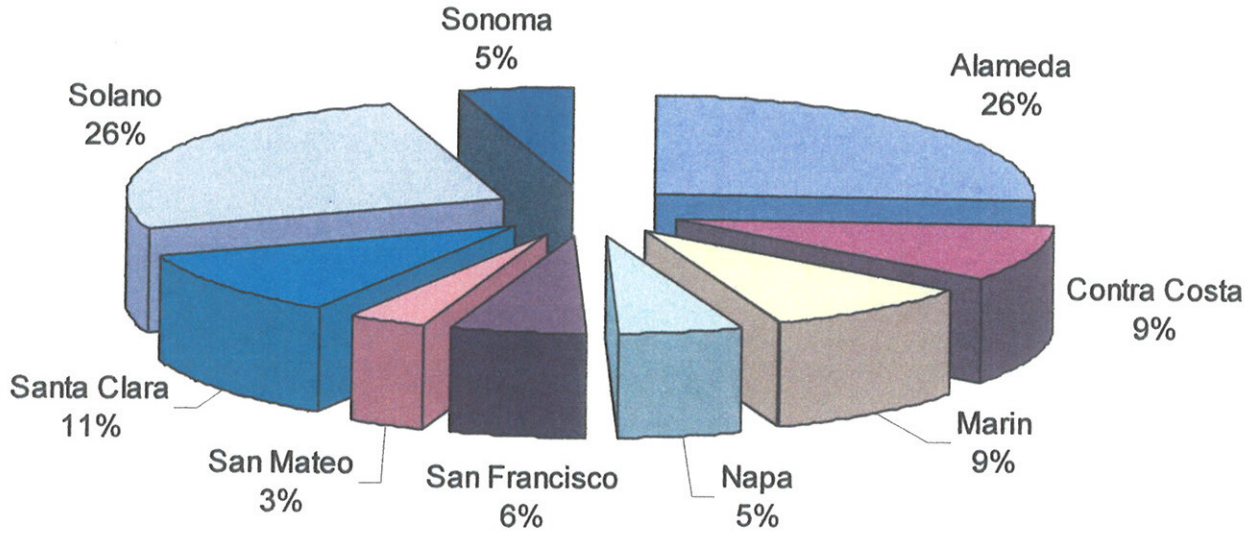


Figure 2: CMP/ MSIF Funding Distribution by County as of 10/27/09



BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 29, 2009

Re: Consideration of Extension of Contracts and Request to Allocate $4.5 Million in Mobile Source Incentive Funds for Vehicle Buy Back Program

RECOMMENDED ACTION

Request that the Committee recommend that the Board of Directors:

1) Authorize the Executive Officer/APCO to execute contract extensions for vehicle scrapping and related services with Environmental Engineering Studies, Inc. and Pick-N-Pull, which will distribute, on a reimbursement basis, up to approximately $4.5 million in Mobile Source Incentive Funds;

2) Allocate an additional $4.5 million in Mobile Source Incentive Funds (MSIF) to fund the Vehicle Buy Back Program during fiscal year 2009/2010 and increase the District's Vehicle Buy Back Program FY 09/10 budget accordingly.

BACKGROUND

The Vehicle Buy Back Program (VBB) is a voluntary program that takes older, higher-polluting, light-duty vehicles off the road. The Bay Area Air Quality Management District (Air District) contracts with vehicle dismantlers to pay Bay Area vehicle owners $1,000 to retire their 1989 and older vehicles. The VBB Program is funded primarily through the Air District's Mobile Source Incentive Fund (MSIF), with some support from the Transportation Fund for Clean Air and the Carl Moyer Program.

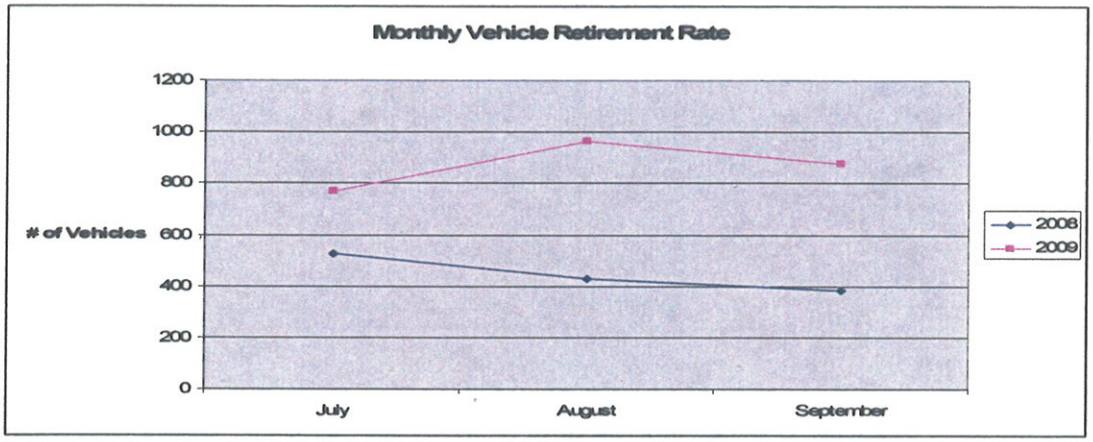
The program has experienced an almost 95% increase in the monthly vehicle retirement rate since a Board action in April 2009 to increase the amount of funding available and to expand the model years of vehicles eligible to participate in the program. Due to this success and a natural dovetail with an upcoming state program, staff is proposing to extend the vehicle dismantler contracts and add additional funding to the program to allow it to run until April, 2010.

DISCUSSION

On December 3, 2008, the Board approved the selection of Environmental Engineering Studies, Inc., Pick-N-Pull, and Pick Your Part as scrapping contractors for the program and authorized $7 million in contracts for program execution. Contracts for all three were executed in January, 2009. Since that time, Pick Your Part has closed its northern California locations and its contract with the District has been terminated. The remaining two contracts are valid through December 31, 2009.

Even with the loss of this one contractor, the program has been extremely successful in this calendar year. Under the current contracts, 3587 vehicles have been retired during the first nine

months of 2009, versus 3161 during this same period in 2008. Lifetime emissions reductions in 2009 total 464 tons of reactive organic gases, oxides of nitrogen, and particulate matter, versus 332 tons during this period in 2008. Since the program expansion on July 1, 2009, the monthly retirement rate shows an almost 95% year-over-year increase, as shown in the chart below.



Beginning in April, 2010, a State vehicle retirement program will expand to cover many of the vehicles currently covered by the District's VBB Program, pursuant to AB 118 (Nuñez). At this time, the California Bureau of Automotive Repair (BAR) is scheduled to expand its Consumer Assistance Program by providing $1,000 to $1,500 to retire vehicles registered within the Air District's boundaries. The expanded program will apply not only to vehicles that fail Smog Check, but also to vehicles that are in passing status.

Therefore, in order to achieve maximum emissions reductions from the current program and to avoid confusion among vehicle owners by competing with the BAR program, staff is proposing that the Committee recommend a Board allocation of $4.5 million in MSIF to extend the current program and contracts until April 1, 2010, at which time the Air District's VBB program will cease temporarily.

Staff is in contact with BAR and will monitor its program closely. In the likely event that the BAR program runs out of funding, staff will return to this committee with a proposal on reactivating the Air District VBB Program.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

Staff's recommendation would result in a net increase to the District's Strategic Incentives Division Vehicle Buy Back Program FY 09/10 budget in the amount of $4.5 million. The requested amount of additional funding to cover costs associated with the retirement of vehicles would come from the Mobile Source Incentive Fund.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: David R. Wiley
Reviewed by: Karen M. Schkolnick

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 29, 2009

Re: Consideration of Revisions to Transportation Fund for Clean Air Regional Fund Projects

RECOMMENDED ACTIONS

Recommend Board of Directors' approval of revisions to three Transportation Fund for Clean Air (TFCA) Regional Fund projects, listed below in Table 1.

BACKGROUND

On November 7, 2007, the Board of Directors (Board) approved the allocation of $10.3 million in funding from fiscal year (FY) 2007/2008 TFCA Regional funds for 37 projects. On October 1, 2008, the Board approved the allocation of $11.3 million for 46 FY 2008/2009 projects. On October 7, 2009, the Board approved the allocation of $3.8 million for 10 FY 2009/2010 projects.

DISCUSSION

Following the Board's approval of the FY 2007/2008 and FY 2008/2009 TFCA Regional Fund projects, staff received new information from project sponsors that would reduce each of the project's useful life, given regulations that are currently in effect. This in turn would affect the cost-effectiveness value for the projects. Staff evaluated the projects and determined that, with a reduction in the award amount, the projects continue to meet the applicable Board-adopted TFCA Regional Fund policies, including for cost-effectiveness.

Also, following the Board's approval of the FY 2009/2010 Regional Fund projects, staff discovered a typographical error in one of the project numbers.

Staff therefore recommends Board approval of the revisions to three projects listed below in Table 1.

Table 1: TFCA Regional Fund Projects and Proposed Revisions

Approved Project #	Project Sponsor	Project Title	Proposed Revision/ Type of Change	Approved Award $	Proposed Award $	Original Cost-Effectiveness	Revised Cost-Effectiveness
07R24	San Francisco International Airport	Retrofit 19 Diesel Buses with PM/NOx Level 3 emission reduction devices	Project Useful Life	$806,431	***$733,794***	$11,840	***$40,366***
08R51	San Francisco Municipal Transportation Agency	Retrofit 22 heavy-duty vehicles - Level 3 devices	Project Useful Life	$438,507	***$79,125***	$66,905	***$89,993***
09R10	Livermore Amador Valley Transit Authority	Route 1A/B BART Shuttle	Project Number changed to ***09R09***	$ 59,750	No Change	$77,758	No Change

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. TFCA revenues are generated from a dedicated outside funding source. TFCA allocations do not impact the District's general fund or operating budget.

Respectfully submitted,

for Jack P. Broadbent
Executive Officer/APCO

Prepared by: David R. Wiley
Reviewed by: Karen M. Schkolnick

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 29, 2009

Re: Consideration of Approval of Fiscal Year (FY) 2008/2009 Transportation Fund for Clean Air (TFCA) Report on Regional Fund Expenditures and Effectiveness

RECOMMENDED ACTION

Recommend Board of Directors' approval of the Fiscal Year (FY) 2008/2009 Transportation Fund for Clean Air (TFCA) Report on Regional Fund Expenditures and Effectiveness found in Attachment A.

BACKGROUND

In 1991, the California State Legislature authorized the Air District to impose a $4 surcharge on motor vehicles registered within the San Francisco Bay Area to fund projects that reduce on-road motor vehicle emissions. The Air District has allocated these funds to its Transportation Fund for Clean Air (TFCA) to fund eligible projects. The statutory authority for the TFCA and requirements of the program are set forth in California Health and Safety Code Sections 44241 and 44242.

Sixty percent (60%) of TFCA funds are awarded directly by the Air District through a grant program known as the Regional Fund. The remaining forty percent (40%) of TFCA funds are forwarded to the designated agency within each Bay Area county and distributed by these agencies through the Program Manager Fund. Portions of the TFCA Regional Fund are allocated to eligible programs implemented directly by the Air District, including the Smoking Vehicle Program and the Spare the Air Program. The balance is allocated on a competitive basis to eligible projects proposed by project sponsors.

State law requires that the Board hold an annual public hearing to review the expenditure of TFCA funds to determine their effectiveness in improving air quality.

DISCUSSION

The report, provided in Attachment A, summarizes TFCA Regional Fund expenditures on projects and programs that concluded during FY 2008/2009, and the effectiveness of these projects and programs. Key findings of the report include the following:

- TFCA funds were allocated to eligible projects and programs, consistent with the legislation that authorizes the TFCA program.
- The TFCA Regional Fund expenditures for projects and programs that concluded in FY 2008/2009 totaled $7.16 million: $4.99 million for projects, $930,000 for Air District programs, and $1.24 million in administrative costs.

- These projects and programs reduced criteria pollutant emissions over their lifetimes by an estimated 743 tons, including 161 tons of reactive organic gases (ROG), 521 tons of nitrogen oxides (NO_x), and 62 tons of particulate matter (PM_{10}). The lifetime reduction of carbon dioxide (CO_2), a greenhouse gas, was approximately 12,600 tons.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: David R. Wiley
Reviewed by: Karen M. Schkolnick

Attachment

Bay Area Air Quality Management District

FISCAL YEAR 2008/2009

TRANSPORTATION FUND FOR CLEAN AIR (TFCA)

REPORT ON REGIONAL FUND EXPENDITURES AND EFFECTIVENESS

939 Ellis Street, San Francisco, CA 94109
www.baaqmd.gov

November 2009

Background

This Report summarizes expenditures for TFCA Regional Fund projects that concluded during fiscal year 2008/2009 (FY 2008/09).

Highlights of the Report

- **TFCA funds were allocated to eligible recipients for eligible projects and programs, consistent with the legislation that authorizes the TFCA.**
- **The TFCA Regional Fund expenditures for projects and programs that concluded in FY 2008/09 totaled $7.16 million, including $4.99 million for projects, $930,000 for Air District programs, and $1.24 million in administrative costs and indirect costs.**
- **The lifetime emission reductions achieved by these projects and programs are estimated to be 161 tons of reactive organic gases (ROG), 521 tons of oxides of nitrogen (NO_x), and 62 tons of particulate matter (PM_{10}). Combined lifetime emission reductions for the three pollutants total 743 tons.**
- **The lifetime reduction in carbon dioxide (CO_2, a greenhouse gas) from these projects is approximately 12,600 tons.**

Introduction

On-road motor vehicles, including cars, trucks, and buses, constitute the most significant source of air pollution in the San Francisco Bay Area. Vehicle emissions contribute to unhealthful levels of ozone (summertime "smog") and particulate matter.

The TFCA

In 1991, the California State Legislature authorized the Air District to impose a $4 surcharge on motor vehicles registered within the San Francisco Bay Area to fund projects that reduce on-road motor vehicle emissions. The Air District has allocated these funds to its Transportation Fund for Clean Air (TFCA) to fund eligible projects. The statutory authority for the TFCA and requirements of the program are set forth in California Health and Safety Code Sections 44241 and 44242.

Sixty percent (60%) of TFCA funds are awarded directly by the Air District through a grant program known as the Regional Fund. The remaining forty percent (40%) of TFCA funds are forwarded to the designated agency within each Bay Area county and distributed by these agencies through the Program Manager Fund. Portions of the TFCA Regional Fund are allocated to eligible programs implemented directly by the Air District, including the Smoking Vehicle Program and the Spare the Air Program. The balance is allocated on a competitive basis to eligible projects proposed by project sponsors.

The Air District Board of Directors has adopted criteria for the evaluation and ranking of project applications for TFCA Regional Funds. Cost-effectiveness, expressed in terms of TFCA dollars per ton of reduced emissions, is the most important criterion for ranking projects.

TFCA-funded projects have many benefits, including the following:

- Reducing air pollution, including toxic particulate matter;
- Conserving energy and helping to reduce emissions of carbon dioxide, a greenhouse gas;
- Reducing traffic congestion; and
- Improving water quality by decreasing contaminated runoff from roadways.

State legislation restricts TFCA funding to the following types of projects:

- **Implementation of ridesharing programs**
- **Clean fuel school and transit bus purchases or leases**
- **Feeder bus or shuttle service to rail and ferry stations and to airports**
- **Arterial traffic management**
- **Rail-bus integration and regional transit information systems**
- **Demonstrations in congestion pricing of highways, bridges and public transit**
- **Low-emission vehicle projects**
- **Smoking vehicles program**
- **Vehicle buy-back scrappage program**
- **Bicycle facility improvement projects**
- **Physical improvements that support "smart growth" projects**

Expenditures

This Report covers Regional Fund projects and programs with expenditures that concluded during FY 2008/09.

The TFCA Regional Fund expenditures for projects and programs that concluded in FY 2008/09 totaled $7.16 million. This total includes $930,000 for programs administered by the Air District and $4.99 million in grants to other organizations for projects. Based on TFCA revenues of $22.4 million for FY 2008/09, the Air District expended $1.24 million in administrative and audit costs. Appendix A lists expenditure details.

Effectiveness

Air District staff calculates the emissions reduced over the life of projects that receive TFCA funding.

Projects and programs concluding in FY 2008/09 reduced criteria pollutant emissions over their lifetimes by an estimated total of 743 tons. This total is the sum of ozone precursors (161 tons of ROG and 521 tons of NO_x) and particulate matter (62 tons of

PM_{10}). The lifetime reduction of carbon dioxide (CO_2), a greenhouse gas, was approximately 12,600 tons.

The cost-effectiveness of TFCA projects is calculated by dividing the TFCA funds allocated to projects by the lifetime criteria pollutant emissions reductions (ROG, NO_x, and weighted PM_{10} combined). The result is TFCA dollars per ton of reduced emissions.

For six of the projects listed in Appendix A, totaling $276,738, the emissions reduced could not be accurately determined. Three projects were under the Bicycle Facility Program, which does not require monitoring, and monitoring data for three other projects were insufficient for calculations. In addition, for the Vehicle Buy Back program, expenses and emission reductions were shared with the Mobile Source Incentive Fund and Carl Moyer Program and therefore are not included in this report.

A summary of expenditures, emission reductions, and cost-effectiveness values is provided in Table 1.

Table 1: Results of Projects with Calculated Emission Reductions

Category	# of Projects	TFCA $ Expended	% of TFCA $ Expended	Emission Reduction (tons)[1]	% of Emission Reductions	Cost Effectiveness ($/ton)[2]
Smoking Vehicle Program	1	$434,872	8.0%	40.9	5.5%	$1,899
Diesel Repowers & Retrofits	15	$2,802,622	51.4%	505.1	68.0%	$2,000
Spare the Air Program	1	$305,685	5.6%	16.3	2.2%	$3,944
Heavy-Duty Vehicles	3	$873,963	16.0%	170.7	23.0%	$5,084
Smart Growth	1	$80,000	1.5%	0.8	0.1%	$19,048
Shuttle/Feeder Bus Service	1	$114,919	2.1%	0.9	0.1%	$23,744
Bicycle Facilities	9	$734,134	13.5%	6.5	0.9%	$26,041
Light-Duty Vehicles	1	$107,100	2.0%	2.2	0.3%	$49,583
TOTAL[3]	32	$5,453,295	100.0%	743.3	100.0%	

(1) Lifetime emission reductions of ROG, NO_x, and PM_{10} combined.
(2) Consistent with the current California Air Resources Board methodology to calculate cost-effectiveness for the Carl Moyer Program, PM emissions were weighted by a factor of 20 to account for their harmful impacts on human health.
(3) Totals may vary due to rounding.

APPENDIX A: TFCA Regional Fund Projects Concluding in FY 2008/09

Project #	Sponsor	Project Title	TFCA $ Expended
03R27	Peninsula Corridor Joint Powers Board	Bicycle Storage Facility - 4th and King	$100,000.00
03R58	Metropolitan Transportation Commission	NOx/PM Filters for Transit Buses	$357,441.45
04R31	Alameda County Public Works Agency	Class 2 Bicycle Lanes: E. Castro Valley Blvd. (1 mi.)	$45,000.00
05R07	County of San Francisco	25th Avenue Road Diet	$80,000.00
05R09	City of Sunnyvale	Evelyn Avenue Bicycle Lane: Phase 2	$35,900.00
05R11	Oakland Unified School District	Roosevelt Middle School Bicycle Cage and Racks	$18,500.00
05R14	County of Alameda	S. Livermore Ave.-Tesla Rd Bicycle Lane Gap Closure	$165,000.00
05R18	City of Daly City	Lake Merced Boulevard Bike Lanes	$60,000.00
05R19	City of Daly City	Southgate Avenue Bicycle Lane	$50,000.00
05R20	BART	BART Electronic Bicycle Lockers	$237,336.00
05R23	City of San Rafael	Bicycle Master Plan Implementation Project	$106,738.28
05R40	Caltrans District 4	Retrofit 53 Heavy Duty Vehicles	$911,070.00
05R41	San Francisco International Airport	Purchase of 12 CNG Airport Shuttles	$203,963.00
05R75	Golden Gate Bridge, Highway & Transportation District	Golden Gate Bus Stop Improvements	$36,000.00
06R15	County of Contra Costa	North Richmond Area Bikeway Project	$27,398.77
06R20	University of California, San Francisco	UCSF/Mt. Zion Medical Center Bike & Ride - Secure Bicycle Parking	$39,999.00
06R32	San Francisco International Airport	Purchase Fourteen (14) Compressed Natural Gas Heavy-duty Shuttle Buses	$170,000.00
06R42	Waste Management of Alameda County, Inc.	Purchase Fourteen (14) Liquefied Natural Gas Recycling Trucks	$500,000.00
06R44	Milpitas Unified School District	Repower Two (2) Heavy-duty Diesel School Buses	$95,326.00
06R46	River Delta Unified School	Repower 2 heavy-duty diesel school buses with cleaner diesel engines.	$95,326.00
06R51	Coach 21	Retrofit Ten (10) Diesel Buses	$98,625.60
06R54	CUSA FL LLC	Retrofit Eighteen (18) Diesel Buses	$406,904.85
06R58	Marin Airporter	Retrofit Fifteen (15) Diesel Buses	$122,340.60
06R66	South San Francisco Scavenger Company	Retrofit Five (5) Diesel Solid Waste Collection Vehicles	$52,695.74
06R67	Blue Line Transfer, Inc.	Retrofit Three (3) Diesel Transfer Trucks	$42,792.00
06R69	Sysco Food Service	Retrofit Twenty-one (21) Heavy-duty Diesel Delivery Trucks	$363,243.02
06R86	Presidio Trust	PresidiGo Downtown Shuttle Service	$114,919.54
07R28	County of San Francisco	Purchase 51 Gasoline-Electric Hybrid Vehicles	$107,100.00

07R32	Apple Trucking	Retrofit One Heavy Duty Truck - Level 3 Device	$23,567.00
07R33	C&A Trucking	Retrofit Six Heavy Duty Trucks - Level 3 Devices	$141,400.00
07R35	Foster Farms Dairy	Retrofit One Heavy Duty Truck - Level 3 Device	$22,772.55
07R46	Cooper Crane & Rigging Inc.	Retrofit One Heavy Duty Truck - Level 3 Device	$17,680.00
07R70	Cooper Crane & Rigging Inc.	Repower 2 Heavy Duty Trucks - Reconditioned Engines	$51,436.85
07BFP14	City of Daly City	Callan Boulevard and Southgate Avenue Bicycle Route Improvements	$15,000.00
07BFP21	Sonoma County Junior College District	Secured Bicycle Facilities Program, Phase I	$50,000.00
07BFP22	San Francisco State University	Bicycle U - Bike Parking at SF State	$24,000.00
		Subtotal Projects	**$4,989,476.25**

08R01	BAAQMD	Smoking Vehicle Program	$434,872.29
08R02	BAAQMD	Vehicle Buy Back Program	$193,302.11
08R03	BAAQMD	Spare The Air	$305,685.26
		Subtotal Air District Programs	**$933,859.66**

08R00	BAAQMD	Administration	$1,238,228.65
		Grand Total	**$7,161,564.56**

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 30, 2009

Re: Consideration of Proposed Revisions to Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year (FY) 2009/2010

RECOMMENDED ACTION

Consider recommending Board of Directors' approval of the proposed revisions to the FY 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria presented in Attachment A.

BACKGROUND

On May 6, 2009, the Air District's Board of Directors adopted supplemental FY 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria regarding alternative fuel vehicle and infrastructure projects.

DISCUSSION

The FY 09/10 policies were developed to be compatible with funding opportunities available in early 2009 from the California Energy Commission and the U.S. Department of Energy. As these other funding opportunities are currently unavailable, staff is proposing revisions to streamline the existing TFCA policies. The following is a summary of the proposed revisions:

- **Revise policy 2b** to update the policy regarding process by which projects are ranked.
- **Revise policy 21** to clarify neighborhood electric vehicle (NEV) requirements and to remove annual minimum mileage requirements. Also, remove chart listing maximum award amounts in order to optimize the amount of funding potentially available for each vehicle project.
- **Revise policy 22** to reduce the minimum annual mileage required (from 1000 miles per year down to 500 miles per year). Also, remove chart listing maximum award amounts in order to optimize the amount of funding potentially available for each vehicle project.
- **Revise policy 23** to clarify that vehicles listed by the IRS as eligible for federal tax credits are also eligible for funding under TFCA, and remove the minimum annual mileage requirement. Also, remove chart listing maximum award amounts in order to optimize the amount of funding potentially available for each vehicle project.
- **Revise policy 25** to allow infrastructure projects that have demonstrated demand and support for the project. Also include require applicants to provide plan for on-going maintenance.

- **Revise Regional Fund Evaluation Criteria** to remove the requirement that vehicle projects covered by policies 21 - 24 provide information regarding their operation in Priority Development Areas.
- **Delete Criterion 1: TFCA Funding Effectiveness b.** and evaluate vehicle projects using point scale in Criterion 1a.

The proposed revised TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/2010 are provided in Attachment A. Attachment B provides a comparison between the proposed policies and the current Board approved version (redline).

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. TFCA revenues are generated from a dedicated outside funding source. TFCA allocations do not impact the District's general fund or operating budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Michael Neward
Reviewed by: Karen Schkolnick

PROPOSED AMENDED TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FY 2009/2010

The following policies apply only to the Transportation Fund for Clean Air (TFCA) Regional Fund.

BASIC ELIGIBILITY

1. **Eligible Projects:** Only projects that result in the reduction of motor vehicle emissions within the Air District's jurisdiction are eligible.

   Projects must conform to the provisions of the California Health and Safety Code (HSC) sections 44220 et seq. and Air District Board of Directors adopted TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/10.

   Projects must achieve surplus emission reductions, that is, beyond what is currently required through regulations, contracts, or other legally binding obligations at the time the Air District Board of Directors approves a funding allocation and at the time of the execution of a funding agreement.

2. **TFCA Cost-Effectiveness and Minimum Score:** Projects must meet cost-effectiveness (C-E) levels and minimum scores established by the Air District's Board of Directors.

   a. **Cost-Effectiveness:** The ratio of TFCA funds awarded divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NO_x), and weighted particulate matter 10 microns in diameter and smaller (PM_{10}) reduced ($/ton). Certain project categories further specify the eligible funding amount per item (for example, $/vehicle) which is based on the cost-effectiveness levels below.

Cost-effectiveness levels are limited to the amounts set forth below.		
Project Type	**Policy #**	**C-E level maximum ($/weighted ton)**
Alternative Fuel Light-Duty Vehicles	21	$90,000
Alternative Fuel Heavy-Duty Service Vehicles (Low-mileage utility trucks in idling service)	22	$90,000
Alternative Fuel Heavy-Duty Vehicles	23	$90,000
Alternative Fuel Bus Replacements	24	$90,000
Alternative Fuel Infrastructure	25	$90,000
Advanced Technology Demonstration	26	$500,000
Shuttle/Feeder Bus Service—Pilot	27	$125,000
Regional Ridesharing	28	$90,000

   b. **Minimum Score**: In addition, applicants must earn at least 60 percent of available points based upon the project evaluation and scoring criteria listed in the Board approved Regional Fund Evaluation Criteria.

3. **Consistent with Existing Plans and Programs:** With the exception of Clean Air Vehicle Projects and Advanced Technology Demonstration Projects, all other project categories must comply with the transportation control measures and mobile source measures included in the Air District's most recently approved strategy(ies) for State and national ozone standards and, when applicable, with other adopted State, regional, and local plans and programs.

4. **Eligible Recipients and Authority to Apply:** Grant recipients must be responsible for the implementation of the project, have the authority and capability to complete the project, and be an applicant in good standing.

a. **Eligible Recipients**:

i. **Public agencies** are eligible to apply for all project categories.

ii. **Non-public entities** are only eligible to apply for new alternative-fuel (light, medium, and heavy-duty) vehicle projects, and advanced technology demonstrations, as described in HSC section 44241(b)7.

b. **Authority to Apply**: Applications must include either: 1) a signed letter of commitment from an individual with authority to enter into a funding agreement and carry out the project (e.g., Chief Executive or Financial Officer, Executive Director, City Manager, etc.), or 2) a signed resolution from the governing body (e.g., City Council, Board of Supervisors, Board of Directors, etc.) authorizing the submittal of the application and identifying the individual authorized to submit and carry out the project.

5. **Viable Project and Matching Funds:** Unless otherwise specified in the project category policies below, applications of $150,000 or less do not require matching funds. Applications requesting greater than $150,000 must provide matching funds from a non-Air District source, which equal or exceed 10% of the total project cost.

   Applications must identify sufficient resources to complete the respective project. The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured.

6. **Minimum Grant Amount:** $10,000 per project.

7. **Maximum Grant Amount:** Maximum award per calendar year:

   a. **Each public agency** may be awarded up to $1,500,000, and

   b. **Each non-public entity** may be awarded up to $500,000.

8. **Readiness:** Projects must commence in calendar year 2010 or sooner. For purposes of this policy, "commence" means to receive delivery of vehicles, equipment, services, or to award a construction contract.

9. **Maximum Two Years Operating Costs:** Projects that provide a service, such as ridesharing programs and shuttle and feeder bus projects, are eligible to apply for a period of up to two (2) years.

10. **Project Revisions:** Project revisions initiated by the project sponsor which significantly change the project before the allocation of funds by the Air District Board of Directors may not be accepted. Following Air District Board of Directors allocation of funds for a project, an applicant may request revisions to that project that the applicant deems necessary or advisable, based on information the applicant received after the Board's allocation of funding. The District will consider only requests that are based on new information, are within the same eligible project category, and meet the same cost-effectiveness.

APPLICANT IN GOOD STANDING

11. **In Compliance with Agreement Requirements:** Project sponsors who have failed to meet project implementation milestones or who have failed to fulfill monitoring and reporting requirements for any project funded by the Air District may not be considered eligible for new funding until such time as all of the unfulfilled obligations are met.

12. **Failed Audit:** Project sponsors who have failed either a fiscal audit or a performance audit for a prior Air District funded project will be excluded from future funding for five (5) years. Additionally, project sponsors with open projects will not be reimbursed for those projects until all audit recommendations and remedies have been satisfactorily implemented. A failed fiscal audit means an uncorrected audit finding that confirms an ineligible expenditure of funds. A failed performance audit means that a project was not implemented as set forth in the project funding agreement.

13. **Signed Funding Agreement:** Only a fully executed funding agreement (i.e., signed by both the project sponsor and the Air District) constitutes the Air District's award of funds for a project. The Air District Board of Directors approval of an application does not constitute a final obligation on the part of the Air District to fund a project.

    Project sponsors must sign a funding agreement within 60 days from the date it has been transmitted to them in order to remain eligible for award of TFCA funds. The Air District may authorize an extension of up to a total period of 120 days from the transmittal because of circumstances beyond project sponsor's reasonable control and at the Air District's discretion.

    Project sponsors who failed to return a funding agreement from a previous funding cycle are not eligible to apply for a 12-month period.

14. **Insurance:** Each project sponsor must maintain general liability insurance and such additional insurance that is appropriate for specific projects, with coverage amounts specified in the respective funding agreements.

INELIGIBLE PROJECTS

15. **Planning Activities:** Feasibility studies are not eligible for funding, nor are projects that only involve planning activities and that do not include an implementation phase. In addition, land-use projects (i.e., Smart Growth, Traffic Calming, and Arterial Management) that have not completed the Preliminary Design phase are not eligible.

16. **Cost of Developing Proposals and Grant Applications:** The costs to develop proposals or prepare applications are not eligible for TFCA funding.

17. **Duplication:** Projects that have previously received TFCA funds and therefore do not achieve additional emission reductions are not eligible. Combining TFCA County Program Manager Funds with TFCA Regional Funds to achieve greater emission reductions for a single project is not considered project duplication.

USE OF TFCA FUNDS

18. **Combined Funds:** TFCA County Program Manager Funds may be combined with TFCA Regional Funds for the funding of an eligible project. For the purpose of calculating the TFCA cost-effectiveness (Regional Fund Evaluation Criterion #1), the combined sum of TFCA County Program Manager Funds and TFCA Regional Funds shall be used to calculate the TFCA cost of the project.

19. **Administrative Costs:** Administrative costs (i.e., the costs associated with administering a TFCA grant) are limited to a maximum of five percent (5%) of total TFCA funds expended on a project. To be eligible for reimbursement, administrative costs must be clearly identified in the application project budget and in the funding agreement between the Air District and the project sponsor.

20. **Expend Funds within Two Years:** Project sponsors must expend the awarded funds within two (2) years of the effective date of the funding agreement, unless a longer period is formally (i.e., in writing) approved in advance by the Air District in a funding agreement or as an amendment to the funding agreement.

ELIGIBLE PROJECT CATEGORIES:

CLEAN AIR VEHICLE PROJECTS

21. **Alternative Fuel Light-Duty Vehicles:**

Eligibility: For TFCA purposes, light-duty vehicles are those with a gross vehicle weight rating (GVWR) of 8,500 lbs. or lighter. Light-duty vehicle types and equipment eligible for funding includes:

a. New hybrid-electric, electric, fuel cell, and CNG/LNG vehicles certified by the CARB as meeting established super ultra low emission vehicle (SULEV), partial zero emission vehicle (PZEV), advanced technology-partial zero emission vehicle (AT-PZEV), or zero emission vehicle (ZEV) standards.
b. New electric neighborhood vehicles (NEV) as defined in the California Vehicle Code.
c. CARB emissions compliant vehicle system retrofits that result in reduced petroleum use (e.g., plug-in hybrid systems).

Gasoline and diesel (non-hybrid) vehicles are not eligible for TFCA funding.

Funds are not available for non-fuel system upgrades such as transmission and exhaust systems and should not be included in the incremental cost of the project.

TFCA funds awarded may not exceed incremental cost after all other applicable manufacturer and local/state/federal rebates, tax credits, and cash equivalent incentives are applied. Incremental cost is the difference in cost between the purchase or lease price of the new vehicle and/or retrofit and its new conventional vehicle counterpart that meets, but does not exceed, 2009 emissions standards.

22. **Alternative Fuel Heavy-Duty Service Vehicles (Low-mileage utility trucks in idling service):**

Eligibility: For TFCA purposes, heavy-duty vehicles are on-road motor vehicles with a Gross Vehicle Weigh Rating (GVWR) of 10,001 pounds or heavier. This category includes only vehicles in which engine idling is required to perform the primary function (for example, crane or aerial bucket trucks). In order to qualify for this incentive, each new vehicle must be placed into a service route that has a minimum idling time of 520 hours/year, and a minimum mileage of 500 miles/year.

TFCA funds awarded may not exceed the difference in the purchase or lease price of the new clean air vehicle that surpasses the applicable emissions standards and its new conventional vehicle counterpart that meets, but does not exceed, the emissions standards (incremental cost).

Scrapping Requirements: Project sponsors of heavy-duty clean air vehicles purchased or leased with TFCA funds that have model year 1997 or older heavy-duty diesel vehicles in their fleet are required to scrap one model year 1997 or older heavy-duty diesel vehicle for each new clean air vehicle purchased or leased with TFCA funds. Project sponsors with model year 1998 and newer heavy-duty diesel vehicles in their fleet may, but are not required to, meet this scrapping requirements. Applications that include scrapping components may receive additional credit towards the calculation of the overall cost effectiveness of the project. Costs related to the scrapping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

23. **Alternative Fuel Heavy-Duty Vehicles (high mileage):**

Eligibility: For TFCA purposes, light-heavy-duty vehicles (LHDV) are those with a GVWR between 8,501 lbs. and 14,000 lbs, medium-duty vehicles (MDV) are those with a GVWR between 14,001 lbs. and 33,000 lbs., and heavy-duty vehicles (HDV) are those with a GVWR equal to or greater than 33,001 lbs. LHDV, MDV and HDV types and equipment eligible for funding include:

a. New hybrid-electric, electric, and CNG/LNG vehicles certified by the CARB and/or that are listed by the IRS as eligible for a federal tax credit pursuant to the Energy Policy Act of 2005.
b. CARB emissions compliant vehicle system retrofits that result in reduced petroleum use.

TFCA funding may not be used to pay for non-fuel system upgrades such as transmission and exhaust systems.

TFCA funds awarded may not exceed incremental cost after all other applicable manufacturer and local/state rebates, tax credits, and cash equivalent incentives are applied. Incremental cost is the difference in cost between the purchase or lease price of the vehicle and/or retrofit and its new conventional vehicle counterpart that meets, but does not exceed, 2009 emissions standards.

Scrapping Requirements: Project sponsors of heavy-duty clean air vehicles purchased or leased with TFCA funds that have model year 1997 or older heavy-duty diesel vehicles in their fleet are required to scrap one model year 1997 or older heavy-duty diesel vehicle for each new vehicle purchased or leased with TFCA funds. Project sponsors with model year 1998 and newer heavy-duty diesel vehicles in their fleet may, but are not required to, meet this scrapping requirement. Costs related to the scrapping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

24. **Alternative Fuel Buses:** Buses are subject to the same Eligibility and Scrapping requirements listed in Policy #23:

For purposes of transit and school bus replacement projects, a bus is any vehicle designed, used, or maintained for carrying more than fifteen (15) persons, including the driver. A vehicle designed, used, or maintained for carrying more than ten (10) persons, including the driver, which is used to transport persons for compensation or profit, or is used by any nonprofit organization or group, is also a bus. A vanpool vehicle is not considered a bus.

25. **Alternative Fuel Infrastructure:** Eligible refueling infrastructure projects include new dispensing facilities, or additional equipment or upgrades and improvements that expand access to existing alternative fuel refueling sites. This includes upgrading or modifying private fueling stations to allow public and/or shared fleet access. Funding may be used to purchase the cost of equipment and installation..

TFCA funded refueling infrastructure projects must be available to and accessible by the public. Refueling equipment and infrastructure must be designed, installed and maintained as required by the existing recognized codes and standards and approved by the local/state authority.

Applicants must provide data supporting the demand for the infrastructure (e.g., letters of support from potential users) and plans for maintaining the equipment in the future.

TFCA funding is limited to 50% of the total project cost and may not exceed a maximum award amount of $200,000 per project sponsor.

TFCA funding may not be used to pay for fuel, operation, and maintenance costs.

26. **Advanced Technology Demonstration Projects:** Only vehicle-based advanced technology demonstration projects (i.e., technologies, motor vehicles and/or emission control devices not certified by CARB) not already implemented in the Bay Area are eligible for funding under this category. Applicants must clearly demonstrate the potential for concurrent or future emission reductions due to implementation of the project, and must provide estimates of emission reductions. All projects will require before and after evaluation data. TFCA funding for each project is limited to 25% of the total project cost, not to exceed $500,000.

SHUTTLE/FEEDER BUS SERVICE PROJECTS

27. **Shuttle/Feeder Bus Service:** Shuttle/feeder bus service projects are those requesting funds to operate a shuttle or feeder bus route to or from a rail station, airport, or ferry terminal. To be eligible, shuttle/feeder bus service schedules must be coordinated with connecting rail or ferry schedules.

    Shuttle/feeder bus service applicants must either: a) be a public transit agency or, b) submit documentation from the General Manager of the transit agency that provides service in the area of the proposed shuttle route, which demonstrates that the proposed shuttle service does not duplicate or conflict with existing transit agency service.

    All vehicles used in shuttle/feeder bus service must meet the applicable CARB standards for public transit fleets use one of the following types of shuttle/feeder bus vehicles:

    a. an alternative fuel vehicle (CNG, liquefied natural gas, propane, electric);

    b. a hybrid-electric vehicle;

    c. a post-1997 diesel vehicle with a CARB Verified Diesel Emission Control Strategy (e.g., retrofit); or

    d. a post-1989 gasoline-fueled vehicle.

    Pilot shuttle/feeder bus service projects are required to meet a cost-effectiveness of $125,000/ton during the first two years of operation (see Policy #2). A pilot project is a defined route that is at least 70% unique and has not previously been funded through TFCA. Applicants must provide data supporting the demand for the service, letters of support from potential users and providers, and plans for financing the service in the future.

RIDESHARING PROJECTS

28. **Regional Ridesharing Projects:** For TFCA Regional Fund eligibility, ridesharing projects must be comprised of riders from at least three Bay Area counties. Applications for projects that provide a direct or indirect financial transit or rideshare subsidy exclusively to employees of the project sponsor are not eligible.

29. **Reserved.**

30. **Reserved.**

REGIONAL FUND EVALUATION CRITERIA

Grant applications must comply with the TFCA Regional Fund Policies, and also are evaluated based on six criteria.

Both public agencies and non-public entities are eligible to receive points under Criteria 1, 2, 3, 5, and 6. Only public agencies are eligible to receive points under Criterion 4. Clean air vehicle projects covered by Polices 21 – 24 are not eligible for points under Criterion 6. An applicant must achieve a minimum percentage of 60% of available points to be eligible for consideration for funding. Projects will be ranked by calculating the percentage of total eligible points scored in descending order. In the event that two or more projects achieve an equal score, the project with the best TFCA cost-effectiveness will receive a higher ranking.

Available TFCA Regional Funds will be allocated to projects beginning with the highest ranking project and proceeding in sequence to lower ranking projects. If the TFCA Regional Fund is oversubscribed, the point where the next-ranked eligible project cannot be fully funded defines the cut-off point for the funding cycle, i.e., all projects above this point will be funded. If the Regional Fund is undersubscribed, any remaining funds are generally allocated to projects in the subsequent funding cycle. By mutual consent of the project sponsor and the Air District, grant awards may be reduced from the amount requested in the original application.

FY 2009/2010 TFCA Regional Fund Scoring Criteria

Criteria	Maximum Points
1. TFCA Funding Effectiveness	**60**
2. Greenhouse Gas Emission Reductions	**10**
3. Other Project Attributes	**5**
4. Clean Air Policies and Programs*	**10**
5. Sensitive and PM Impacted Communities	---
A. General	**10**
B. Highly-Impacted Communities	***High priority*****
6. Priority Development Areas***	**5**
Total	**100**

* Only public agencies eligible to receive points. **High priority is defined per Criterion 5 below.
*** Not available to vehicle projects covered by Policies 21 – 24.

DISCUSSION

Criterion 1: TFCA Funding Effectiveness (maximum 60 points)

Measures the cost-effectiveness (C-E) of a project in reducing air pollutant emissions. Generally, applications that include higher rates of matching funds will score better than those that request higher percentage of TFCA funding. TFCA funds budgeted for the project (TFCA Regional Funds and TFCA County Program Manager Funds combined) will be divided by the estimated lifetime emission reductions for the project. The estimated lifetime emission reductions are the sum of reactive organic gases, oxides of nitrogen, and weighted particulate matter (PM)[1] that will be reduced over the life of the project. Air District staff will determine the estimated emission reductions and TFCA funding effectiveness for the project.

[1] PM emissions include tailpipe PM, as well as brake particles, tire particles and re-entrained road dust. Consistent with California Air Resources Board methodology to calculate PM emission reductions for the Carl Moyer Program, weighted PM emissions will be calculated by adding the tailpipe PM multiplied by a factor of 20, plus the sum of tire, brake, and road dust PM.

The point scales for awarding points for this criterion are presented below:

a. For projects that must achieve a C-E threshold of $90,000/ton:

TFCA $/Ton			Points	TFCA $/Ton			Points
$0	-	$19,999	60	$56,000	-	$57,999	53
$20,000	-	$21,999	60	$58,000	-	$59,999	52.5
$22,000	-	$23,999	60	$60,000	-	$61,999	52
$24,000	-	$25,999	59.75	$62,000	-	$63,999	51.5
$26,000	-	$27,999	59.5	$64,000	-	$65,999	51
$28,000	-	$29,999	59.25	$66,000	-	$67,999	50.5
$30,000	-	$31,999	59	$68,000	-	$69,999	50
$32,000	-	$33,999	58.75	$70,000	-	$71,999	49.5
$34,000	-	$35,999	58.5	$72,000	-	$73,999	49
$36,000	-	$37,999	58	$74,000	-	$75,999	48.5
$38,000	-	$39,999	57.5	$76,000	-	$77,999	48
$40,000	-	$41,999	57	$78,000	-	$79,999	47.5
$42,000	-	$43,999	56.5	$80,000	-	$81,999	47
$44,000	-	$45,999	56	$82,000	-	$83,999	46.5
$46,000	-	$47,999	55.5	$84,000	-	$85,999	46
$48,000	-	$49,999	55	$86,000	-	$87,999	45.5
$50,000	-	$51,999	54.5	$88,000	-	$89,999	45
$52,000	-	$53,999	54	$90,000	-	and above	0
$54,000	-	$55,999	53.5				

b. For projects that must achieve a C-E threshold of $125,000/ton (Pilot Shuttles):

TFCA $/Ton			Points	TFCA $/Ton			Points
$0	-	$19,999	60	$74,000	-	$76,999	53
$20,000	-	$22,999	60	$77,000	-	$79,999	52.5
$23,000	-	$25,999	60	$80,000	-	$82,999	52
$26,000	-	$28,999	59.75	$83,000	-	$85,999	51.5
$29,000	-	$31,999	59.5	$86,000	-	$88,999	51
$32,000	-	$34,999	59.25	$89,000	-	$91,999	50.5
$35,000	-	$37,999	59	$92,000	-	$94,999	50
$38,000	-	$40,999	58.75	$95,000	-	$97,999	49.5
$41,000	-	$43,999	58.5	$98,000	-	$100,999	49
$44,000	-	$46,999	58	$101,000	-	$103,999	48.5
$47,000	-	$49,999	57.5	$104,000	-	$106,999	48
$50,000	-	$52,999	57	$107,000	-	$109,999	47.5
$53,000	-	$55,999	56.5	$110,000	-	$112,999	47
$56,000	-	$58,999	56	$113,000	-	$115,999	46.5
$59,000	-	$61,999	55.5	$116,000	-	$118,999	46
$62,000	-	$64,999	55	$119,000	-	$121,999	45.5
$65,000	-	$67,999	54.5	$122,000	-	$124,999	45
$68,000	-	$70,999	54	$125,000	-	and above	0
$71,000	-	$73,999	53.5				

c. For projects that must achieve a C-E threshold of $500,000/ton (Advanced Technology Demonstration):

TFCA $/Ton			Points	TFCA $/Ton			Points
$0	-	$44,999	60	$279,000	-	$291,999	50
$45,000	-	$57,999	59.5	$292,000	-	$304,999	49
$58,000	-	$70,999	59	$305,000	-	$317,999	48
$71,000	-	$83,999	58.5	$318,000	-	$330,999	47
$84,000	-	$96,999	58	$331,000	-	$343,999	46
$97,000	-	$109,999	57.5	$344,000	-	$356,999	45
$110,000	-	$122,999	57	$357,000	-	$369,999	44
$123,000	-	$135,999	56.5	$370,000	-	$382,999	43
$136,000	-	$148,999	56	$383,000	-	$395,999	42
$149,000	-	$161,999	55.5	$396,000	-	$408,999	41
$162,000	-	$174,999	55	$409,000	-	$421,999	40
$175,000	-	$187,999	54.5	$422,000	-	$434,999	39
$188,000	-	$200,999	54	$435,000	-	$447,999	38
$201,000	-	$213,999	53.5	$448,000	-	$460,999	37
$214,000	-	$226,999	53	$461,000	-	$473,999	36
$227,000	-	$239,999	52.5	$474,000	-	$486,999	35
$240,000	-	$252,999	52	$487,000	-	$499,999	34
$253,000	-	$265,999	51.5	$500,000	-	and above	0
$266,000	-	$278,999	51				

Criterion 2: Greenhouse Gas Emission Reductions (maximum 10 points)

Rewards projects that reduce greenhouse gas emissions. Awards a maximum of 10 points (on a sliding scale, 0 to 10 points) for projects that reduce emissions of greenhouse gases, predominately carbon dioxide. Generally, projects that promote alternative modes of transportation and reduce single occupant vehicle trips (e.g., transit, ridesharing, bicycling and walking), as well as projects that improve motor vehicle fuel economy, will reduce greenhouse gas emissions. TFCA funds budgeted for the project will be divided by the estimated lifetime emission reductions of greenhouse gases for the project. Air District staff will determine the estimated emission reductions, TFCA funding effectiveness for greenhouse gases, and the scale for awarding points.

Criterion 3: Other Project Attributes (maximum 5 points)

Provides a mechanism in the evaluation and scoring process to identify and assess desirable project attributes that are not captured in the analysis of TFCA funding effectiveness. Projects may score points under this criterion based upon other project attributes identified for each project type. The specific project attributes for each project type will be identified after grant applications have been received and reviewed. Examples of Other Project Attributes will be provided in TFCA Guidance document.

Criterion 4: Clean Air Policies and Programs (maximum 10 points)

Recognizes and encourages the efforts of public agencies to implement policies and programs that promote the region's air-quality objectives, especially land use and transportation policies that help to reduce air pollution from motor vehicles.

To receive points for this criterion, the sponsoring agency must describe its policies and actions to implement the transportation control measures (TCMs) in the most recently adopted strategy(ies) for State and national ozone standards throughout the agency's jurisdiction. Points will be awarded based upon the performance of the project sponsor in implementing those elements of each TCM which are within the purview of the sponsor agency.

Non-public entities are not eligible for points under this criterion.

Criterion 5: Sensitive and Particulate Matter (PM) Impacted Communities (maximum 10 points)

Under Criterion 5, grant applications are eligible for credit under two sub-criteria.

a. General: This sub-criterion will award a maximum of 10 points (on a sliding scale, 0-10 points) for projects that directly reduce emissions in communities with both high $PM_{2.5}$ emissions and sensitive populations (i.e., children, seniors, those with low-incomes or elevated asthma rates).

b. Highly Impacted Communities: Additional credit will be given to projects in these communities by providing them with the maximum score of 10 points in this Criterion and an additional 5 points under Criterion 3 "Other Project Attributes" provided that they meet a minimum percentage of operations in highly impacted communities. These communities have been identified by the Air District as having the most severe health risk and relatively low income levels.

Both sub-criteria 5A and 5B are based on data from the Air District's Community Air Risk Evaluation (CARE) Program; maps that identify these communities will be made available on the Air District's website. To qualify for points, a project must directly benefit one or more of these communities. The credit awarded will be determined by Air District staff, and will be based upon the percentage of project resources or services that would directly benefit the community, and the extent to which the project sponsor demonstrates this benefit.

Criterion 6: Priority Development Areas (maximum 5 points)

Awards additional points to projects located in concentrated areas identified for future growth near transit and in existing Bay Area communities. Funding projects operating in regionally approved Priority Development Areas (PDAs) will lead to reduced emissions in the region generally, and in PDAs in particular. Both public agencies and non-public entities are eligible for points under this criterion.

As with Criterion 5, to receive points for this criterion, the project must directly benefit one or more approved PDAs. The credit awarded will be determined by Air District staff, and will be based upon the percentage of project resources or services that would directly benefit the PDA, and the extent to which the project sponsor demonstrates this benefit.

Clean air vehicle projects covered by Polices 21 – 24 are not eligible for points under this criterion.

PROPOSED AMENDED TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FY 2009/2010

The following policies apply only to the Transportation Fund for Clean Air (TFCA) Regional Fund.

BASIC ELIGIBILITY

1. **Eligible Projects:** Only projects that result in the reduction of motor vehicle emissions within the Air District's jurisdiction are eligible.

   Projects must conform to the provisions of the California Health and Safety Code (HSC) sections 44220 et seq. and Air District Board of Directors adopted TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/10.

   Projects must achieve surplus emission reductions, that is, beyond what is currently required through regulations, contracts, or other legally binding obligations at the time the Air District Board of Directors approves a funding allocation and at the time of the execution of a funding agreement.

2. **TFCA Cost-Effectiveness and Minimum Score:** Projects must meet cost-effectiveness (C-E) levels and minimum scores established by the Air District's Board of Directors.

   a. **Cost-Effectiveness:** The ratio of TFCA funds awarded divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NO_x), and weighted particulate matter 10 microns in diameter and smaller (PM_{10}) reduced ($/ton). Certain project categories further specify the eligible funding amount per item (for example, $/vehicle) which is based on the cost-effectiveness levels below.

Cost-effectiveness levels are limited to the amounts set forth below.		
Project Type	**Policy #**	**C-E level maximum ($/weighted ton)**
Alternative Fuel Light-Duty Vehicles	21	$90,000
Alternative Fuel Heavy-Duty Service Vehicles (Low-mileage utility trucks in idling service)	22	$90,000
Alternative Fuel Heavy-Duty Vehicles	23	$90,000
Alternative Fuel Bus Replacements	24	$90,000
Alternative Fuel Infrastructure	25	$90,000
Advanced Technology Demonstration	26	$500,000
Shuttle/Feeder Bus Service—Pilot	27	$125,000
Regional Ridesharing	28	$90,000

   b. **Minimum Score**: In addition, applicants must earn ~~a score of~~ at least 60 percent ~~points (out of a possible 100 points) for public agencies and 54~~ of available points ~~(out of a possible 90 points) for non-public entities,~~ based upon the project evaluation and scoring criteria listed in ~~the FY 2009/10 TFCA Regional Fund Application Guidance document.~~the Board approved Regional Fund Evaluation Criteria.

3. **Consistent with Existing Plans and Programs:** With the exception of Clean Air Vehicle Projects and Advanced Technology Demonstration Projects, all other project categories must comply with the transportation control measures and mobile source measures included in the Air District's most recently approved strategy(ies) for State and national ozone standards and, when applicable, with other adopted State, regional, and local plans and programs.

4. **Eligible Recipients and Authority to Apply:** Grant recipients must be responsible for the implementation of the project, have the authority and capability to complete the project, and be an applicant in good standing.

a. **Eligible Recipients**:

i. **Public agencies** are eligible to apply for all project categories.

ii. **Non-public entities** are only eligible to apply for new alternative-fuel (light, medium, and heavy-duty) vehicle projects, and advanced technology demonstrations, as described in HSC section 44241(b)7.

b. **Authority to Apply**: Applications must include either: 1) a signed letter of commitment from an individual with authority to enter into a funding agreement and carry out the project (e.g., Chief Executive or Financial Officer, Executive Director, City Manager, etc.), or 2) a signed resolution from the governing body (e.g., City Council, Board of Supervisors, Board of Directors, etc.) authorizing the submittal of the application and identifying the individual authorized to submit and carry out the project.

5. **Viable Project and Matching Funds:** Unless otherwise specified in the project category policies below, applications of $150,000 or less do not require matching funds. Applications requesting greater than $150,000 must provide matching funds from a non-Air District source, which equal or exceed 10% of the total project cost.

   Applications must identify sufficient resources to complete the respective project. The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured.

6. **Minimum Grant Amount:** $10,000 per project.

7. **Maximum Grant Amount:** Maximum award per calendar year:

   a. **Each public agency** may be awarded up to $1,500,000, and

   b. **Each non-public entity** may be awarded up to $500,000.

8. **Readiness:** Projects must commence in calendar year 2010 or sooner. For purposes of this policy, "commence" means to receive delivery of vehicles, equipment, services, or to award a construction contract.

9. **Maximum Two Years Operating Costs:** Projects that provide a service, such as ridesharing programs and shuttle and feeder bus projects, are eligible to apply for a period of up to two (2) years.

10. **Project Revisions:** Project revisions initiated by the project sponsor which significantly change the project before the allocation of funds by the Air District Board of Directors may not be accepted. Following Air District Board of Directors allocation of funds for a project, an applicant may request revisions to that project that the applicant deems necessary or advisable, based on information the applicant received after the Board's allocation of funding. The District will consider only requests that are based on new information, are within the same eligible project category, and meet the same cost-effectiveness.

APPLICANT IN GOOD STANDING

11. **In Compliance with Agreement Requirements:** Project sponsors who have failed to meet project implementation milestones or who have failed to fulfill monitoring and reporting requirements for any project funded by the Air District may not be considered eligible for new funding until such time as all of the unfulfilled obligations are met.

12. **Failed Audit:** Project sponsors who have failed either a fiscal audit or a performance audit for a prior Air District funded project will be excluded from future funding for five (5) years. Additionally, project sponsors with open projects will not be reimbursed for those projects until all audit recommendations and remedies have been satisfactorily implemented. A failed fiscal audit means an uncorrected audit finding

that confirms an ineligible expenditure of funds. A failed performance audit means that a project was not implemented as set forth in the project funding agreement.

13. **Signed Funding Agreement:** Only a fully executed funding agreement (i.e., signed by both the project sponsor and the Air District) constitutes the Air District's award of funds for a project. The Air District Board of Directors approval of an application does not constitute a final obligation on the part of the Air District to fund a project.

    Project sponsors must sign a funding agreement within 60 days from the date it has been transmitted to them in order to remain eligible for award of TFCA funds. The Air District may authorize an extension of up to a total period of 120 days from the transmittal because of circumstances beyond project sponsor's reasonable control and at the Air District's discretion.

    Project sponsors who failed to return a funding agreement from a previous funding cycle are not eligible to apply for a 12-month period.

14. **Insurance:** Each project sponsor must maintain general liability insurance and such additional insurance that is appropriate for specific projects, with coverage amounts specified in the respective funding agreements.

INELIGIBLE PROJECTS

15. **Planning Activities:** Feasibility studies are not eligible for funding, nor are projects that only involve planning activities and that do not include an implementation phase. In addition, land-use projects (i.e., Smart Growth, Traffic Calming, and Arterial Management) that have not completed the Preliminary Design phase are not eligible.

16. **Cost of Developing Proposals and Grant Applications:** The costs to develop proposals or prepare applications are not eligible for TFCA funding.

17. **Duplication:** Projects that have previously received TFCA funds and therefore do not achieve additional emission reductions are not eligible. Combining TFCA County Program Manager Funds with TFCA Regional Funds to achieve greater emission reductions for a single project is not considered project duplication.

USE OF TFCA FUNDS

18. **Combined Funds:** TFCA County Program Manager Funds may be combined with TFCA Regional Funds for the funding of an eligible project. For the purpose of calculating the TFCA cost-effectiveness (Regional Fund Evaluation Criterion #1), the combined sum of TFCA County Program Manager Funds and TFCA Regional Funds shall be used to calculate the TFCA cost of the project.

19. **Administrative Costs:** Administrative costs (i.e., the costs associated with administering a TFCA grant) are limited to a maximum of five percent (5%) of total TFCA funds expended on a project. To be eligible for reimbursement, administrative costs must be clearly identified in the application project budget and in the funding agreement between the Air District and the project sponsor.

20. **Expend Funds within Two Years:** Project sponsors must expend the awarded funds within two (2) years of the effective date of the funding agreement, unless a longer period is formally (i.e., in writing) approved in advance by the Air District in a funding agreement or as an amendment to the funding agreement.

ELIGIBLE PROJECT CATEGORIES:

CLEAN AIR VEHICLE PROJECTS

21. **Alternative Fuel Light-Duty Vehicles:**

Eligibility: For TFCA purposes, light-duty vehicles are those with a gross vehicle weight rating (GVWR) of 8,500 lbs. or lighter. Light-duty vehicle types and equipment eligible for funding includes:

a. New hybrid-electric, electric, fuel cell, and CNG/LNG vehicles certified by the CARB as meeting established super ultra low emission vehicle (SULEV), partial zero emission vehicle (PZEV), advanced technology-partial zero emission vehicle (AT-PZEV), or zero emission vehicle (ZEV) standards.

b. New electric neighborhood vehicles (NEV) as defined in the California Vehicle Code.

c. CARB emissions compliant vehicle system retrofits that result in reduced petroleum use (e.g., plug-in hybrid systems).

~~With the exception of NEV, vehicles must be placed into a service route that has a minimum mileage of 10,000 miles per year.~~

Gasoline and diesel (non-hybrid) vehicles are not eligible for TFCA funding.

Funds are not available for non-fuel system upgrades such as transmission and exhaust systems and should not be included in the incremental cost of the project.

~~Maximum Award (per vehicle/retrofit) listed below:~~

	~~Annual Mileage~~	
~~Vehicle Type~~	~~10,000 - 50,000 miles~~	~~Greater than 50,000 miles~~
~~NEV (exempt from mileage minimum)~~	~~$500~~	
~~SULEV, PZEV, AT-PZEV~~	~~$2000~~	~~$3000~~
~~ZEV and retrofits~~	~~$4000~~	~~$5000~~

TFCA funds awarded may not exceed incremental cost after all other applicable manufacturer and local/state/federal rebates, tax credits, and cash equivalent incentives are applied. Incremental cost is the difference in cost between the purchase or lease price of the new vehicle and/or retrofit and its new conventional vehicle counterpart that meets, but does not exceed, 2009 emissions standards.

22. **Alternative Fuel Heavy-Duty Service Vehicles (Low-mileage utility trucks in idling service):**

Eligibility: For TFCA purposes, heavy-duty vehicles are on-road motor vehicles with a Gross Vehicle Weigh Rating (GVWR) of 10,001 pounds or heavier. This category includes only vehicles in which engine idling is required to perform the primary function (for example, crane or aerial bucket trucks). In order to qualify for this incentive, each new vehicle must be placed into a service route that has a minimum idling time of 520 hours/year, and a minimum mileage of ~~1,000~~500 miles/year.

~~Maximum Award Amount (per vehicle):~~ TFCA funds awarded may not exceed the difference in the purchase or lease price of the new clean air vehicle that surpasses the applicable emissions standards and its new conventional vehicle counterpart that meets, but does not exceed, the emissions standards (incremental cost).

~~Maximum funding is set forth below:~~

	~~Idling Time~~	
~~GVWR, lbs~~	~~Average 2 - 4 hours/day~~	~~Average ≥ 4 hours/day~~
~~10,001-33,000~~	~~$16,000~~	~~$20,000~~
~~Greater than 33,000~~	~~$25,000~~	~~$30,000~~
~~Additional funds for scrapping pre-1998 vehicles~~	~~+ $4000~~	~~+ $4000~~

Scrapping Requirements: Project sponsors of heavy-duty clean air vehicles purchased or leased with TFCA funds that have model year 1997 or older heavy-duty diesel vehicles in their fleet are required to scrap one model year 1997 or older heavy-duty diesel vehicle for each new clean air vehicle purchased or leased with TFCA funds. Project sponsors with model year 1998 and newer heavy-duty diesel vehicles in their fleet may, but are not required to, meet this scrapping requirements. Applications that include scrapping components may receive additional credit towards the calculation of the overall cost effectiveness of the project. Costs related to the scrapping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

23. **Alternative Fuel Heavy-Duty Vehicles (high mileage):**

Eligibility: For TFCA purposes, light-heavy-duty vehicles (LHDV) are those with a GVWR between ~~greater than 8,5001~~ 8,501 lbs. and ~~less than~~ 14,000 lbs, medium-duty vehicles (MDV) are those with a GVWR ~~greater than~~ between 14,001 lbs. and ~~less than~~ 33,000 lbs., and heavy-duty vehicles (HDV) are those with a GVWR equal to or greater than 33,001 lbs. LHDV, MDV and HDV types and equipment eligible for funding include:

a. New hybrid-electric, electric, and CNG/LNG vehicles certified by the CARB and/or that are listed by the IRS as eligible for a federal tax credit pursuant to the Energy Policy Act of 2005.
b. CARB emissions compliant vehicle system retrofits that result in reduced petroleum use.

~~Vehicles must be placed into a service route that has a minimum mileage of 15,000 miles per year.~~

TFCA funding may not be used to pay for non-fuel system upgrades such as transmission and exhaust systems.

~~Maximum Award (per vehicle/retrofit) listed below:~~

		~~15,000 - 40,000 Miles~~	~~40,001 - 80,000 Miles~~
~~CNG/LNG~~	~~MDV~~	~~$3,500~~	~~$8,000~~
	~~HDV~~	~~$8,000~~	~~$20,000~~
~~Hybrid-EV and Retrofits (>15,000 Miles)~~	~~LHDV~~	~~$10,000~~	
	~~MDV~~	~~$25,000~~	
	~~HDV~~	~~$30,000~~	
~~Fuel Cell and EV (>15,000 Miles)~~	~~LHDV~~	~~$20,000~~	
	~~MDV~~	~~$40,000~~	
	~~HDV~~	~~$60,000~~	

TFCA funds awarded may not exceed incremental cost after all other applicable manufacturer and local/state rebates, tax credits, and cash equivalent incentives are applied. Incremental cost is the difference in cost between the purchase or lease price of the vehicle and/or retrofit and its new conventional vehicle counterpart that meets, but does not exceed, 2009 emissions standards.

Scrapping Requirements: Project sponsors of heavy-duty clean air vehicles purchased or leased with TFCA funds that have model year 1997 or older heavy-duty diesel vehicles in their fleet are required to scrap one model year 1997 or older heavy-duty diesel vehicle for each new vehicle purchased or leased with TFCA funds. Project sponsors with model year 1998 and newer heavy-duty diesel vehicles in their fleet may, but are not required to, meet this scrapping requirement. Costs related to the scrapping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

24. **Alternative Fuel Buses:** Buses are subject to the same Eligibility~~, Maximum Award~~ and Scrapping requirements listed in Policy #23:

    For purposes of transit and school bus replacement projects, a bus is any vehicle designed, used, or maintained for carrying more than fifteen (15) persons, including the driver. A vehicle designed, used, or maintained for carrying more than ten (10) persons, including the driver, which is used to transport persons for compensation or profit, or is used by any nonprofit organization or group, is also a bus. A vanpool vehicle is not considered a bus.

25. **Alternative Fuel Infrastructure:** ~~Projects that construct infrastructure to support electric, fuel-cell and natural gas vehicles that are part of a project sponsor's existing fleet or part of a current application for alternative fuel vehicles are eligible for funding.~~ Eligible refueling infrastructure projects include new dispensing facilities, or additional equipment or upgrades and improvements that expand access to existing alternative fuel refueling sites. This includes upgrading or modifying private fueling stations to allow public and/or shared fleet access. Funding may be used to purchase the cost of equipment ~~or~~ and installation.~~to pay for specific turnkey fueling services by alternative fuel providers~~.

    TFCA funded refueling infrastructure projects must be available to and accessible by the public. Refueling equipment and infrastructure must be designed, installed and maintained as required by the existing recognized codes and standards and approved by the local/state authority.

    Applicants must provide data supporting the demand for the infrastructure (e.g., letters of support from potential users) and plans for maintaining the equipment in the future.

    TFCA funding is limited to ~~30~~50% of the total project cost and may not exceed a maximum award amount of $200,000 per project sponsor.

    TFCA funding may not be used to pay for fuel, operation, and maintenance costs.

26. **Advanced Technology Demonstration Projects:** Only vehicle-based advanced technology demonstration projects (i.e., technologies, motor vehicles and/or emission control devices not certified by CARB) not already implemented in the Bay Area are eligible for funding under this category. Applicants must clearly demonstrate the potential for concurrent or future emission reductions due to implementation of the project, and must provide estimates of emission reductions. All projects will require before and after evaluation data. TFCA funding for each project is limited to 25% of the total project cost, not to exceed $500,000.

SHUTTLE/FEEDER BUS SERVICE PROJECTS

27. **Shuttle/Feeder Bus Service:** Shuttle/feeder bus service projects are those requesting funds to operate a shuttle or feeder bus route to or from a rail station, airport, or ferry terminal. To be eligible, shuttle/feeder bus service schedules must be coordinated with connecting rail or ferry schedules.

    Shuttle/feeder bus service applicants must either: a) be a public transit agency or, b) submit documentation from the General Manager of the transit agency that provides service in the area of the proposed shuttle route, which demonstrates that the proposed shuttle service does not duplicate or conflict with existing transit agency service.

    All vehicles used in shuttle/feeder bus service must meet the applicable CARB standards for public transit fleets use one of the following types of shuttle/feeder bus vehicles:

a. an alternative fuel vehicle (CNG, liquefied natural gas, propane, electric);

b. a hybrid-electric vehicle;

c. a post-1997 diesel vehicle with a CARB Verified Diesel Emission Control Strategy (e.g., retrofit); or

d. a post-1989 gasoline-fueled vehicle.

Pilot shuttle/feeder bus service projects are required to meet a cost-effectiveness of $125,000/ton during the first two years of operation (see Policy #2). A pilot project is a defined route that is at least 70% unique and has not previously been funded through TFCA. Applicants must provide data supporting the demand for the service, letters of support from potential users and providers, and plans for financing the service in the future.

RIDESHARING PROJECTS

28. **Regional Ridesharing Projects:** For TFCA Regional Fund eligibility, ridesharing projects must be comprised of riders from at least three Bay Area counties. Applications for projects that provide a direct or indirect financial transit or rideshare subsidy exclusively to employees of the project sponsor are not eligible.

29. **Reserved.**

30. **Reserved.**

REGIONAL FUND EVALUATION CRITERIA

Grant applications must comply with the TFCA Regional Fund Policies, and also are evaluated based on six criteria.

Both public agencies and non-public entities are eligible to receive points under Criteria 1, 2, 3, 5, and 6. Only public agencies are eligible to receive points under Criterion 4. Clean air vehicle projects covered by Polices 21 – 24 are not eligible for points under Criterion 6. An applicant must achieve a minimum percentage of 60% of available points to be eligible for consideration for funding. ~~The maximum possible score for a public agency is 100 points and the maximum possible score for a non-public entity is 90 points. A public agency must achieve a minimum score of 60 points to be considered for funding while a non-public entity must achieve a minimum of 54 points to be considered for funding.~~

Projects will be ranked by calculating the percentage of total eligible points scored ~~(100 for public agencies and 90 for non-public entities)~~ in descending order. In the event that two or more projects achieve an equal score, the project with the best TFCA cost-effectiveness will receive a higher ranking.

Available TFCA Regional Funds will be allocated to projects beginning with the highest ranking project and proceeding in sequence to lower ranking projects. If the TFCA Regional Fund is oversubscribed, the point where the next-ranked eligible project cannot be fully funded defines the cut-off point for the funding cycle, i.e., all projects above this point will be funded. If the Regional Fund is undersubscribed, any remaining funds are generally allocated to projects in the subsequent funding cycle. By mutual consent of the project sponsor and the Air District~~;~~, grant awards may be reduced from the amount requested in the original application.

FY 2009/2010 TFCA Regional Fund Scoring Criteria

Criteria	Maximum Points
1. TFCA Funding Effectiveness*	60
2. Greenhouse Gas Emission Reductions*	10
3. Other Project Attributes*	5
4. Clean Air Policies and Programs**	10

5. Sensitive and PM Impacted Communities*	---
A. General	**10**
B. Highly-Impacted Communities	***High priority*****
6. Priority Development Areas*****	**5**
Total	**100**

~~* Public agencies and non-public entities eligible to receive points.~~

** Only public agencies eligible to receive points. ***High priority is defined per Criterion 5 below.

**** Not available to vehicle projects covered by Policies 21 – 24.**

DISCUSSION

Criterion 1: TFCA Funding Effectiveness (maximum 60 points)

Measures the cost-effectiveness (C-E) of a project in reducing air pollutant emissions. Generally, applications that include higher rates of matching funds will score better than those that request higher percentage of TFCA funding. TFCA funds budgeted for the project (TFCA Regional Funds and TFCA County Program Manager Funds combined) will be divided by the estimated lifetime emission reductions for the project. The estimated lifetime emission reductions are the sum of reactive organic gases, oxides of nitrogen, and weighted particulate matter (PM)[1] that will be reduced over the life of the project. Air District staff will determine the estimated emission reductions and TFCA funding effectiveness for the project.

The point scales for awarding points for this criterion are presented below:

a. For projects that must achieve a C-E threshold of $90,000/ton:

TFCA $/Ton	Points	TFCA $/Ton	Points
$0 - $19,999	60	$56,000 -$57,999	53
$20,000 - $21,999	60	$58,000 - $59,999	52.5
$22,000 - $23,999	60	$60,000 - $61,999	52
$24,000 - $25,999	59.75	$62,000 - $63,999	51.5
$26,000 - $27,999	59.5	$64,000 - $65,999	51
$28,000 - $29,999	59.25	$66,000 - $67,999	50.5
$30,000 - $31,999	59	$68,000 - $69,999	50
$32,000 - $33,999	58.75	$70,000 - $71,999	49.5
$34,000 - $35,999	58.5	$72,000 - $73,999	49
$36,000 - $37,999	58	$74,000 - $75,999	48.5
$38,000 - $39,999	57.5	$76,000 - $77,999	48
$40,000 - $41,999	57	$78,000 - $79,999	47.5
$42,000 - $43,999	56.5	$80,000 - $81,999	47
$44,000 - $45,999	56	$82,000 - $83,999	46.5
$46,000 - $47,999	55.5	$84,000 - $85,999	46
$48,000 - $49,999	55	$86,000 - $87,999	45.5
$50,000 - $51,999	54.5	$88,000 - $89,999	45
$52,000 - $53,999	54	$90,000 - and above	0
$54,000 - $55,999	53.5		

~~**b.For Alternative Fuel Light Duty, Alternative Fuel Heavy-duty Service Vehicles in Low Mileage Idling Service, Alternative Fuel Heavy-duty Vehicles, Alternative Fuel Medium and Heavy-Duty Vehicles and Alternative Fuel Bus Replacements.**~~

~~**50 Points** – (amount requested must be equal to or less than the maximum allowable amounts listed in policies 21-24.)~~

[1] PM emissions include tailpipe PM, as well as brake particles, tire particles and re-entrained road dust. Consistent with California Air Resources Board methodology to calculate PM emission reductions for the Carl Moyer Program, weighted PM emissions will be calculated by adding the tailpipe PM multiplied by a factor of 20, plus the sum of tire, brake, and road dust PM.

~~c.~~b. For projects that must achieve a C-E threshold of $125,000/ton (Pilot Shuttles):

TFCA $/Ton			Points	TFCA $/Ton			Points
$0	-	$19,999	60	$74,000	-	$76,999	53
$20,000	-	$22,999	60	$77,000	-	$79,999	52.5
$23,000	-	$25,999	60	$80,000	-	$82,999	52
$26,000	-	$28,999	59.75	$83,000	-	$85,999	51.5
$29,000	-	$31,999	59.5	$86,000	-	$88,999	51
$32,000	-	$34,999	59.25	$89,000	-	$91,999	50.5
$35,000	-	$37,999	59	$92,000	-	$94,999	50
$38,000	-	$40,999	58.75	$95,000	-	$97,999	49.5
$41,000	-	$43,999	58.5	$98,000	-	$100,999	49
$44,000	-	$46,999	58	$101,000	-	$103,999	48.5
$47,000	-	$49,999	57.5	$104,000	-	$106,999	48
$50,000	-	$52,999	57	$107,000	-	$109,999	47.5
$53,000	-	$55,999	56.5	$110,000	-	$112,999	47
$56,000	-	$58,999	56	$113,000	-	$115,999	46.5
$59,000	-	$61,999	55.5	$116,000	-	$118,999	46
$62,000	-	$64,999	55	$119,000	-	$121,999	45.5
$65,000	-	$67,999	54.5	$122,000	-	$124,999	45
$68,000	-	$70,999	54	$125,000	-	and above	0
$71,000	-	$73,999	53.5				

~~d.~~c. For projects that must achieve a C-E threshold of $500,000/ton (Advanced Technology Demonstration):

TFCA $/Ton			Points	TFCA $/Ton			Points
$0	-	$44,999	60	$279,000	-	$291,999	50
$45,000	-	$57,999	59.5	$292,000	-	$304,999	49
$58,000	-	$70,999	59	$305,000	-	$317,999	48
$71,000	-	$83,999	58.5	$318,000	-	$330,999	47
$84,000	-	$96,999	58	$331,000	-	$343,999	46
$97,000	-	$109,999	57.5	$344,000	-	$356,999	45
$110,000	-	$122,999	57	$357,000	-	$369,999	44
$123,000	-	$135,999	56.5	$370,000	-	$382,999	43
$136,000	-	$148,999	56	$383,000	-	$395,999	42
$149,000	-	$161,999	55.5	$396,000	-	$408,999	41
$162,000	-	$174,999	55	$409,000	-	$421,999	40
$175,000	-	$187,999	54.5	$422,000	-	$434,999	39
$188,000	-	$200,999	54	$435,000	-	$447,999	38
$201,000	-	$213,999	53.5	$448,000	-	$460,999	37
$214,000	-	$226,999	53	$461,000	-	$473,999	36
$227,000	-	$239,999	52.5	$474,000	-	$486,999	35
$240,000	-	$252,999	52	$487,000	-	$499,999	34
$253,000	-	$265,999	51.5	$500,000	-	and above	0
$266,000	-	$278,999	51				

Criterion 2: Greenhouse Gas Emission Reductions (maximum 10 points)

Rewards projects that reduce greenhouse gas emissions. Awards a maximum of 10 points (on a sliding scale, 0 to 10 points) for projects that reduce emissions of greenhouse gases, predominately carbon dioxide. Generally, projects that promote alternative modes of transportation and reduce single occupant vehicle trips (e.g., transit, ridesharing, bicycling and walking), as well as projects that improve motor vehicle fuel economy, will reduce greenhouse gas emissions. TFCA funds budgeted for the project will be divided by the estimated lifetime emission reductions of greenhouse gases for the project. Air District staff will determine the estimated emission reductions, TFCA funding effectiveness for greenhouse gases, and the scale for awarding points.

Criterion 3: Other Project Attributes (maximum 5 points)

Provides a mechanism in the evaluation and scoring process to identify and assess desirable project attributes that are not captured in the analysis of TFCA funding effectiveness. Projects may score points under this criterion based upon other project attributes identified for each project type. The specific project attributes for each project type will be identified after grant applications have been received and reviewed. Examples of Other Project Attributes will be provided in TFCA Guidance document.

Criterion 4: Clean Air Policies and Programs (maximum 10 points)

Recognizes and encourages the efforts of public agencies to implement policies and programs that promote the region's air-quality objectives, especially land use and transportation policies that help to reduce air pollution from motor vehicles.

To receive points for this criterion, the sponsoring agency must describe its policies and actions to implement the transportation control measures (TCMs) in the most recently adopted strategy(ies) for State and national ozone standards throughout the agency's jurisdiction. Points will be awarded based upon the performance of the project sponsor in implementing those elements of each TCM which are within the purview of the sponsor agency.

Non-public entities are not eligible for points under this criterion.

Criterion 5: Sensitive and Particulate Matter (PM) Impacted Communities (maximum 10 points)

Under Criterion 5, grant applications are eligible for credit under two sub-criteria.

a. General: This sub-criterion will award a maximum of 10 points (on a sliding scale, 0-10 points) for projects that directly reduce emissions in communities with both high $PM_{2.5}$ emissions and sensitive populations (i.e., children, seniors, those with low-incomes or elevated asthma rates).

b. Highly Impacted Communities: Additional credit will be given to projects in these communities by providing them with the maximum score of 10 points in this Criterion and an additional 5 points under Criterion 3 "Other Project Attributes" provided that they meet a minimum percentage of operations in highly impacted communities. These communities have been identified by the Air District as having the most severe health risk and relatively low income levels.

Both sub-criteria 5A and 5B are based on data from the Air District's Community Air Risk Evaluation (CARE) Program; maps that identify these communities will be made available on the Air District's website. To qualify for points, a project must directly benefit one or more of these communities. The credit awarded will be determined by Air District staff, and will be based upon the percentage of project resources or services that would directly benefit the community, and the extent to which the project sponsor demonstrates this benefit.

Criterion 6: Priority Development Areas (maximum 5 points)

Awards additional points to projects located in concentrated areas identified for future growth near transit and in existing Bay Area communities. Funding projects operating in regionally approved Priority Development Areas (PDAs) will lead to reduced emissions in the region generally, and in PDAs in particular. Both public agencies and non-public entities are eligible for points under this criterion.

As with Criterion 5, to receive points for this criterion, the project must directly benefit one or more approved PDAs. The credit awarded will be determined by Air District staff, and will be based upon the percentage of project resources or services that would directly benefit the PDA, and the extent to which the project sponsor demonstrates this benefit.

Clean air vehicle projects covered by Polices 21 – 24 are not eligible for points under this criterion.

AGENDA: 8

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 12, 2009

Re: Report of the Legislative Committee Meeting of November 12, 2009

RECOMMENDED ACTIONS

Receive and File

BACKGROUND

The Legislative Committee met on Thursday, November 12, 2009. The Committee considered and received the following reports and recommendations:

A) Summary of 2009 Legislative Year; and
B) Potential Legislative Proposals for 2010

Attached are the staff reports presented in the Legislative Committee packet.

Committee Chair Tom Bates will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

A) None.
B) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Approved by: Jennifer Chicconi

Attachment(s)

AGENDA: 4

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Bates and Members of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 4, 2009

Re: Summary of 2009 Legislative Year

RECOMMENDED ACTION:

None (informational item)

DISCUSSION

The 2009 legislative year will not be remembered for significant air quality legislation. While a number of measures were introduced that would have harmed air quality programs, these were defeated, at least those that were outside of the budget process. On the other hand, very few bills with significant air quality benefits were signed into law. In 2009, California's financial problems outweighed all other issues in Sacramento. A direct result was that very few bills with any State costs became law, including measures that would reduce air pollution.

The following table shows the measures that the District took positions on, and what happened to those bills.

Bill	***Brief Description***	***BAAQMD Position***	***Outcome***
AB 28 Jeffries	Prohibits air districts from restricting use of public agency natural gas engines to pump water	Oppose	Failed to move past 1st policy committee
AB 96 Ruskin	Changes to gasoline underground storage tank grant program	Support	Chaptered
AB 118 Logue	Repeals California Global Warming Solutions Act of 2006 (AB 32)	Oppose	Failed to move past 1st policy committee
AB 318 Emmerson	Smog check amnesty cleanup	Support	Chaptered
AB 859 Jones	Annual smog inspection of older vehicles	Support	Failed to pass Assembly Approps.
AB 892 Furutani	Allows simpler reallocation of Prop 1B Goods Movement air quality projects	Support	Chaptered

AB 1033 Nielson	Imposes new requirements on state and local agencies adopting GHG regulations	Oppose	Failed to move past 1st policy committee
AB 1135 Skinner	VMT data collection at time of registration	Support	Failed to pass Assembly Approps.
AB 1431 Hill	Requires Port of Oakland to have an emissions reduction program of comparable stringency to those in southern California	Support (Sponsor)	Failed to move past 1st policy committee
AB 1527 Lieu	Allows a single motor vehicle emission reduction project to be funded from multiple grant programs	Support	Vetoed
SB 232 Benoit	Would allow an unlimited number of specialty constructed vehicles to be registered annually	Oppose	Failed to move past 1st policy committee
SB 295 Dutton	Would prevent AB 32 implementation until the unemployment rate is below 5.8% for 3 months	Oppose	Failed to move past 1st policy committee
SB 385 Wright	Exempts historic vehicles from smog check, and allows owners to self-certify that their vehicle is historic	Oppose	Failed to move past 1st policy committee
SB 406 DeSaulnier	Allows increase of $1 or $2 in vehicle registration fees to implement SB 375	Support	Vetoed
SB 425 Simitian	Creates a new employer-based trip reduction program	Support if amended	Failed to pass Senate Approps.
SB 435 Pavley	Adds post-2000 motorcycles to smog check program	Support	Failed to move past 2nd house policy committee
SB 518 Lowenthal	Reforms parking policy to reduce driving and associated emissions	Support	Failed to pass Senate Floor
SB 554 Hollingsworth	Prohibits air districts from restricting the installation or use of wood-burning equipment	Oppose	Failed to move past 1st policy committee
SB 632 Lowenthal	Requires container ports to assess and report their infrastructure and air quality needs	Support	Assembly Floor inactive file
SB 728 Lowenthal	Allows cities, counties, and air districts to enforce existing parking cash-out law	Support	Chaptered
SB 811 DeSaulnier	Requires specialty constructed vehicles from out-of-state to meet emissions requirements for their year of manufacture	Support	Vetoed

None of the seven bills the District opposed moved past their first policy committee, let alone became law. Many of these measures cited the current poor economic climate as a rationale to relax air quality requirements.

While the poor economy did not result in bad bills becoming law, it had a profound effect at blocking many of the 14 bills the District supported. Only four of these measures were signed into law, although an additional three passed out of the Legislature only to be vetoed by the Governor. The bill the District sponsored (Assemblymember Jerry Hill's AB 1431) to cut emissions from the Port of Oakland was strongly opposed by the Port and their allies, particularly business interests. While supported by environmental and community organizations, the measure failed to advance past the Assembly Transportation Committee.

Looking forward to 2010, many of the bills listed above are technically still alive, and are called 'two-year bills'. Such bills have to clear their house of origin by the end of January if they are to remain alive. Most will not be activated by their authors, but votes may be held on some.

Also of significant this year were the 2009-2010 Fiscal Year budget package and revisions adopted by the Legislature and passed by the Governor. As has been widely reported, the final budget contained major cuts to a variety of State programs, particularly those receiving General Fund revenues. In general, though, the Air Resources Board and air quality programs (which are funded largely through special funds) were virtually untouched, aside from indirect impacts to employees, such as mandatory staff furloughs. However, the budget passed in July stipulates that the State will borrow 8% of property tax receipts from the District (along with cities, counties, and other special districts), amounting to roughly $1.6 million. Staff expects the impacts of this borrowing will be mitigated by the securitization process we have begun in conjunction with California Communities. The other impact of the budget on air quality was contained in trailer bills passed as part of the budget agreement. Specifically, AB 8 X2 (Nestande) effectively delayed implementation of ARB's off-road diesel regulations, citing the poor economic climate as the rationale for the delay. Additionally, SB 3 X2 (Florez) was a boon for agricultural grant projects, allowing Moyer funds to pay for compliance, and artificially increasing the cost-effectiveness score for agricultural grant applications.

A list of all the bills of potential air quality significance that the District tracked, and their outcomes, is attached to this memorandum.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison
Reviewed by: Jean R. Roggenkamp

BAAQMD BILL DISCUSSION LIST

November 2009

BILL NO.	AUTHOR	SUBJECT	POSITION	STATUS
AB 19	Ruskin	Carbon Labeling Act of 2009; voluntary carbon footprint of consumer products		Sen. Approps.
AB 21	Krekorian	Increases Renewable Portfolio Standard to 33% by 2020		Vetoed
AB 28	Jeffries	Prohibits air districts from restricting use of public agency natural gas engines to pump water	Oppose	Asm. Nat. Resources
AB 96	Ruskin	Changes to gasoline underground storage tank grant program	Support	Chaptered
AB 118	Logue	Repeals California Global Warming Solutions Act of 2006	Oppose	Asm Nat. Resources
AB 137	Jeffries	Tightens Brown Act requirements for advisory committees		Asm. Loc. Govt.
AB 222	Adams	States intent to advance biofuels and green power production		Sen. Env. Quality
AB 231	Huffman	Climate Protection Trust Fund		Sen. Env. Quality
AB 318	Emmerson	Smog check amnesty cleanup (fixing last year's bill)	Support	Chaptered
AB 376	Nava	Voluntary greenhouse gas emissions offsets		Asm. Approps.
AB 397	Jeffries	Makes SCAQMD Board members elected positions		Asm. Loc.Govt.
AB 414	Galgiani	Extends Moyer eligibility to heavy-duty fleet trade down program		Asm. Trans.
AB 433	Ammiano	Requires new residential construction near roads with high PM levels to have ventilation system to reduce PM exposures for residents		Asm. Approps.
AB 453	Garrick	Gasoline vapor recovery spot bill		Asm. Approps.
AB 478	Chesbro	Requires ARB to consult with Integrated Waste Board in development of AB 32 rules		Asm. Approps.
AB 499	Hill	CEQA		Senate Floor

AB 658	Hayashi	Doubles potential grant amount to dry cleaners moving to cleaner technologies		Asm. Env. Safety
AB 670	Berryhill	Allows veterans to use HOV lanes		Asm. Trans.
AB 696	Hagman	Allows CEQA project applicant to resolve disputes with lead agency via an arbitrator		Asm. Nat. Resources
AB 782	Jeffries	Significant changes to 2008's SB 375 to make the law more business-friendly		Asm. Local Govt.
AB 821	Brownley	Clean and Healthy Schools Act		Asm. Approps.
AB 823	Hill	Specifies that vehicle repair assistance only go to low-income motorists		Vetoed
AB 835	Monning	Addresses VOC emissions from pesticides		Asm. Agriculture
AB 859	Jones	Annual smog inspection of older vehicles	Support	Asm. Approps.
AB 881	Huffman	Authorizes Sonoma Transportation Authority to coordinate GHG emission reductions from local and community agencies there		Chaptered
AB 892	Furutani	Allows Prop 1B Goods Movement Emission Reduction Program funds to be reallocated when a project is no longer feasible	Support	Chaptered
AB 922	Miller	Exempts California-made biofuel from diesel fuel tax		Asm. Rev. & Tax
AB 956	Skinner	States intent to require ARB to adopt regulations on pavement coating to reduce urban heat island effect		Asm. Trans.
AB 1016	Villines	Abolishes California Energy Commission and creates new Department of Energy		Asm. Utilities & Commerce
AB 1033	Nielsen	New requirements on state and local agencies adopting GHG regulations	Oppose	Asm Nat. Resources
AB 1043	Fong	States legislative intent to encourage biofuel use in California		
AB 1085	Mendoza	Requires ARB to make publicly available all supporting information for a regulation before the comment period for the regulation		Chaptered
AB 1097	Eng	Requires state fleet to achieve 35 mpg		Asm. Business & Professions

AB 1107	Blakeslee	scientific peer review of CalEPA regulations		Asm. Env. Safety
AB 1135	Skinner	VMT data collection at time of registration	Support MTC: Support in concept	Asm. Approps.
AB 1186	Blumenfield	Requires non-residential building lessors to separately list parking costs in the lease agreement		Vetoed
AB 1212	Ruskin	Authorizes ARB to implement a feebate program on new vehicle sales to cut greenhouse gas emissions		Asm. Trans.
AB 1292	B.Lowenthal	Affects GMERP funding distribution		Asm. Trans.
AB 1305	V.M. Perez	Imposes a mitigation fee on electricity generated in Mexico and imported into the state		Asm. Utilities
AB 1313	Adams	States legislative intent to have the Legislature regulate offset allocation in the South Coast		
AB 1318	V.M. Perez	Changes CEQA for emission reduction credits from SCAQMD bank for certain powerplant		Chaptered
AB 1350	Blakeslee	Establishes California Sustainable Biofuels Program		Sen. Utilities
AB 1373	Skinner	Requires plan to phase out use of high global warming potential refrigerants by 2020		Sen. Rules
AB 1404	De Leon & V.M. Perez	Limits compliance offsets to only 10% of GHG reductions required by AB 32		Vetoed
AB 1405	De Leon	Establishes Community Benefits Fund to mitigate climate change impacts in the most impacted and economically disadvantaged communities, and directs 30% of total revenues to this Fund		Senate Floor
AB 1431	Hill	Requires Port of Oakland to have emission reduction program of comparable stringency to those in southern CA	Sponsor	Asm. Trans.
AB 1452	Skinner	States legislative intent to require ARB to adopt procurement standards for cement to reduce greenhouse gas and particulate emissions from its production and transport		Asm. Approps.
AB 1496	Skinner	States intent to require CalEPA to have Supplemental Environmental Projects do mitigation near the scene of the environmental violation		Asm. Approps.

AB 1500	Lieu	Extends hybrid vehicle use of HOV lanes from 2011 to 2016		Senate Floor.
AB 1502	Eng	Extends hybrid vehicle use of HOV lanes from 2011 to 2017		Asm. Trans.
AB 1507	Block	Revises environmental grant program for metal plating facilities		Sen. Env. Quality
AB 1527	Lieu	Allows a single motor vehicle emission reduction project to be funded from multiple grant programs	Support	Vetoed
AB 1536	Blakeslee	Distributed generation spot bill		Senate Utilities
ACR 14	Niello	Calls on ARB to expand its economic analysis of AB 32 actions, and for the Governor to adjust deadlines		Asm. Nat. Resources
ABX3 30	Garrick	Delays Phase II EVR by one year		
SB 31	Pavley	Specifies uses for fees collected by ARB on greenhouse gas emission sources		Sen. Floor
SB 83 (initially SB 205)	Hancock	Allows vehicle registration fee of up to $10 to be placed on ballot by countywide transportation planning agencies for uses such as congestion management and air quality improvement		Chaptered
SB 104	Oropeza	Adds nitrogen trifluoride as a greenhouse gas, and establishes process for adding other compounds		Chaptered
SB 124	Oropeza	Codifies regulations limiting idling of schoolbuses		Chaptered
SB 128	Padilla	Creates the California Climate Change Institute		Sen. Approps.
SB 225	Florez	Allows districts to create emission reduction credits from projects funded with public and private funds	Oppose	Sen. Env. Quality
SB 232	Benoit	Would allow an unlimited number of specialty constructed vehicles to be registered annually	Oppose	Sen. Trans. & Housing
SB 295	Dutton	Would prevent AB 32 implementation until the unemployment rate is below 5.8% for 3 months		Sen. Env. Quality
SB 351	Huff	HOV lane spot bill		Sen. Rules
SB 382	Florez	Prohibits San Joaquin Valley agricultural burning on days when residential burning is banned		Vetoed
SB 385	Wright	Exempts historic vehicles from smog check, and allows owners to self-certify that their vehicle is historic	Oppose	Sen. Trans. & Housing

SB 391	Liu	Requires Caltrans to include greenhouse gas emission reductions in California Transportation Plan, and to consult with different entities, including air districts, in its development		Chaptered
SB 406	DeSaulnier	Changes Planning and Advisory Council composition, and allows MPO's and COG's to impose a $2 per vehicle registration fee for development and implementation of a regional blueprint to reduce vehicle use	Support	Vetoed
SB 412	Kehoe	Changes and extends self-generation incentive program for non-solar distributed generation		Chaptered
SB 425	Simitian	Creates a new employer-based trip reduction program	Support	Sen. Approps.
SB 435	Pavley	Adds post-2000 motorcycles to smog check program	Support	Asm. Trans.
SB 468	Runner	Air pollution spot bill		
SB 476	Correa	Exempts from CEQA some environmental enhancement projects, and limits cumulative impact evaluation		Asm. Natural Res.
SB 507	Cox	Delays by one year Phase II enhanced vapor recovery for gas stations		Sen. Env. Quality
SB 518	Lowenthal	Reforms parking policy to reduce driving and associated emissions	Support	Sen. Floor
SB 535	Yee	Revises HOV access for hybrids and natural gas and electric vehicles		Asm. Floor
SB 554	Hollingsworth	Prohibits air districts from restricting the installation or use of wood-burning equipment	Oppose	Sen. Env. Quality
SB 560	Ashburn	Modifies last year's SB 375 in multiple ways, including generating credit for localities that site commercial wind, solar, or biomass projects in their jurisdiction		Sen. Env. Quality
SB 626	Kehoe	Assigns CEC to develop and implement policies to encourage plug-in hybrids		Chaptered
SB 632	Lowenthal	Requires container ports to assess and report their infrastructure and air quality needs	Support	Asm. Floor
SB 675	Steinberg	Clean Technology and Renewable Energy Job Training, Career Technical Education, and Dropout Prevention Act of 2009		Sen. Approps.

SB 721	Steinberg	Creates Climate Action Team to coordinate AB 32 actions and implementation		Sen. Approps.
SB 722	Steinberg	Establishes requirements on those selling voluntary greenhouse gas emission reduction credits		Asm. Floor
SB 728	Lowenthal	Imposes civil penalty for violation of parking cashout law, and allows air districts to impose additional penalties and compliance mechanisms	Support	Chaptered
SB 729	Walters	Greenhouse gas spot bill		Sen. Rules
SB 811	DeSaulnier	Requires specialty constructed vehicles from out-of-state to meet emissions requirements for their year of manufacture	Support	Vetoed
SB 827	Wright	Voids court decision on adequacy of SCAQMD CEQA documents on changes to their ERC rules, allowing essential public services to advance		Chaptered

AGENDA: 5

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Bates and
Members of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 4, 2009

Re: Potential Legislative Proposals for 2010

RECOMMENDED ACTION

Discuss potential legislative proposals for the upcoming year.

BACKGROUND

2010 is the second year of the current California legislative session. As was the case in 2009, California's unprecedented fiscal problems are expected to continue to trump all other issues. Despite the unprecedented levels of cuts made last year, it appears that the deficit for the 2010-2011 Fiscal Year may be on the order of $15 billion. Some of the fiscal maneuvers of 2009 cannot be replicated in 2010. For example, California's constitution prevents further borrowing of local property tax revenues until the current borrowing has been paid back. Staff believe that the fiscal crisis will have a pronounced effect on virtually all legislative activity in 2010, and there will be pressure to relax environmental requirements imposed by agencies such as the Air Resources Board and the District. Policy bills with State costs, even relatively low costs, appear unlikely to advance. Even bills without direct costs to the State, but with possible indirect State costs or costs to consumers or businesses, are likely to be affected.

DISCUSSION

Staff suggest that in 2010, the highest legislative priority for the District should be preventing efforts to weaken existing air quality regulations or programs, either through changes in policy or funding.

In addition to playing defense, the District may wish to consider co-sponsoring legislation to improve air quality. Staff will present several potential bill ideas for discussion at the Committee meeting. Here is a brief summary of possible measures.

One idea would be for the District to return to our successful earlier work aimed at improving the smog check program. It will have been four years since the District last sponsored a smog check bill (2006's AB 1870 on smoking vehicles). California's smog check program continues to get fewer emission reductions required in the State Implementation Plan, and in many ways has failed to modernize and adapt to changing vehicle technologies. Staff are recommending the District either co-sponsor or work on a bill that would reform smog check in a variety of ways, reducing its costs for most consumers and increasing its emission reductions. Specifically, staff recommend statutory changes that would allow the use of sophisticated onboard emissions monitoring software to determine whether a vehicle is in

compliance instead of the traditional tail-pipe testing. This software has been required in all vehicles since 1996, and is referred to as 'on-board diagnostics' (OBD). California is now one of only two states that does not use OBD for its emissions testing program. California's Inspection and Maintenance Review Committee (IMRC; appointed by the Governor to advise the Legislature on Smog Check) recommends this change in their initial 2008 draft report to the Legislature. More significantly, staff believe that the Air Resources Board is supportive of these changes to the program. Using OBD on newer vehicles (instead of tailpipe testing) has substantially reduced testing costs for motorists in other states. Current estimates are that California motorists would save $324 million by 2016, and even more in later years.

Another significant shortcoming of the current program is that motorcycles, all-wheel drive vehicles, heavy sport-utility vehicles, and hybrids are all currently exempted. Most of these are exempted because they cannot operate on a dynamometer, and California's overly prescriptive smog check statute only allows dynamometer testing in most of the state. However, all could easily be tested with either a two-stage idle test (probe in tailpipe) or using OBD on the newer vehicles. Motorcycles in particular tend to have very high rates of tampering with their emissions control equipment. Conservative estimates by the Air Resources Board indicate that including motorcycles alone in Smog Check would yield emissions reductions of over five tons a day of primarily hydrocarbons. Including these vehicles in the program has long been a recommendation of the IMRC and others. A simple statutory change to allow non-dynamometer testing for vehicles for which this testing is not practical would dramatically increase the public health benefits of the program. Staff believe combining this with the program modernization (using OBD) should yield major statewide emission reduction benefits in a package that politically would be attractive to many legislators.

Another potential bill to consider would reform the penalty statutes that address civil and criminal air quality violations. The current penalty ceilings do not increase with inflation, and none of the penalties have been increased in roughly a decade. Thus, the deterrent effect of the maximum penalties has been eroded over time. Furthermore, legal staff have long felt that the penalty ceiling for strict liability violations and certain types of public nuisance violations is too low. Staff know that there is interest on the part of several environmental organizations in pursuing legislation that would directly affect air penalties. The last bill dealing with air penalties (2000's SB 1865, authored by Senator Perata) was co-sponsored by the District, so the District has a successful legislative record in this arena also.

Staff may present a few additional ideas, and the Committee may wish to suggest other ideas as well.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison

AGENDA: 9

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson, Pamela Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 12, 2009

Re: Report of the Public Outreach Committee Meeting of November 13, 2009

RECOMMENDED ACTIONS

Receive and File

BACKGROUND

The Public Outreach Committee met on Friday, November 13, 2009. The Committee received the following reports and updates:

A) Spare the Air Focus Group Findings
B) Bay View Hunter's Point Community Dialogue Meetings and Request for Proposals (RFP) Update
C) Spare the Air Website Redesign

Attached are the staff reports presented in the Public Outreach Committee packet.

Chairperson Ross will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

A) Funding for the 2009 Spare the Air campaign is included in the FY 2009-10 Budget. Funding for subsequent Spare the Air campaign will be determined in future budget cycles.
B) Funding will come from penalties collected from Lennar Corporation.
C) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Approved by: Jennifer Chicconi

Attachment(s)

AGENDA: 4

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Mark Ross and Members of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 5, 2009

Re: Spare the Air Focus Groups Findings

RECOMMENDED ACTION:

For information only.

BACKGROUND

The Spare the Air program was created in 1991, with the two-fold purpose of notifying the public when air pollution is expected to be unhealthy and to encourage Bay Area residents to take individual action to reduce smog-forming pollutants.

As part of the 2009 season, the Air District tasked Spare the Air advertising contractor, O'Rorke, Inc. to conduct research on public perception of the Spare the Air campaign and attitudes about carpooling via focus groups throughout the Bay Area. The purpose of the focus group research was to identify potential barriers to the use of alternative transportation options by Bay Area motorists and to help better develop effective future *Spare the Air* and climate-related public outreach campaigns.

Representatives from O'Rorke, Inc. will brief the Committee on the focus groups findings and staff will present recommendations for future direction for the Spare the Air campaign.

DISCUSSION

Focus Groups
Five two-hour focus groups were held outside of core urban areas, including: Concord, Novato, San Jose (English and Spanish), and Sunnyvale. Participants were adult Bay Area residents who typically commute to work by driving alone.

The focus group participants were led in a discussion of:

- Awareness/perceptions of the *Spare the Air* Program, 511, the District and MTC;
- Barriers and motivators to carpooling/rideshare;
- Barriers and motivators to properly maintaining vehicles and to "Smarter Driving";
- Barriers and motivators to bicycling; and
- Barriers and motivators to "other" clean air transportation actions (grouping errands, reduced trips, transit, walking, etc.).

Highlights of the discussion include:

- Participants expressed increased interest in carpool/rideshare significantly if linked with their employer-benefit program;
- Overall, participants were more inclined to participate in clean air transportation programs if programs were convenient, cost-effective and safe.
- With the exception of the Spanish Language group, the environment was not a primary motivator for altering transportation behavior.
- Few participants were familiar with 511. Those who were familiar with it recognized it as a resource for traffic conditions and driving time. In general, perception and trustworthiness of the District and Spare the Air was high.

Next Steps

Taking into account the findings from the focus groups, this year's Spare the Air campaign results, Staff recommends the following next steps for the Spare the Air program:

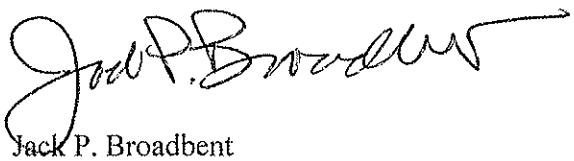
- Continue partnership with MTC staff to identify priority outcomes for campaign, key messages and target audiences;
- Develop multi-year strategy to encompass:
    - Enhanced role of Employer Program;
    - Timeline for activities;
    - Complementary community involvement activities, building on success of Resource Teams; and
    - Evaluation mechanisms to gauge effectiveness of above elements
- Update committee in early 2010.

Staff will discuss the above recommendations at your Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

Funding for the 2009 Spare the Air campaign is included in the FY 2009-10 Budget. Funding for subsequent Spare the Air campaign will be determined in future budget cycles.

Respectfully submitted,



Jack P. Broadbent
Executive Officer/APCO

Prepared by: Ana Sandoval
Reviewed by: Lisa Fasano

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Ross and Members
of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 5, 2009

Re: Bay View Hunter's Point Community Dialogue Meetings and Request for Proposals (RFP) Update

RECOMMENDED ACTION:

None, for information only.

BACKGROUND

Staff has been in dialogue with members of the Bay View Hunter's Point neighborhoods over pollution concerns related to construction that is a part of the City and County of San Francisco's Bay View Hunter's Point Area Plan that is being developed by the Lennar Corporation. In accordance with Title 17 of the California Code of Regulations, an Asbestos Dust Mitigation Plan (ADMP) is required for construction projects in areas with naturally occurring asbestos. The District implemented an ADMP with Lennar in 2006. Lennar violated conditions of the ADMP and in September 2009, the District reached a settlement with the Lennar Corporation for $515,000.

To facilitate the process for identifying projects, the District initiated a community dialogue project in which residents of the Bay View Hunter's Point neighborhoods were asked to actively contribute their ideas about air quality. The District contracted with a nationally recognized dialogue expert Dr. David Campt. Dr. Campt has broad background working in communities with long standing grievances about economic and environmental problems. Community dialogue meetings are those in which participants engage in facilitated small group conversations and in which on-site polling technology is used to register participant opinions and summarize points of agreement and disagreement.

To encourage participation in the community dialogue meetings, District staff met one-on-one with community groups and distributed thousands of door hangers and fliers in the Bay View Hunter's Point neighborhoods at homes, places of worship and local businesses. Radio and television public service announcements were also used to promote the meetings. All materials were distributed in English, Spanish and Chinese. Over 80 residents participated in the community dialogue meetings held July 25 at the Bay View Hunter's Point YMCA and July 30 at the Whitney Young Child Development Center. In addition, the District collected over 250 surveys at the CDM meetings and from residents who were unable to attend the meetings.

DISCUSSION

Key findings from the community dialogue meetings and surveys were that community members in the Bay View Hunter's Point neighborhoods wanted air filtration devices at schools and public buildings, medical testing and greater community education about the health risks of local air pollution. In response staff is preparing to issue a request for proposals for installation of air filtration devices in Hunter's Point buildings potentially impacted by construction dust, soot and smoke.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

Funding will come from penalties collected from Lennar Corporation.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Richard Lew
Reviewed by: Lisa Fasano

AGENDA: 6

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Mark Ross and Members of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 5, 2009

Re: Spare the Air Website Redesign

RECOMMENDED ACTION:

For information only.

BACKGROUND

As a complement to Air District education programs, the Air District operates a Spare the Air website. This website provides quick information to the public on key Air District programs such as:

- Air quality forecasts
- Winter and Summer Spare the Air Alert status
- Information of health impact of air pollutants
- Employer program
- Resource teams

DISCUSSION

Following the redesign of the Air District's main website, staff undertook redesign of the Spare the Air website. The purpose of the redesign was to update the look and feel of the website and make it more public-friendly.

Staff will brief the Committee on the Spare the Air website redesign at the Committee Meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Ana Sandoval
Reviewed by: Lisa Fasano

AGENDA: 10

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 12, 2009

Re: Report of the Stationary Source Committee Meeting of November 16, 2009

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Stationary Source Committee will meet on Monday, November 16, 2009 and consider and receive the following reports and updates:

A) Update on Proposed Amendments to the District's California Environmental Quality Act (CEQA) Thresholds of Significance

B) Update on Proposed Amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants

C) Status Report on Proposed Amendments to Regulation 11, Rule 16: Perchloroethylene and Synthetic Solvent Dry Cleaning Operations

D) Proposed Amendments to Regulation 8, Rule 50: Polyester Resin Operations

Attached are the staff reports presented to the Stationary Source Committee for your review.

Chairperson John Gioia will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

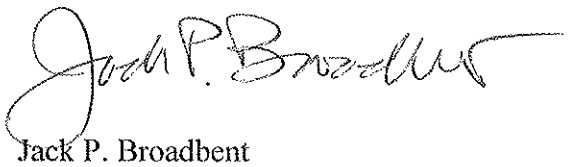
A) None.

B) None.

C) None.

D) None.

Respectfully submitted,



Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Approved by: Jennifer Chicconi

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Gioia and Members of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 9, 2009

Re: Update on Proposed Amendments to the District's California Environmental Quality Act (CEQA) Thresholds of Significance

RECOMMENDED ACTION:

None. For information only.

BACKGROUND

The District's CEQA Guidelines (Guidelines) are developed to assist local jurisdictions and other lead agencies in identifying proposed local land use plans and development projects that may have a significant adverse effect on air quality and public health. Staff began a comprehensive update to the District's recommended thresholds of significance in October 2008. The proposed revisions to the existing thresholds of significance include thresholds for construction, project operations, and plan-level emissions of criteria air pollutants, greenhouse gases, and toxic air contaminants. Staff also is updating elements of the Guidelines that provide technical information on impact assessment methodology and mitigation strategies.

DISCUSSION

The proposed thresholds of significance include more stringent thresholds for certain impacts. The proposed thresholds also include new thresholds for impacts not sufficiently addressed previously: local community risk and hazards and greenhouse gases. These latter thresholds address critical issues receiving considerable focus through the Clean Air Communities Initiative, the Climate Protection Program, and other District initiatives. The local community risk and hazards thresholds are a means of helping to implement the Cumulative Impacts Resolution adopted by the Board of Directors in July 2008. These new thresholds include significantly stronger criteria for evaluating local impacts from toxic air contaminants and fine PM, including:

- Recommending use of more health-protective risk factors in calculating impacts;
- Adding a new threshold for local PM2.5 impacts;
- Adding a new threshold for cumulative impacts;
- Recommending preparation of local risk reduction plans to provide a comprehensive, community-wide approach to reducing impacts from existing and new sources.

Staff hosted the first public workshop for the Guidelines update in February 2009. At the workshop staff presented various options for developing thresholds of significance and invited recommendations from the public and stakeholders on identifying additional options staff should evaluate. Additional rounds of public workshops were held to discuss the merits of several threshold options in April 2009 and on specific recommended thresholds in September/October 2009. Staff also reviewed the proposed thresholds with the CARE Task Force on September 23, 2009. District staff also made several presentations during this process with business organizations and other public stakeholder groups to receive input on District proposals. Staff posted recommended thresholds on September 4, 2009, and revised thresholds, reflecting public comments, on October 8, 2009.

Staff reported to the Board of Directors on the status of the CEQA Guidelines update at Executive Committee meetings of March 16, 2009, June 29, 2009, and September 24, 2009, and at the September 10, 2009 Climate Protection Committee meeting.

Staff received extensive comments on the proposed thresholds from local governments, environmental and community groups, business organizations, and others. The District released a proposed final CEQA Thresholds and Justification Report on November 2, 2009 that provides the substantial evidence and justification for District-recommended thresholds of significance. The Board of Directors will conduct public hearings on the proposed thresholds of significance on November 18 and December 2, 2009.

Staff will update the Committee on the update to the CEQA Guidelines and thresholds of significance, including highlighting how the thresholds help implement the District's Cumulative Impacts Resolution and reviewing the process for developing the thresholds.

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Henry Hilken
Reviewed by: Jean Roggenkamp

AGENDA: 5

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 5, 2009

Re: Update on Proposed Amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

On July 6, 2009, staff provided a report to the Committee on draft amendments to the District's Air Toxics New Source Review (NSR) rule (Regulation 2, Rule 5). The draft rule amendments would increase the stringency of the standards of Regulation 2, Rule 5, by a factor of two for new and modified stationary sources located in Priority Communities established under the CARE Program. These more stringent standards would also apply to new and modified sources located in proximity to a school. A workshop was held on July 30, 2009, to discuss this proposal, and staff has been working since then to consider and address comments received.

Comments from business and local government stakeholders indicated strong opposition to the proposal to establish more stringent NSR requirements in the Priority Communities relative to other parts of the Bay Area. These comments indicated that differentiated requirements may discourage investment in the Priority Communities without providing significant health risk benefits (or perhaps inadvertently increasing health risks due to decreased access to health care as a consequence of the economic impacts to the community from the differentiated requirements).

Comments from some environmental groups indicated that the District's proposal does not go far enough and that permits for new and modified sources should be prohibited in the Priority Communities, unless the proposed project results in a net onsite reduction in emissions and health risks, or meets an urgent community need.

Staff has also been working closely over the past several months with staff of Cal/EPA's Office of Environmental Health Hazard Assessment (OEHHA) to understand the effects that recently adopted and upcoming revisions to health risk assessment methodologies would have on the stringency of Air Toxics NSR requirements if these revised methodologies were to be incorporated for use in Regulation 2, Rule 5. OEHHA is involved in updating methodologies

that reflects new scientific knowledge and techniques, and in particular to explicitly include consideration of possible differential effects on the health of infants, children and other sensitive subpopulations in accordance with the mandate of the Children's Environmental Health Protection Act (Senate Bill 25, Escutia).

DISCUSSION

Staff now believes that the goals of the current Air Toxics NSR rule development project would be best served by the use of revised OEHHA health risk assessment methodologies for proposed projects throughout the District, rather than by numerically reducing health risk standards for certain projects depending on project location as was initially proposed. The revised staff proposal is expected to provide an equal or greater degree of health protection from new and modified permitted sources than the initial staff proposal.

The revised staff proposal would initially result in an increase in stringency of T-BACT and Project Risk cancer risk standards for new and modified sources by a factor of 1.7 relative to existing requirements. This increased stringency would result from the use of age sensitivity factors (ASFs) that increase cancer risk estimates as follows: (1) a factor of 10 for exposures that occur from the third trimester of pregnancy to 2 years of age, and (2) a factor of 3 for exposures that occur from 2 years to 15 years of age. These ASFs are given in a revised Technical Support Document (TSD) that was adopted by OEHHA on June 1, 2009 (Technical Support Document for Cancer Potency Factors: Methodologies for Derivation, Listing of Available Values, and Adjustments to Allow for Early Life Stage Exposures, California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, Air Toxicology and Epidemiology Branch, May 2009). Staff believes that these ASFs should begin to be used in the Air Toxics NSR program upon adoption of the staff's proposed rule amendments.

OEHHA has indicated that additional revisions to cancer risk assessment methodologies will soon be proposed, and are expected to be finalized in mid-2010. These revisions will be to the Exposure Assessment and Stochastic Analysis TSD. OEHHA has indicated that these changes in exposure assessment methodology, when combined with the ASFs, will increase the stringency of cancer risk standards by a factor of 2 to 3 relative to existing requirements. Staff believes that this revised exposure assessment methodology should begin to be used in the Air Toxics NSR program upon adoption by OEHHA.

OEHHA has also recently adopted a revised risk assessment methodology for non-cancer health effects (Technical Support Document for the Derivation of Noncancer Reference Exposure Levels, California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, Air Toxicology and Epidemiology Branch, June 2008). This methodology explicitly includes consideration of possible differential effects on the health of infants, children and other sensitive subpopulations. To date, OEHHA has adopted revised Reference Exposure Levels (RELs) using the new methodology for seven toxic air contaminants and additional contaminants will be reviewed for new or revised RELs using the new methodology over time. For many chemicals, use of the new methodology will result in significantly more stringent non-cancer risk standards relative to existing requirements (e.g., the recently revised chronic and acute RELs for mercury are 3 times more stringent than the previous RELs). Staff believes that

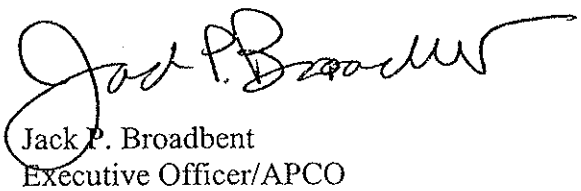
revised RELs using the new OEHHA methodology should begin to be used in the Air Toxics NSR program upon adoption by OEHHA.

Staff is evaluating the socioeconomic impacts of the use of the proposed more stringent OEHHA risk assessment methodologies, and has concluded that gasoline dispensing facilities, diesel backup generators, and crematories would be the source categories most significantly impacted. Staff believes that, in some cases, affected sources will need to install additional emissions controls, reduce source capacities or throughputs, provide additional source/receptor separation distances, and/or otherwise improve project design to reduce localized impacts, in order to comply with the proposed standards.

The revised staff proposal retains a toxics tracking provision for each Priority Community, although the revised proposal has been broadened to include all source categories. Under this provision, the District will track and report emissions changes of toxic air contaminants from permitted stationary sources, mobile sources, and area wide source over time.

Finally, the staff will continue to develop other regulatory measures (e.g., source-category based rules) and initiatives that are focused on reducing cumulative impacts from exposure to toxic air contaminants.

Respectfully submitted,



Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian Bateman
Reviewed by: Jeffrey McKay

AGENDA: 6

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 5, 2009

Re: Status Report on Proposed Amendments to Regulation 11, Rule 16: Perchloroethylene and Synthetic Solvent Dry Cleaning Operations

RECOMMENDED ACTION:

Receive and file; report to Board of Directors.

BACKGROUND

The Board of Directors adopted amendments to District Regulation 11, Rule 16: Perchloroethylene and Synthetic Solvent Dry Cleaning Operations, on March 4, 2009, that incorporated new requirements of the statewide Airborne Toxic Control Measure (ATCM) for Emissions of Perchloroethylene (PERC) from Dry Cleaning Operations. Effective July 1, 2010, the adopted amendments prohibit Perc equipment at co-residential dry cleaning facilities, converted Perc machines, and Perc equipment older than 15 years (after date of manufacture). The revised rule prohibits all Perc dry cleaning operations effective January 1, 2023.

During discussions of the proposed amendments, the Board indicated dissatisfaction over the pace of the Perc phase-out schedule, and directed Staff to prepare additional amendments to Regulation 11, Rule 16, that would accelerate the phase-out of Perc dry cleaning machines and related equipment in the Bay Area.

DISCUSSION

Staff has prepared three options for an accelerated Perc phase-out for consideration as follows:

A) Perc equipment to be shutdown when reaching 12 years of age; final phase-out by December 31, 2019;
B) Perc equipment to be shutdown when reaching 10 years of age; final phase-out by December 31, 2017; or
C) Perc equipment to be shutdown when reaching 8 years of age; final phase-out by December 31, 2015.

The following table shows the estimated number of Perc dry cleaning machines that would need to be shutdown over time under the existing 15 year phase-out requirement, and under the three options considered for accelerated phase-out. The figures in the table are based on information staff has collected regarding the age of Perc dry cleaning machines in operation in the Bay Area. For each of the three accelerated phase-out options, 90 percent or more of the existing Perc machines in the Bay Area would be shutdown by December 31, 2012.

Estimated Number of Bay Area Perc Dry Cleaning Machines to be Shutdown Under Various Phase-Out Options

Date	Existing 15 Year	Option A 12 Year	Option B 10 Year	Option C 8 Year
By July 1, 2010	273	273	273	273
By July 1, 2011	21	90	167	198
July – Dec. 2011	10	33	24	8
2012	19	44	7	4
2013	40	24	8	2
2014	33	7	4	1
2015	44	8	2	4
2016	24	4	1	
2017	7	2	4	
2018	8	1		
2019	4	4		
2020	2			
2021	1			
2022	4			
Total	490	490	490	490

Staff held a public workshop on June 10, 2009, to discuss, and receive comments on, the three options for an accelerated Perc phase-out schedule. Dry cleaner industry members expressed strong concerns that accelerating the Perc phase-out schedule would be financially burdensome. Many commenters indicated that economic impacts would be exacerbated by the economic downturn that has caused reductions in their sales and profits, and made financing more difficult to obtain. Some commenters also indicated that requiring a large number of machines to be replaced by the initial effective date would create compliance problems because of equipment availability issues, and because the Bay Area has a limited number of machine installers.

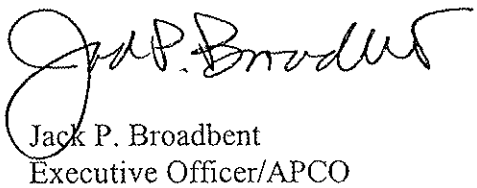
In order to partially mitigate the economic impacts and logistical difficulties identified, staff is proposing to set a secondary effective date of July 1, 2011 for the proposed accelerated phase-out options (the figures in the preceding table are based on this). The initial effective date of the Perc phase-out would begin a year earlier than this (i.e., July 1, 2010) as required under the State ATCM and the existing District Regulation 11, Rule 16 (as amended March 4, 2009) for Perc machines older than 15 years.

A socio-economic study was completed for the three accelerated phase-out options by the District's consultant BAE. The study determined that the annualized costs of shutting down a Perc dry cleaning machine prior to the end of its useful life ranges from $2,700 to $3,100. The total compliance costs (per machine) for each phase-out option is as follows, based on the number of years that a machine would need to be shutdown in advance of the existing 15 year requirement: (A) phase-out of 12 year old machines: $5,400 to $9,400, (B) phase-out of 10 year old machines: $10,800 to $15,600, and (C) phase-out of 8 year old machines: $16,200 to $21,800. These costs represent the loss of equity associated with replacing a machine prior to the existing 15 year phase-out requirement.

The socio-economic study estimated average annual sales for Bay Area dry cleaners to be $105,100, with average annual profits of $6,900. About two-thirds of these facilities, however, are very small businesses with fewer than 5 employees, and average annual sales and profits of $62,200 and $4,100, respectively. For these very small facilities, the annual compliance costs of the accelerated phase-out options noted in the study represent 66 to 76 percent of annual profits, which would continue over a period of 3, 5, or 7 years (for Options A, B, and C, respectively). The study notes that business profit losses of 10 percent or more are considered to indicate a potential for significant adverse economic impacts and, under this measure of burden, all of the options for accelerated phase-out considered are potentially significant.

In light of the potentially significant impacts on small businesses, staff is recommending that the Board adopt Option A, which would phase-out Perc machines at an age of 12 years, beginning on July 1, 2011. Under this proposal, 90 percent of the existing Perc dry cleaning machines in the Bay Area would be shutdown by the end of 2012, 98 percent would be shutdown by the end of 2015, and all would be shutdown by the end of 2019.

Respectfully submitted,



Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian Bateman
Reviewed by: Jeffrey McKay

AGENDA: 7

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Gioia and Members of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 4, 2009

Re: Proposed Amendments to Regulation 8, Rule 50: Polyester Resin Operations

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

The 2005 Ozone Strategy Control Measure SS-4 identified Regulation 8, Rule 50 as providing opportunities for further VOC reductions from polyester resin operations. Staff has identified standards in the rule where existing monomer limits for resins and VOC limits for cleaning products can be reduced. Also, emissions from gel coat usage will be reduced by switching from VOC limits to monomer limits. A public hearing for the proposed amendments has been scheduled for December 2, 2009.

DISCUSSION

In this report, Staff will present information on:

- Background on Bay Area polyester resin operations;
- Proposed amendments to Regulation 8, Rule 50;
- Potential VOC emission reductions;
- Costs of the proposed amendments; and,
- The rule development process including remaining steps.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: William Thomas Saltz
Reviewed by: Henry Hilken