



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
MOBILE SOURCE COMMITTEE

COMMITTEE MEMBERS

SCOTT HAGGERTY - CHAIR
TOM BATES
CAROL KLATT
MICHAEL SHIMANSKY

GAYLE B. UILKEMA – VICE CHAIR
YORIKO KISHIMOTO
MARK ROSS
BRAD WAGENKNECHT

FRIDAY
JANUARY 23, 2009
9:30 a.m.

4TH FLOOR CONFERENCE ROOM
DISTRICT OFFICES

AGENDA

1. **CALL TO ORDER - ROLL CALL**
2. **PUBLIC COMMENT PERIOD** (*Public Comment on Non-Agenda Items Pursuant to Government Code § 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 Committee's subject matter jurisdiction. Speakers will be limited to three (3) minutes each.*
3. **APPROVAL OF MINUTES OF NOVEMBER 19, 2008**
4. **CONSIDERATION OF RECOMMENDATION OF THE YEAR 11 CARL MOYER PROGRAM INCLUDING THE ACCEPTANCE OF UP TO \$14.5 MILLION BY THE BOARD OF DIRECTORS.**

J. Colbourn/5192
jcolbourn@baaqmd.gov

The Committee will consider recommending that the Board of Directors adopt a resolution allowing the Executive Officer/APCO to accept up to \$14.5 million in funding from the Air Resources Board for Year 11 of the Carl Moyer Program (CMP). The Committee will also consider recommending that the Board of Directors authorize the Executive Officer/APCO to execute Grant Agreements for projects up to \$500,000 and to enter into agreements to start up a voucher component to the CMP.

5. **UPDATE ON CALIFORNIA GOODS MOVEMENT BOND (I-BOND) PROGRAM**

J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee will receive an update from staff on the Air District's implementation of the California Goods Movement Bond Program.

6. **CONSIDERATION OF RECOMMENDATION TO RESERVE AN ADDITIONAL \$3.5 MILLION IN MOBILE SOURCE INCENTIVE FUNDS (MSIF) FOR THE LOWER EMISSION SCHOOL BUS PROGRAM AND \$1 MILLION IN MSIF FOR AN AGRICULTURAL ASSISTANCE PROGRAM.**

J. Colbourn/5192
jcolbourn@baaqmd.gov

The Committee will consider staff's recommendation that the Board of Directors reserve an additional \$3.5 million in Mobile Source Incentive Funds (MSIF) to replace vehicles as part of the Lower Emissions School Bus Program and also reserve \$1 million in MSIF to start an Agricultural Assistance Program.

7. **COMMITTEE MEMBER COMMENTS/OTHER BUSINESS**

Any member of the Committee, 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).

8. **TIME AND PLACE OF NEXT MEETING:** Thursday, February 26, 2009 at 9:30 a.m., 939 Ellis Street, 4th Floor Conference Room.
9. **ADJOURNMENT**

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

(415) 749-5073
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 three 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 District's offices 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 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 AIR DISTRICT MEETINGS

JANUARY 2009

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Advisory Council Retreat	Wednesday	14	10:00 a.m.	Board Room
Joint Policy Committee	Friday	16	10:00 a.m.	MTC Auditorium 101 8 th Street Oakland, CA 94607
Board of Directors Regular Meeting/Retreat <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	21	9:45 a.m.	Claremont Hotel & Spa 41 Tunnel Road Berkeley, CA 94705
Board of Directors Ad Hoc Cme. on Port Emissions – <i>(At the Call of the Chair)</i>	Thursday	22	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee – <i>(Meets 4th Thursday of each Month)</i>	Friday	23	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets 4th Wednesday of each month)</i>	Wednesday	28	9:30 a.m.	4 th Floor Conf. Room

FEBRUARY 2009

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	4	9:45 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	18	9:45 a.m.	Board Room
Board of Directors Legislative Committee <i>(Meets 4th Monday of the Month)</i>	Monday	23	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets 4th Wednesday of each month)</i>	Wednesday	25	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee – <i>(Meets 4th Thursday of each Month)</i>	Thursday	26	9:30 a.m.	4 th Floor Conf. Room

MARCH 2009

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting (<i>Meets 1st & 3rd Wednesday of each Month</i>)	Wednesday	4	9:45 a.m.	Board Room
Board of Directors Regular Meeting (<i>Meets 1st & 3rd Wednesday of each Month</i>)	Wednesday	18	9:45 a.m.	Board Room
Board of Directors Climate Protection Committee (<i>Meets 3rd Thursday of every other Month</i>)	Thursday	19	9:45 a.m.	4 th Floor Conf. Room
Joint Policy Committee	Friday	20	10:00 a.m.	MTC Auditorium 101 8 th Street Oakland, CA 94607
Board of Directors Budget & Finance Committee (<i>Meets 4th Wednesday of each month</i>)	Wednesday	25	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee – (<i>Meets 4th Thursday of each Month</i>)	Thursday	26	9:30 a.m.	4 th Floor Conf. Room
HL - 1/13/09 (8:20 a.m.) P/Library/Forms/Calendar/Calendar/Moncal				

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: January 14, 2009

Re: Mobile Source Committee Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Mobile Source Committee meeting of November 19, 2008.

DISCUSSION

Attached for your review and approval are the draft minutes of the November 19, 2008 Mobile Source Committee meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

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

DRAFT MINUTES

Summary of Board of Directors
Mobile Source Committee Meeting
Following Board of Directors Meeting
Wednesday, November 19, 2008

- 1. Call to Order – Roll Call:** Chair Tim Smith called the meeting to order at 11:36 a.m.

Present: Tim Smith, Chairperson; Carol Klatt, Jake McGoldrick, Mark Ross, John Silva,

Absent: Tom Bates, Scott Haggerty, Yoriko Kishimoto, Gayle B. Uilkema

- 2. Public Comment Period:** There were no public comments.

- 3. Approval of Minutes of October 23, 2008:** Director McGoldrick moved approval of the minutes; seconded by Director Klatt; carried unanimously without objection.

- 4. Consideration of Contractor Selection for the Vehicle Buy-Back Program:** *The Committee considered recommending Board of Directors' approval of one or more contractors to provide dismantling services for the Vehicle Buy Back Program.*

Supervising Environmental Planner, David Wiley, gave an overview of the selection of vehicle scrapping contractors for the Vehicle Buy Back Program, stating the program is voluntary with the goal to retire from service older, more polluting vehicles and work with vehicle buy back program scrapping contractors. He reported an RFP was mailed to 29 companies and posted on the Air District's website. Four (4) proposals were received and reviewed based on five (5) criteria which he then outlined. He then presented the geographic distribution of dismantler locations by county.

The recommendation is for the Committee to recommend Board of Director approval of 1) Selection of Environmental Engineering Studies, Inc., Pick-N-Pull, and Pick Your Part as the vehicle scrapping contractors for the fiscal year (FY) 2008/2009 Vehicle Buy Back Program; and 2) authorization for the Executive Officer/APCO to execute contracts for vehicle scrapping and related services with Environmental Engineering Studies, Inc., Pick-N-Pull, and Pick Your Part, which will distribute, on a monthly reimbursement basis, up to approximately \$7 million that was allocated to the VBB Program in FY 2008/2009.

Committee Action: Director McGoldrick moved to recommend Board of Director approval of: 1) Selection of Environmental Engineering Studies, Inc., Pick-N-Pull, and Pick Your Part as the vehicle scrapping contractors for the fiscal year (FY) 2008/2009 Vehicle Buy Back Program; and 2) authorization for the Executive Officer/APCO to execute contracts for vehicle scrapping and related services with Environmental Engineering Studies, Inc., Pick-N-Pull, and Pick Your Part, which will distribute, on a monthly reimbursement basis, up to approximately \$7 million that was allocated to the VBB Program in FY 2008/2009; Director Klatt seconded the motion; carried unanimously without objection.

5. Consideration Of \$41,498,544 In California Goods Movement Bond Funding Projects:
The Committee considered recommending Board of Directors' approval of staff recommendations for \$41,498,544 in funding for eligible projects under the California Goods Movement Bond Program and authorized the Executive Officer/APCO to enter into all necessary contracts to expend the requested funds.

Grants Manager, Damian Breen provided an overview and background of the California Goods Movement Bond Funding projects, stating that in November 2006, voters authorized the Legislature to appropriate \$1 Billion in bond funding to quickly reduce health risks from freight movement in trade corridors. On February 28, 2008, ARB allocated \$140 million for the Bay Area trade corridor (\$35 million for the next four years).

He said the Air District submitted a plan to expend funding which was approved by ARB in May 2000. The District conducted extensive outreach, put out a call for projects ending August 15, 2008. The District received 1,954 applications totaling \$63,335,000, negotiating \$5 million from the Port of Oakland and another \$5 million in TFCA funding for Port trucks. Mr. Breen further discussed results showing total applications received by category, amounts requested, and projects recommended.

Mr. Breen said current issues included:

- The availability of 2009 NOx compliant ARB certified retrofit devices;
- No Comprehensive Truck Management Plan (CTMP) in place at the Port of Oakland;
- Port of Los Angeles has a CTMP that requires “employee drivers”
- Port of Long Beach has a CTMP that allows both “employee drivers” and independent contractors. If a company decides they do not want incentive funds, they can choose not to pay the container fees.

Mr. Breen said grantees will have until January 31, 2009 to submit NOx compliant retrofit quotes, qualified grantees on a contingency list will receive funding in the event of projects “fall out” from the primary list, and after January 31, 2009, all funds are to be dedicated to truck replacements.

He asked that the Committee recommend to the Board of Directors the approval of \$41,498,544 in California Goods Movement Bond Projects and authorization for the Executive Officer/APCO to execute all contracts and contingencies to expend this funding.

Committee Members confirmed with Mr. Breen that implementation of the program would result in dramatic air quality differences and projects are ranked based upon the best emission reductions.

Public Comments:

Doug Bloch, Change to Win / Coalition for Clean and Safety Ports, shares similar concerns about the need for expediency in addressing the trucking system at the Port and urged the Committee to move forward in their recommendation to the Board of Directors.

Brad Edgar, President of CLEAIRE, discussed their company's involvement in retrofitting of diesel engines and their increased attention on Port trucks. He spoke of their long-term relationship with owners/operators, stating they are currently working with CARB on technology and verification to meet deadlines and urged the Committee to move forward. He further discussed with Committee Members the types of technologies which include plug-in and non-plug in devices and on-board systems.

Committee Action: Director Ross made a motion to recommend Board of Directors' approval of staff recommendations for \$41,498,544 in funding for eligible projects under the California Goods Movement Bond Program and authorize the Executive Officer/APCO to enter into all necessary contracts to expend the requested funds; seconded by Director McGoldrick; carried unanimously without objection.

6. Audit Of The Transportation Fund For Clean Air (TFCA) Regional Fund: *Staff provided a report on the audit of projects funded by the Transportation Fund for Clean Air Regional Fund for projects ending June 30, 2006.*

Air Quality Program Manager, Karen Schkolnick, provided a report on the audit of the TFCA Regional Fund which is required per California Health and Safety Code 44242 at least every two years. She said Caporicci & Larson performed Audit #10 - projects completed as of June 30, 2006. Phase 1 included 180 Regional Fund programs and phase 2 included 75 District-sponsored projects. A total of 255 audit reports were completed and issued to Project Sponsors and the Air District for review and comment.

Ms. Schkolnick reviewed the audit summary results of sponsor and oversight findings and the Air District's response/corrective actions, stating they would be brought forth next year for revision to the Regional Fund Policies.

She said staff recommendation is for the Committee to receive and file the results of the TFCA Audit Report #10, an audit of TFCA Regional Fund projects, including the auditor's findings and recommendations to improve the administration and fiscal management of the TFCA Program.

There were no public speakers.

Committee Action: Director McGoldrick moved to receive and file the results of the TFCA Audit Report #10, an audit of TFCA Regional Fund projects, including the auditor's findings and recommendations to improve the administration and fiscal management of the TFCA Program; seconded by Director Klatt; carried unanimously without objection.

7. Committee Member Comments/Other Business:

Committee Members and Air District staff recognized one another's accomplishments and leadership over the last year.

8. Time and Place of Next Meeting: Thursday, December 25, 2008 at 9:30 a.m., 939 Ellis Street, 4th Floor Conference Room.

9. Adjournment: The meeting adjourned at 12:17 p.m.

Lisa Harper
Clerk of the Boards

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: January 16, 2009

Re: Consideration of recommendation of the Year 11 Carl Moyer Program
including the acceptance of up to \$14.5 million by the Board of Directors

RECOMMENDED ACTION

Request that the Committee recommend the Board of Directors:

1. Adopt a resolution to authorize the Executive Officer/APCO to execute all necessary agreements with the California Air Resources Board (CARB) relating to the Air District's receipt of Carl Moyer Program funds for fiscal year (FY) 2008-2009 (Program Year 11).
2. Authorize the Executive Officer/APCO to execute Grant Agreements and amendments for projects funded with Carl Moyer Program or Mobile Source Incentive Funds, with individual grant award amounts up to \$500,000.
3. Authorize the Executive Officer/ APCO to enter into agreements with vehicle scrappers and dealers to implement a voucher program in accordance with the guidelines developed by CARB.

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 (CARB), since the program began in fiscal year (FY) 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.

DISCUSSION

The Air District has submitted an application to CARB requesting up to \$14.5 million in funding for the implementation of the Year 11 (FY 2008/2009) CMP funding cycle. Up to 5% of the total funds awarded to the Air District will help cover the Air District's administrative expenses related to the implementation of the CMP. As part of the application to CARB, the District has proposed the commitment of up to \$2.5 million in matching funds for the Year 11 Carl Moyer Program cycle. The Air District will provide

the required matching funds by allocating local Mobile Source Incentive Funds (MSIF) or Transportation Funds for Clean Air (TFCA) funds to eligible emission reduction projects that qualify for CMP matching purposes. Attachment A, is a Board of Directors resolution authorizing the acceptance of CMP funds and the commitment of matching funds.

Procedures to Allocate Carl Moyer Program Funds

CARB requires districts to use the 2008 CMP Guidelines to allocate Year 11 CMP funds. The guidelines require all projects to achieve a cost-effectiveness of \$16,000 or less per ton of reduced emissions (NOx, ROG, and weighted PM combined) in order to be eligible to receive CMP funding. Year 11 funding must be obligated to eligible projects by June 30, 2010 and funds expended by June 30, 2011.

Impacted Communities

In the CMP Year 11, CMP funds will continue to be distributed in accordance with California Health and Safety Code Section 43023.5, which requires that at least 50% of funds be allocated to projects to reduce emissions in those areas with the most significant exposure to air contaminants. The process for identifying and prioritizing projects with the most significant exposure (“impacted communities”) will be similar to the process used for Year 10 (FY 2007/2008) funding cycle as priority will be given to projects that reduce emissions in the six highest impacted communities currently: (1) Eastern San Francisco, (2) West Oakland, (3) East Oakland/San Leandro (4) Richmond, (5) San Jose and (6) Concord.

Operational Changes

The Air District will be changing the format of its project selection and approval process beginning with CMP Year 11 (FY 2008/ 2009). For previous CMP cycles the Air District utilized the Request for Proposal (RFP) approach to project solicitation, selection and evaluation. The Air District will be implementing CMP Year 11 as an open call (a.k.a. first-come, first-served) for projects based on the following reasons:

- This process was recommended by CARB to ease program administration
- This process is required by CARB to receive additional funding to operate a CMP voucher program
- An open call provides more opportunities and flexibility for grantees (Especially small business owner/operators) to apply for funds.
- Continuous program exposure & availability should make it more successful.

Recommendations

In order to effectively, and efficiently operate the CMP as an open call for projects staff recommends the Board of Directors authorize the Executive Office/ APCO to execute, and amend, Grant Agreements for CMP and MSIF projects up to \$500,000 in value. Grant Agreements/ amendments executed by the Executive Officer/ APCO will meet the following requirements:

1. Projects must meet the requirements of the CMP guidelines and advisories or fall into one of the four programs eligible for funding under MSIF.

2. No single project with a grant amount greater than \$500,000 will be authorized by the Executive Officer/ APCO. Projects with grant awards greater than \$500,000 will be brought to the Air District's Board of Directors for approval.
3. The total value of the projects approved will not exceed the total MSIF or CMP funding available.

The recommendation to authorize the Executive Office/APCO to execute Grant Agreements is comparable to the authority granted by other similar sized air districts to approve projects under an open call project solicitation process. In an effort to maintain the transparency of the project approval process, project information for Grant Agreements authorized by the Executive Office/APCO for funding will be posted on the Air District's Carl Moyer Program website on a list of approved projects and report to the Mobile Source Committee quarterly.

Finally, CARB is developing a voucher component of the CMP that will allow projects to be funded with less administrative effort than the typical CMP projects. The voucher program will initially allow on-road truck owners to get funding for replacing their pre-1993 trucks with a 2007 or newer model year vehicle. This program will provide additional funding by replacing the CARB's multidistrict fund in Program Year 11. Therefore, Staff recommends the Board of Directors authorize the Executive Officer/APCO to enter into agreements with vehicle scrappers and dealers to implement a voucher program in accordance with the guidelines developed by CARB.

BUDGET CONSIDERATION / FINANCIAL IMPACT

The Carl Moyer Program distributes "pass-through" funds from CARB to private companies and public agencies on an invoice basis. Staff costs for the administration of the Carl Moyer Program is included under Program 607 – Mobile Source Grants, in the current FY 2008/2009 budget and will be included in the upcoming FY 2009/2010 budget.

The Air District is obligated to match the CMP funds in the amount up to \$2,500,000. The Air District meets this obligation through the expenditure of motor vehicle surcharge revenues to eligible emission reduction projects that qualify for CMP matching purposes. As such, the local match requirement will have no impact on the Air District's budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Anthony Fournier
Reviewed by: Jack M. Colbourn

Attachment 1: A Resolution Accepting CMP Funds from ARB

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION No. 2009 -

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

WHEREAS, California Health and Safety Code Division 26, Part 5, Chapter 9 empowers the California Air Resources Board (ARB) to allocate Carl Moyer Program funds to local air quality districts to provide financial incentives to both the public and private sector to implement eligible projects to reduce emissions from on-road, marine and off-road engines;

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

WHEREAS, the Bay Area Air Quality Management District (District) submitted an application to ARB requesting \$14,500,000 in Carl Moyer Program funds for the fiscal year (FY) 2008-2009 (Year 11) cycle;

WHEREAS, the District proposed to commit \$2,500,000 in matching funds as part of the fiscal year (FY) 2008-2009 (Year 11) Carl Moyer Program cycle;

WHEREAS, ARB has authorized a grant to the District to implement the Carl Moyer Program Year 11, upon approval by the Board of Directors to accept such grant of funds;

WHEREAS, ARB will award the grant in the amount of as much as \$14,500,000, with a District-required match of up to \$2,500,000.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors hereby approves the District's continued participation in the Carl Moyer Program and acceptance of the FY 2008-2009 Carl Moyer Program funds, to be awarded to eligible projects in accordance with ARB's Carl Moyer Program guidelines.

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

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

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director _____, seconded by Director _____, on the ____ day of _____, 2009 by the following vote of the Board:

AYES:

NOES:

ABSENT:

Pamela Torliatt
Chairperson of the Board of Directors

ATTEST:

Tom Bates
Secretary of the Board of Directors

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: January 16, 2009

Re: Update on California Goods Movement Bond (I-Bond) Program

RECOMMENDED ACTION

None. Informational report, receive and file.

BACKGROUND

In November 2006, California voters authorized the Legislature to appropriate \$1 billion in bond funding to the California Air Resources Board (ARB) to quickly reduce air pollution emissions and health risk from freight movement along California's priority trade corridors. On February 28, 2008, ARB approved an allocation of \$140 million for the Bay Area trade corridor (\$35 million per year over the next four years.)

In order to expend these funds, staff opened a call for projects on May 16, 2008. This call for projects ended on August 15, 2008. As a result of an extensive outreach effort, the District received over \$63 million in subscription, approximately double the \$31 million available. On December 3, 2008, the Board of Directors (Board) acted to approve \$41,488,544 in I-Bond Projects. This total includes \$5 million in TFCA and \$5 million in Port of Oakland (Port) funding committed to retrofits for Port drayage trucks.

DISCUSSION

Since the Board's action, there have been a number of developments related to the I-Bond funding itself and the Port's portion of the funding committed to retrofits. These are as follows:

I-Bond Funding

On December 23, 2008, the District was notified by the ARB that due to the State of California's current fiscal year budget crisis, funds have not been generated to cover any further expenditures under the I-Bond program. In its letter (see Attachment 1), the ARB also instructs the District not to enter into any new equipment projects or other contracts that would be funded using I-Bond monies and not to expend any funds on contracts previously signed. The letter goes on to state that the ARB is prepared to extend deadlines for contract execution for all grants (Early and Main) in order to ensure that projects such as truck retrofits can be completed ahead of program guidelines.

To date, the District has only entered into one contract under the I-Bond program. This contract was for an early grant of \$2.8 million for Eagle Marine Services, a subsidiary of the APL shipping line. Work has not yet commenced on this project and District staff has contacted Eagle Marine Services to inform it that bond funding has been put on hold.

Eagle Marine Services is currently discussing how this affects project plans and is considering suspending them until I-Bond funding becomes available.

While ARB has assured the District that the I-Bond guidelines will be changed to allow for the funding of projects currently evaluated, ARB has also stated that it does not intend to relax any of the deadlines in impending regulations. Based on this assertion and in order to ensure that the District's I-Bond program has the maximum chance of success, Staff will continue to prepare but not execute contracts for all eligible pieces of equipment in the program. The District has already received partial administrative funds under the program to cover any staffing costs incurred to do this work.

Port of Oakland Funding

On November 19, 2008, the Board of Port Commissioners (Port Commissioners) passed a resolution postponing the use of Port funds to retrofit trucks under the joint I-Bond program with the District until after the adoption of its Comprehensive Truck Management Program (CTMP). The Port Commissioners reasoned that because the Port currently has a consultant looking at the best model to follow for a CTMP and because of the Port's current financial situation spending funding on truck retrofits may be premature. As the Port's consultant will not deliver its report until February of 2009 and with full adoption not scheduled until September 2009, this essentially negates the ability to retrofit trucks under the current I-Bond guidelines or ahead of the ARB's drayage truck regulation which goes into effect on January 1, 2010.

On December 3, 2008, the District's Board informed staff that it was unwilling to accept the actions taken by the Port. Additionally, on December 5, 2008, this message was conveyed to the Mayor of the City of Oakland (the entity with ultimate authority over the Port) via a letter from the Board's Chair. This letter stated that it was the District's intention to proceed with the retrofit of the trucks using the Ports funds. On December 19, 2008, the Port informed the District that it was seeking to terminate the memorandum of understanding (MOU) between the two agencies (see Attachment 2) and that it was seeking the return of \$2 million previously transferred to the District on August 27, 2008. The reason for this termination is that due to the Port Commissioners actions, the funds transferred to the District have become legally unavailable.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. The I-Bond Program distributes funds from ARB to the District and then to eligible equipment owners. Staff costs for the administration of the Program are included under Programs 321 "California Goods Movement Bond – Early Grants" and 323 "California Goods Movement Bond Grants" in the FY 2008/2009 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Damian Breen
Reviewed by: Jack M. Colbourn



Linda S. Adams
Secretary for
Environmental Protection

Air Resources Board

Mary D. Nichols, Chairman
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov



Arnold Schwarzenegger
Governor

URGENT NOTICE: PROPOSITION 1B GRANTS FOR GOODS MOVEMENT AND SCHOOL BUS PROGRAMS

December 23, 2008

TO: Local Air Districts and Seaports Implementing Proposition 1B Grants

Due to the delay in enacting solutions to the current fiscal year budget crisis, the State Treasurer's Office has been unable to access the bond market to generate funds for General Obligation (GO) bond programs such as the Proposition 1B: Goods Movement Emission Reduction Program and the Lower Emission School Bus Program. As a result, until there is an effective resolution to this crisis, and a restoration of the State's ability to access the bond market, all State agencies and departments must cease entering into grants or agreements that commit the expenditure of GO bond funds.

In addition, as a grant recipient of GO bond funds, we must instruct you to suspend entering into any new equipment project or other contracts that would be funded from Proposition 1B grant monies or expending funds for contracts that you have already signed. The Air Resources Board is not authorized to approve any payments for expenditure requests until such time as we have access to funds to cover the Proposition 1B programs.

We understand and appreciate that you have been working hard to implement the grants and have deadlines that are required by program guidelines or by the grant agreements that might not be met due to the suspension of funding for these programs. We are prepared to extend the deadlines for the early grants and for contract execution under the main grants. If needed, we will also reduce the six-month "early" period for truck retrofits.

Once Proposition 1B funds can be generated, program implementation and expenditures can continue without further disruption. Rest assured we will be keeping you informed of progress as it unfolds.

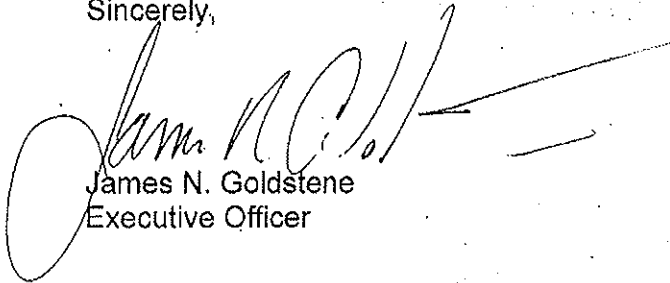
The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

December 23, 2008
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If you have questions, please contact Ms. Cynthia Marvin, Assistant Division Chief, Planning and Technical Support Division, at (916) 322-7326 for the Goods Movement Program or Mr. Jack Kitowski, Chief, On-Road Control Regulations Branch, at (916) 323-6169 for the School Bus Program.

Sincerely,



James N. Goldstene
Executive Officer

cc: Cynthia Marvin
Assistant Division Chief
Planning and Technical Support Division

Jack Kitowski, Chief
On-Road Control Regulations Branch
Mobile Source Control Division



PORT OF OAKLAND

December 19, 2008

Jack P. Broadbent
Executive Officer/Air Pollution Control Officer
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Re: Agreement between Port of Oakland ("Port") and Bay Area Air Quality Management District ("BAAQMD")

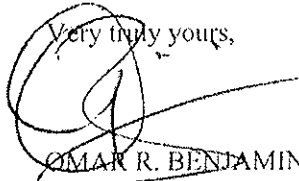
Dear Mr. Broadbent:

On November 19, 2008, the Board of Port Commissioners passed a resolution postponing the use of any Port of Oakland funds on truck retrofit programs until approval and adoption of the Comprehensive Truck Management Program (CTMP). A copy of the resolution is attached for your review and reference. By the Board's action, the funds committed pursuant to the Agreement Between the Port of Oakland and the Bay Area Air Quality Management District Regarding Port Fund Contribution To a Truck Retrofit Program ("Funding Agreement") have become legally unavailable.

Paragraph 9 of the Funding Agreement provides that either party may terminate the agreement for cause by written notice specifying an enumerated cause for termination, including legal unavailability of the anticipated funds source (Paragraph 9.1). Therefore, pursuant to paragraph 9.1 of the Funding Agreement, the Port of Oakland hereby provides this notice of termination.

Paragraph 11 of the Funding Agreement requires that the Air District refund any Port funds not used for the purposes set forth in the Agreement upon termination. The Port tendered the first payment in the amount of \$2,000,000 to the Air District on or about August 27, 2008. Please immediately provide an accounting of any Port funds used for truck retrofits pursuant to the Funding Agreement and provide payment of the unused amount to the Port.

Although the specifics of how we implement air quality projects are changing as needed, please be assured that the Port remains committed to improving air quality and reducing the environmental effects of drayage trucks in the West Oakland community. We look forward to continuing to work with you and the Air District on air quality projects, including the CTMP. Please contact me should you need additional information.

Very truly yours,

OMAR R. BENJAMIN
Executive Director

Cc: D. Alexander, J. Kwon, R. Sinkoff

216681
530 Water Street ■ Jack London Square ■ P.O. Box 2064 ■ Oakland, California 94604-2064
Telephone: (510) 627-1100 ■ Facsimile: (510) 627-1826 ■ Web Page: www.portofoakland.com

November 19, 2008
M-1
MCR/lhr *MCR*

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

RESOLUTION NO. 08228

RESOLUTION ADOPTING AN ALTERNATIVE FOR
THE AGREEMENT WITH BAY AREA AIR
QUALITY MANAGEMENT DISTRICT (BAAQMD).

WHEREAS, on August 5, 2008, pursuant to Resolution No. 08189, the Board of Port Commissioners authorized execution of an agreement with Bay Area Air Quality Management District ("BAAQMD") for funding an "early action" truck retrofit program; and

WHEREAS, in response to the Board's discussion, Port staff analyzed the current "early action" retrofit program in collaboration with the BAAMQD and presented five (5) alternatives for the Board's consideration; and

WHEREAS, the fifth alternative provides for postponement of use of Port funds for truck retrofit and/or replacement program until after adoption and approval of the Comprehensive Truck Management Program, as further described in Agenda Report Item: M-1, dated November 19, 2008 ("Agenda Report").

DM
RESOLVED that the Board of Port Commissioners ("Board") hereby adopts the fifth alternative and directs the Executive Director and/or his designee to postpone use of Port funds under the BAAQMD Agreement until after adoption and approval of the Comprehensive Truck Management Program, as further described in Agenda Report Item: M-1, dated November 19, 2008 ("Agenda Report").

FURTHER RESOLVED that the Board finds and determines that it is in the Port's best interest to adopt the fifth alternative for various reasons, including the downturn in the global economy and the resulting impacts on the Port's financial condition.

FURTHER RESOLVED that this resolution is not evidence of and does not create or constitute (a) a contract, or the grant of any right,

entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed and approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 19, 2008

Passed by the following vote:

Ayes: Commissioners Batarse, Gordon, McClure, Scates
Uno, and President Ayers-Johnson – 6

Excused: Commissioner Katzoff – 1

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: January 16, 2009

Re: Request to reserve an additional \$3.5 million in Mobile Source Incentive Funds (MSIF) for the Lower Emission School Bus Program and \$1 million in MSIF for an Agricultural Assistance Program.

RECOMMENDED ACTION

Request that the Committee recommend the Board of Directors:

1. Reserve an additional \$3.5 million in Mobile Source Incentive Funds (MSIF) to fund new school bus purchase projects under the Lower Emission School Bus Program.
2. Reserve \$1 million in MSIF for projects under the Agricultural Assistance Program.

BACKGROUND

Mobile Source Incentive Fund (MSIF)

Assembly Bill (AB) 923 (Firebaugh, 2004) authorized local air districts to increase their motor vehicle registration fee surcharge up to an additional \$2 per vehicle. AB923 stipulates that local air districts may use the revenues generated by the additional \$2 surcharge for any of the four project types listed below:

- Purchase of new clean school buses;
- Projects eligible for grants under the Carl Moyer Program;
- Accelerated vehicle retirement or repair program; and
- Projects that reduce emissions from previously unregulated agricultural sources.

On December 21, 2004, the Air District Board of Directors (Board) adopted Resolution 2004-16 to increase the fee surcharge on vehicles in line with AB 923 legislation.

DISCUSSION

Lower-Emission School Bus Program (LESBP)

On May 21, 2008, the Air District Board of Directors approved the acceptance of up to \$8.4 million in LESBP funding from the California Air Resources Board (ARB). As described in ARB's *2008 Lower-Emission School Bus Program Guidelines*, these funds are first to be used to replace any remaining pre-1977 public school buses in the Bay Area. The Air District is known to have eight pre-1977 public school buses and

approximately 100 model-year 1977-1986 public school buses. On July 9, 2008 the Board authorized the allocation of \$3,375,000 of MSIF revenues to the LESBP for the purchase of replacement public school buses for the vehicles in the range listed above, and authorized the Executive Officer to enter into funding agreements with recipients of grant awards under the LESBP.

Between August 1, 2008 and September 30, 2008 Air District staff solicited applications for school bus retrofit and replacement projects. This solicitation yielded over 40 applications for more than \$11 million (\$6 million for retrofits and \$5 million for replacements) in eligible projects.

In order to accommodate the applications received and to fund the maximum number of retrofits in response to the ARB's recent audit findings, staff recommends that a further \$3.5 million in MSIF funds be used to provide replacement buses to all eligible applicants. Combining this request with funds allocated on July 9, 2008, the total MSIF funding amount for the LESBP program would be increased to \$6,875,000. This allocation will enable the District to fund the maximum number of projects and to proceed with necessary replacements in the temporary absence of California Goods Movement Bond Funds.

Agricultural Assistance Program

An Agricultural Assistance Program would fund projects that reduce emissions from previously unregulated agricultural sources. The program is one of the four project types eligible for funding under AB923 and the guidelines for such a program have been incorporated by ARB into the 2008 Carl Moyer Program (CMP) guidelines. Projects funded under this program include the new purchase, retrofit, repower, or add-on of previously unregulated equipment for agricultural sources. This program, unlike the traditional CMP agricultural category, would not require emission reductions to be surplus to regulations. This prospect has been well received by the agricultural community and interest has grown over the past year in such a program. In order to capitalize on this opportunity, Staff recommends allocating \$1 million in MSIF for an Agricultural Assistance program to be run in conjunction with MSIF in spring 2009.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. The requested amount of additional funding to cover costs associated with the replacement of school buses would come from the additional \$2 surcharge in motor vehicle registrations fees within the Air District's jurisdiction.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Anthony Fournier
Reviewed by: Jack M. Colbourn