

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE

OFFICE OF GENERAL COUNSEL



**VOLUNTARY COMPLIANCE AGREEMENT
between the
BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**and the
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA COMPLAINT NO. 01R-21-R9**

I. PURPOSE AND JURISDICTION

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI) and other federal nondiscrimination laws, and United States Environmental Protection Agency's (EPA) implementing regulation at 40 C.F.R. Parts 5 and 7 prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and intimidation or retaliation in the programs, services, and activities of applicants for or recipients of federal financial assistance.¹
- B. The Bay Area Air Quality Management District (BAAQMD) receives federal financial assistance from the EPA. As a term of receiving that assistance, BAAQMD agreed to comply with federal nondiscrimination laws, including Title VI, and all applicable civil rights regulations.² BAAQMD also provided assurance that it would "fully comply with all applicable civil rights statutes and EPA regulations."³ Therefore, BAAQMD must ensure nondiscrimination in programs and activities pursuant to the provisions of Title VI, the other federal non-discrimination laws and the EPA's implementing regulation.
- C. This Voluntary Compliance Agreement ("Agreement") is entered into by BAAQMD and EPA. This Agreement documents the actions BAAQMD agrees to take to come into voluntary compliance for the nondiscrimination program

¹ Title VI of the Civil Rights Act of 1964, 42 United States Code §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Act Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq.; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 C.F.R. Parts 5 and 7.

² See, Term and Condition 36, Civil Rights Obligations at https://www.epa.gov/sites/production/files/2019-09/documents/fy_2020_epa_general_terms_and_conditions_effective_october_1_2019.pdf ; EPA Form 4700-4.

³ See, Pre-award Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance, OMB No. 2030-0020, submitted by BAAQMD on June 11, 2021.

procedural deficiencies identified in EPA's June 21, 2021 preliminary findings herein incorporated by reference.⁴

- D. This Agreement is entered into pursuant to the authority granted to the EPA under the federal non-discrimination laws, including Title VI of the Civil Rights Act of 1964, and the EPA's implementing regulation found at 40 C.F.R. Parts 5 and 7.

II. BACKGROUND

- A. On November 30, 2020, the EPA's External Civil Rights Compliance Office (ECRCO) received Complaint No. 01R-21-R9, which alleged discrimination by BAAQMD based on race.
- B. On December 22, 2020, the EPA accepted for investigation the following issues:⁵
1. Whether BAAQMD discriminated against the residents of the historically Black neighborhood of Hunters Point⁶ on the basis of race in violation of Title VI of the Civil Rights Act of 1964 (Title VI) and EPA's nondiscrimination regulation found at 40 C.F.R. Part 7, in its response to an air quality complaint and Title VI complaint involving an alleged release of naturally occurring asbestos during excavation work at Hunters Point Naval Shipyard⁷ Parcel A.
 2. Whether BAAQMD has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that all recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to BAAQMD's services, programs, and activities, for individuals with limited English proficiency (LEP) and individuals with disabilities, and whether BAAQMD has a public participation policy and process that is consistent with Title VI and the other federal civil rights laws, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.
- C. On June 21, 2021, ECRCO concluded its investigation and issued Final Preliminary Findings⁸ based on its investigation of the issues listed above.
1. With respect to the first issue, ECRCO concluded that there is insufficient evidence to support a finding that BAAQMD discriminated against the residents of the Bayview Hunters Point Community on the basis of race in its response to Complainants' air quality complaint.

⁴ EPA Complaint No. 01R-21-R9, Final Preliminary Findings Letter to BAAQMD, June 21, 2021.

⁵ EPA Complaint No. 01R-21-R9, Acceptance Letter to Bay Area Air Monitoring District (BAAQMD), December 22, 2020.

⁶ ECRCO analyzed the Bayview and Hunters Point neighborhoods.

⁷ Parcel A was part of the Navy's former shipyard. EPA has removed Parcel A from being part of the Hunters Point Naval Shipyard Superfund site on the National Priorities List of contaminated sites (or Superfund list).

⁸ EPA Complaint No. 01R-21-R9, Final Preliminary Findings Letter to BAAQMD, June 21, 2021.

2. With respect to the second issue, ECRCO determined that the preponderance of the evidence supports a conclusion that BAAQMD failed to comply with some of its obligations under federal nondiscrimination laws and EPA's nondiscrimination regulation with respect to BAAQMD not having in place or implementing a nondiscrimination program, including: procedural safeguards required under 40 C.F.R. Parts 5 and 7; policies and procedures for ensuring meaningful access to BAAQMD's services, programs, and activities for individuals with LEP and individuals with disabilities; and a public participation program that ensures meaningful access to those proceedings to persons with limited-English proficiency and individuals with disabilities.
3. Within its Preliminary Findings, ECRCO provided BAAQMD with recommendations for achieving voluntary compliance.⁹
4. On August 10, 2021, BAAQMD submitted a written response to ECRCO, in accordance with 40 C.F.R. § 7.115(d).¹⁰
5. On August 23, 2021, ECRCO and BAAQMD discussed BAAQMD's written response, and BAAQMD agreed to enter into a Voluntary Compliance Agreement in order to meet its civil rights obligations under 40 C.F.R. Parts 5 and 7. ECRCO and BAAQMD have engaged in conversations regarding voluntary compliance during the pendency of ECRCO's investigation and after ECRCO's issuance of its Preliminary Findings letter in June 2021. The commitments in Section III address currently outstanding areas of compliance.

III. VOLUNTARY COMPLIANCE COMMITMENTS

Pursuant to 40 C.F.R. § 7.115(c)(1)(ii), BAAQMD agrees to take the following actions to come into compliance with the regulatory requirements that relate to the programs and services provided to the public directly by BAAQMD:

- A. Notice of Nondiscrimination under the Federal Nondiscrimination Laws¹¹
 1. BAAQMD will ensure that the link on its website homepage, titled "Accessibility" will be changed to "Notice of Nondiscrimination" and will be displayed prominently on its website homepage, offices, publications, and public outreach materials to make the Notice accessible to the public.
 2. BAAQMD's will include a statement in its Notice addressing discrimination based on retaliation and intimidation. That statement should make clear that BAAQMD does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected/prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.

⁹ Id at p.34.

¹⁰ EPA Complaint No. 01R-21-R9, BAAQMD Response to EPA Preliminary Findings, August 10, 2021.

¹¹ 40 C.F.R. §7.95.

3. BAAQMD will ensure that the Notice and the link to the Notice posted on the BAAQMD website homepage are accessible to persons with disabilities, including individuals who are blind or have low vision, and individuals with color vision impairment or color blindness.
4. Within 30 days after the effective date of this Agreement, BAAQMD will submit to the ECRCO for review a draft copy of its Notice of Non-Discrimination that is consistent with 40 C.F.R. Parts 5 and 7. ECRCO will review the draft Notice of Non-Discrimination and provide any comments within 30 days. Within 30 days of receiving ECRCO's comments, BAAQMD will translate (as required by Section III(A)(5) below, and prominently publish the updated and final Notice of Nondiscrimination on BAAQMD's main homepage, and in print.
5. BAAQMD will ensure that its Notice of Nondiscrimination is meaningfully accessible to persons with limited English proficiency and will translate the revised Nondiscrimination Notice in Spanish, Chinese, Tagalog, Vietnamese, and any other appropriate languages BAAQMD identifies, by a qualified translator within 25 days of finalizing its Nondiscrimination Notice.

B. Grievance Procedures to Process Discrimination Complaints filed under the Federal Nondiscrimination Laws¹²

1. BAAQMD will include language in its grievance procedures informing the public that discrimination complaints submitted through the grievance procedure process will be resolved promptly and fairly.
2. BAAQMD will include language in its grievance procedures providing complainant with a timeframe for completion of the investigation and an expected response time to the complainant communicating the outcome of the investigation.
3. BAAQMD will include language in its grievance procedures including retaliation and intimidation as protected bases for filing a complaint.
4. BAAQMD will revise its Complaint Form, providing a written check list of the protected bases, including retaliation and intimidation, for which the public can file a complaint through the grievance procedures.
5. BAAQMD will ensure that the Complaint Form is accessible on the Grievance Procedure webpage and that the public has options to submit a complaint without requiring PDF software or printing, (e.g., submitting a complaint via email to the Nondiscrimination Coordinator).
6. BAAQMD will ensure that the Grievance Procedures and the Complaint Form are accessible to persons with disabilities, including individuals who have impaired hearing, are blind or have low vision, and for individuals with color vision impairment or color blindness.

¹² 40 C.F.R. §7.90.

7. BAAQMD will ensure that its Grievance Procedures are prominently posted on its website and are directly linked and accessible from BAAQMD's Notice of Nondiscrimination webpage.
8. BAAQMD will ensure that its Grievance Procedures, Complaint Form, and the link to the Grievance Procedures posted on the BAAQMD website are meaningfully accessible to persons with limited English proficiency and translated into Spanish, Chinese, Tagalog, Vietnamese, and any other appropriate languages, by a qualified translator, and any other appropriate languages BAAQMD identifies.
9. Within 45 days after the effective date of this Agreement, BAAQMD will submit to the EPA for review a draft copy of its revised Grievance Procedures and Complaint Form. ECRCO will review the draft Grievance Procedures and provide any comments within 30 days. Within 30 days of receiving ECRCO's comments, BAAQMD will prominently publish its Grievance Procedures in print and on its website in accordance with B(7) and (8) above.

C. BAAQMD's Non-Discrimination Coordinator¹³

1. BAAQMD's designated Nondiscrimination Coordinator will:
 - a. Provide information to individuals internally and externally that BAAQMD does not discriminate on the basis of race, color, national origin, disability, age, or sex in the administration of BAAQMD's programs or activities, and that BAAQMD does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected/prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights;
 - b. Establish a mechanism, and develop an investigation manual for implementation of BAAQMD's Grievance Procedures to ensure that all discrimination complaints filed with BAAQMD under federal non-discrimination laws and the EPA implementing regulations 40 C.F.R. Parts 5 and 7 are processed promptly and fairly;
 - c. Appropriately train BAAQMD staff in the grievance procedure processes available to resolve complaints filed with BAAQMD under federal non-discrimination laws, to ensure that when issues related to discrimination are raised in other contexts, such as through the air pollution complaints process, they are appropriately and promptly brought to the attention of the nondiscrimination coordinator for processing under BAAQMD's discrimination grievance procedures;
 - d. Appropriately train BAAQMD staff and all relevant contractors on BAAQMD's non-discrimination policies and procedures, including procedures for providing meaningful access for persons with disabilities

¹³ 40 C.F.R. §7.85(g).

and persons with LEP, public participation processes, and BAAQMD's obligation to comply with federal non-discrimination laws;

- e. Ensure telephonic communication, including answering services and messages for reaching the Nondiscrimination Coordinator are meaningfully accessible to persons with limited English proficiency and translated by a qualified translator into Spanish, Chinese, Tagalog, Vietnamese, and any other appropriate languages BAAQMD identifies;
- f. Ensure that any changes to the Nondiscrimination Coordinator contact information is promptly updated on all nondiscrimination platforms, and that the updated information is also available to persons with LEP.

2. Within 120 days after the effective date of this Agreement, BAAQMD will forward to ECRCO proof that the responsibilities have been included in the incumbent's statement of duties, that the incumbent has accepted the duties, and that all deliverables, discussed in Section III C have been developed into a plan.

D. Plan to Ensure Meaningful Access to Programs and Activities for Persons with Limited English Proficiency (LEP)¹⁴

1. BAAQMD will conduct an appropriate analysis as described in EPA's LEP Guidance¹⁵ to identify appropriate language groups and specific areas that may need language services BAAQMD needs to provide (e.g., qualified interpreters and translators), to ensure that individuals with LEP can meaningfully participate in BAAQMD's programs and activities. BAAQMD will revise its Language Access Plan (LAP) to reflect the most recent demographic data and implement an ongoing policy of analyzing whether changes in demographics, types of services, or other needs would require an annual reevaluation of its LAP plan.

2. BAAQMD will ensure meaningful access to persons with LEP by ensuring the telephonic communication, including answering services and messages for reaching the Nondiscrimination Coordinator and the language assistance line, currently

¹⁴ See Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) (prohibiting discrimination on the basis of national origin), *Lau v Nichols* 414 U.S. 563, 568-69 (1974) (finding that the government properly required language services to be provided under a recipient's Title VI obligations not to discriminate based on national origin.) On June 25, 2004, EPA issued Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Recipient Guidance). The LEP Recipient Guidance clarifies recipients' existing legal obligations to provide meaningful access to limited English proficient persons in all programs and activities that receive federal financial assistance from EPA. The LEP Recipient Guidance also provides a description of the factors recipients should consider in fulfilling their responsibilities to persons with limited-English proficiency to ensure meaningful access to recipients' programs and activities and the criteria EPA uses to evaluate whether recipients are in compliance with Title VI and the Title VI implementing regulation. LEP Recipient Guidance, 69 FR 35602, 35606-35607 (June 25, 2004), at <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>; 40 C.F.R. § 7.35(a) (prohibiting discrimination on the basis of national origin in the programs or activities of a recipient of EPA assistance).

¹⁵ Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 F.R. 35602, <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

accessed at (415) 749-4900, are meaningfully accessible to persons with LEP in all appropriate languages.

3. BAAQMD will ensure that the LAP is accessible to persons with disabilities, including individuals who have impaired hearing, are blind or have low vision, and for individuals with color vision impairment or color blindness.

4. BAAQMD will ensure that its LAP and its language assistance information is prominently posted on its website and is directly linked and accessible from BAAQMD's Notice of Nondiscrimination webpage.

5. BAAQMD will ensure that its LAP and the link to the LAP posted on the BAAQMD website are meaningfully accessible to persons with limited English proficiency and translated by a qualified translator into Spanish, Chinese, Tagalog, Vietnamese, and any other appropriate languages.

6. BAAQMD will in its draft LAP Plan/Procedures specifically address how it will address the following to ensure meaningful access:

- a. Advertisement of language access services. BAAQMD will inform the public that language access is available, at no cost, to all of its programs, activities, and services;
- b. Evaluation of distinct communities. BAAQMD will identify a process for consulting additional resources and information in addition to census data to refine the identification of distinct communities with existing language barriers;
- c. Translation of vital documents or vital information¹⁶ of general interest. BAAQMD will develop criteria for classifying and/or defining "vital documents" to be translated into the prominent languages for individuals with LEP who are served by or likely to be encountered by BAAQMD programs and activities, including but not limited to: notices for public hearings/meetings; public notices regarding proposed permits, public notices regarding environmental concerns; public health and/or environmental notices and violations; forms/processes/documents used for reporting environmental concerns; forms /process/documents for reporting civil rights (discrimination) grievances or concerns;
- d. Provision of opportunities for members of the public to participate in applying the criteria for classifying and/or defining "vital documents" for translation;
- e. Translation of vital documents. BAAQMD will identify all types of "vital documents" to be translated that could be of individual interest to a particular individual with LEP or group of individuals with LEP (e.g., an individual

¹⁶ 69 FR 35602 (June 25, 2004). "Whether or not a document (or the information it disseminates or solicits) is 'vital' may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner."

with LEP who has filed a grievance or complaint), and explain how it will provide meaningful access to such documents to any persons with limited English proficiency, regardless of the language other than English spoken;

- f. Translation of non-vital documents. BAAQMD will develop and provide a process to request the translation of non-vital documents into other languages;
 - g. Provision for simultaneous oral interpretation by qualified interpreters of live proceedings in person or through the use of virtual platforms. BAAQMD will explain how it will provide oral interpretation services to provide meaningful access to its programs and activities (e.g., town hall meetings and public hearings) in prominent and other requested languages, and the ability for individuals with LEP to participate in those proceedings to the same extent as persons with English proficiency can participate (e.g., accommodate LEP individuals wishing to provide comments during meetings, hearings, proceedings, programs, and activities hosted by BAAQMD);
 - h. Utilization of BAAQMD's social media platforms to provide translated vital information and increase messaging to LEP populations;
 - i. Provision for a "notice" that it will place prominently on its website homepage as well as on all vital documents, that language assistance services for persons with limited English proficiency will be provided by BAAQMD free of charge;
 - j. Consideration of hiring and appointing more staff with bilingual capabilities to better serve the public; and
 - k. Identification of how BAAQMD intends to provide qualified translation and interpretation services (that is, through what method, such as, by hiring qualified bilingual employees, contracting, etc.) to ensure meaningful access to its programs and activities for persons with limited English proficiency.
7. Within 90 days after the effective date of this Agreement, BAAQMD will submit to EPA for review a draft copy of its revised Language Access Plan. ECRCO will review the draft Language Access Plan and provide any comments within 30 days. Within 45 days of receiving ECRCO's comments, BAAQMD will submit its draft LAP, including a translated LAP in all appropriate languages, for public comment for 30 days. After the public comment period ends, BAAQMD will review comments and finalize the LAP within 45 days. prominently publish in print and on its website the final Language Access Plan in accordance with E(4) and (5) above

E. Public Participation¹⁷

¹⁷ On March 21, 2006, EPA published its Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Public Involvement Guidance) which was developed for recipients of EPA assistance implementing environmental permitting programs. It discusses various approaches, and suggests tools that recipients may use to enhance the public involvement aspects of their current permitting

1. BAAQMD will update its Public Participation Plan to include and implement the following steps for effective public participation that is accessible to all persons regardless of race, color, national origin (including LEP), disability, age, and sex each time BAAQMD engages in a public participation or public involvement process:

- a. Include reference to its commitment to providing individuals with disabilities the opportunity for full participation in its programs, services, and activities through its compliance with Section 504 of the Rehabilitation Act of 1973;
- b. Include information recognizing that individuals with disabilities may need accommodations or modifications consistent with Section 504 of the Rehabilitation Act to have equal opportunities to participate in or benefit from Recipient's programs, services, and activities;
- c. Acknowledge that individuals with disabilities have a right to request accommodations and that those individuals will receive accommodations appropriate to their needs in order to fully participate in or benefit from Recipient's services and activities in a nondiscriminatory, integrated setting;
- d. Affirm BAAQMD's commitment to provide at no cost, appropriate auxiliary aids and services, including for example qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in programs, services, and activities provided by the Recipient in a timely manner and in such a way as to protect the privacy and independence of the individual;
- e. Identify location(s) where public meetings will be held (considering the availability and schedules of public transportation), and ensure that the location(s) will allow for meaningful participation/involvement by individuals with LEP and individuals with disabilities;
- f. Ensure that its Public Participation Plan is prominently posted on its website and is directly linked and accessible from BAAQMD's Notice of Nondiscrimination webpage;
- g. Ensure that its Public Participation Plan and the link to the Public Participation Plan posted on the BAAQMD website are meaningfully

programs. It also addresses potential Title VI issues that could arise related to the public participation process. <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>, at 14207. For example, the Public Involvement Guidance mentions that the interface between public involvement and Title VI often arises when communities of color believe that they've been discriminated against as a result of a decision made in the permitting process, but these same communities have not been adequately involved in the decision-making process. (at 14210).

accessible to persons with limited English proficiency and translated into Spanish, Chinese, Tagalog, Vietnamese, and any other appropriate languages BAAQMD identifies, by a qualified translator; and

2. Within 90 days after the effective date of this Agreement will submit to ECRCO for review a revised draft of its Public Participation Plan. ECRCO will review the draft Public Participation Plan and provide any comments within 30 days. Within 45 days of receiving ECRCO's comments, BAAQMD will submit its draft Public Participation Plan, including a translated Public Participation Plan in all appropriate languages, for public comment for [30] days. After the public comment period ends, BAAQMD will review comments and finalize the Public Participation Plan within 90 days. BAAQMD will prominently publish in print and on its website the final Public Participation Plan in accordance with D(1)(f) and (g) above.

F. BAAQMD's Plan to Ensure Meaningful Access to Programs and Activities for Persons with Disabilities¹⁸

1. BAAQMD will develop, publicize, and implement a BAAQMD Disability Access Plan to ensure meaningful access to all BAAQMD's programs, services, and activities for individuals with disabilities,¹⁹ that includes clear and consistent instructions for persons with disabilities on how they can request and receive reasonable accommodations at no cost to them. BAAQMD may use ECRCO's Sample Disability Policy in developing its policy.

2. BAAQMD will provide, at no cost to the individual with disabilities, auxiliary aids and services to individuals with disabilities, (including, but not limited to, for example, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals, as necessary), to ensure effective communication and an equal opportunity to participate fully in benefits, activities, programs, and services provided by BAAQMD in a timely manner in such a way as to protect the privacy and independence of the individual.

3. BAAQMD will ensure that its facilities and other facilities utilized by BAAQMD (e.g., if BAAQMD holds a public hearing at a school or recreational center) are physically accessible to individuals with disabilities.

4. BAAQMD will ensure that its disability access plan is prominently posted on its website and is directly linked and accessible from BAAQMD's Notice of Nondiscrimination webpage.

¹⁸ See 40 C.F.R. §§ 7.45 - 7.75; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794(a). Section 504, and EPA's implementing regulation prohibit discrimination on the basis of disability in any programs or activities receiving federal financial assistance.

¹⁹ See Disability Nondiscrimination Plan Sample, at https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf

5. BAAQMD will ensure that its disability access plan and the link to the disability access plan posted on the BAAQMD website are meaningfully accessible to persons with limited English proficiency and translated by a qualified translator into Spanish, Chinese, Tagalog, Vietnamese, and any other appropriate languages BAAQMD identifies.

6. Within 60 days, after the effective date of this Agreement, BAAQMD will submit to ECRCO for review a draft copy of its disability access plan. ECRCO will review the draft disability access plan and provide any comments within 30 days.

7. Within 30 days of receiving ECRCO's comments BAAQMD will prominently publish in print and on its website the final disability access plan in accordance with F(4) and (5).

G. Training of BAAQMD Staff on Nondiscrimination Policies, Procedures, and Federal Civil Rights Statutes and Regulations.

1. Within 180 days of the ECRCO approval of all other deliverables noted throughout the Agreement, BAAQMD will ensure all its staff and relevant contractors have training on federal non-discrimination obligations and all plans, policies and procedures created and implemented as part of this Agreement. Training will also be provided to all appropriate BAAQMD staff regarding its Air Quality Complaint Policy and Procedures, which includes prompt notification of any civil rights issues to the Non-Discrimination Coordinator.

2. BAAQMD may request assistance from EPA for any of the training required in this Agreement, including having training be provided by EPA staff. BAAQMD should consider the inclusion of community representatives as a part of the staff training.

3. Within 30 days of the initial training implemented following G(1) above, BAAQMD will forward to EPA for review a draft plan for ensuring that such training is also a routine part of the on-boarding process for new employees and is given annually by BAAQMD as refresher training to all employees and relevant contractors. ECRCO will review the draft training plan and provide any comments within 30 days. BAAQMD will respond to ECRCO comments, discuss with ECRCO any concerns if necessary, and within 30 days following the conclusion of any edits resulting from ECRCO's comments, BAAQMD will forward a final copy of the training plan to ECRCO and implement the above plan.

IV. GENERAL CONSIDERATIONS

A. ECRCO will monitor compliance with the commitments in Section of this Agreement, as appropriate, to ensure they are fulfilled. Once the terms of this Agreement are satisfied, ECRCO will issue a letter documenting completion of

the commitments, closure of its monitoring actions and closure of Complaint No. 01R-21-R9 as of the date of that letter.

- B. If not otherwise specified herein, ECRCO will review and provide feedback about any documentation submitted by BAAQMD demonstrating completion of each commitment and will provide an assessment, to include verbal and/or written feedback, as to whether the documentation satisfies the commitment within 30 days of receipt of each such submission. Following that feedback, as noted throughout the sections relating to deliverables above, should there be negotiations and/or edits needed to ECRCO's comments, the parties will resolve those within 30 days and BAAQMD will finalize the deliverable for publication by BAAQMD within 30 days.
- C. EPA will, upon request, provide technical assistance to BAAQMD regarding any of the civil rights obligations previously referenced. This may be in written or oral form.

V. COMPUTATION OF TIME AND NOTICE

- A. As used in this Agreement, "day" will mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period will run until the close of business of the next working day.
- B. Service of any documents required by this Agreement may be made by electronic service as outlined below. Documents forwarded by email for review are to be sent in native format for draft documents and PDF format for documents intended to be final.
- C. Electronic documents submitted by BAAQMD to the EPA via email will be sent to the following email address: Dorka.Lilian@epa.gov, as well as a copy to the Case Manager, Zahra Khan, at Khan.Zahra@epa.gov.
- D. Documents submitted by the EPA to BAAQMD will be sent to [Suma Peesapati at spesapati@baaqmd.gov, as well as a copy to the BAAQMD Legal Department to Marcia Raymond at, mraymond@baaqmd.gov].

VI. EFFECT OF THE AGREEMENT

- A. BAAQMD understands that, if necessary, ECRCO may visit BAAQMD's offices, interview staff, and request such additional reports or data necessary for ECRCO to determine whether BAAQMD has fulfilled the terms of this Agreement.
- B. BAAQMD understands that the EPA will not close its monitoring of this Agreement until ECRCO determines that BAAQMD has fully complied with this Agreement and that a failure to satisfy any term in this agreement may result in the issuance of a final finding of a violation and initiation of enforcement action. Once BAAQMD fulfills all of the commitments in Section III, ECRCO will issue

BAAQMD a Monitoring Closure Letter resolving in full the issues addressed in this Agreement.

- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to BAAQMD's program or authorities, or for other good cause, the Party seeking a modification will promptly notify the other in writing, setting forth the facts and circumstances justifying the proposed modification. Any modification(s) to this Agreement will take effect only upon written agreement by the Chief Executive Officer of BAAQMD or their designee and the Director of ECRCO.
- D. This Agreement constitutes the entire Agreement between BAAQMD and the EPA regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person will be construed to change any commitment or term of this Agreement, except as specifically agreed to by BAAQMD and the EPA in accordance with the provisions of Section III (C) above.
- E. This Agreement does not affect BAAQMD's continuing responsibility to comply with Title VI or other federal nondiscrimination laws and the EPA's regulations at 40 C.F.R. Parts 5 and 7, nor does it affect the EPA's investigation of any other Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The individuals signing this Agreement represent that they are authorized to execute this Agreement and legally bind the parties to the Agreement.

On behalf of the Bay Area Air Quality Management District,



August 24, 2022

Sharon L. Landers
Interim Executive Officer and Air Pollution Control Officer
Bay Area Air Quality Management District
On behalf of the U.S. Environmental Protection Agency,

(Date)

Lilian S. Dorka

August 23, 2022

Lilian S. Dorka
External Civil Rights Compliance Office
Office of General Counsel

(Date)