RESOLUTION - ACTION REQUESTED 2014-152

MEETING: April 15, 2014

TO: The Board of Supervisors

FROM: Charles Mosher, Health Officer

RE: Apply for California Air Resources Board Carl Moyer Program for Fiscal Year 2014-2015 (Year 17)

RECOMMENDATION AND JUSTIFICATION:
Authorize Air Pollution Control Officer to Apply for Year 17 Moyer Funding, Fiscal Year 2014 - 2015, and Direct the Revenue to the Rural Assistance Program; Authorize Air Pollution Control Officer to Apply for Funds and Similarly Direct Them in Fiscal Year '15-'16, '16-'17, and '17-'18; Authorize Air Pollution Control Officer to sign Grant Agreement as needed, Subject to review as to Form by County Counsel.

The Moyer program provides matching funds to facilitate replacement or retrofitting of diesel engines in order to reduce emissions. In the past, administering the Moyer Program with Mariposa County Air Pollution Control District has been difficult because no funding is available for costs of administration. Paperwork requirements for this cash distribution program have been considerable. Moreover, we were unsuccessful in utilizing any of the money to retrofit diesel engines at Public Works. We have discovered an alternative source of funding for school buses to benefit Mariposa County School District.

It is recommended that the money allocated for Mariposa County for the next four fiscal years be diverted to the Rural District Pooled Program, which will mean that applicants from Mariposa County will still have funding available to them (first priority), but administration will be accomplished by the State Air Pollution Control Officers Organization.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has previously authorized applying for this grant program (January 18, 2011 with Res. No. 11-19).

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
1. Do not apply for funding.
2. Funds may be lost to Mariposa County applicants.

FINANCIAL IMPACT:
No financial impact.
CAO RECOMMENDATION
Requested Action Recommended

[Signature]
Rick Benson, County Administrative Office / 10/2014

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Janet Bibby, District III Supervisor
SECONDER: John Carrier, District V Supervisor
AYES: Stetson, Jones, Bibby, Cann, Carrier
Grantee: Mariposa County Air Pollution Control District

Grant Number: G14-M014

Project Funds: $180,000

Administration Funds: $20,000

Total Grant Award: $200,000

Required District Match: Waived

District designates funds to Rural District Assistance Pool per application on a continuing basis for future fiscal years unless rescinded in a future year.

General Terms and Conditions:

1. **Amendment:** No amendment or variation of the terms of this Grant Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Grant Agreement is binding on any of the parties.

2. **Assignment:** This Grant Agreement is not assignable by the GRANTEE, either in whole or in part, without the consent of Air Resources Board (ARB).

3. **Availability of funds:** ARB's obligations under this Grant Agreement are contingent upon the availability of funds. In the event funds are not available, the State shall have no liability to pay any funds whatsoever to the GRANTEE or to furnish any other considerations under this Grant Agreement.

4. **Compliance with law, regulations, etc.:** The GRANTEE agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and State laws, rules, guidelines, regulations, and requirements.

5. **Computer software:** The GRANTEE certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Grant Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

6. **Confidentiality:** No record which has been designated as confidential by ARB, or is the subject of an application of confidentiality pending before ARB, shall be disclosed by the GRANTEE. If ARB opts to maintain the confidentiality of a document, and the entity requesting the records seeks a judicial ruling challenging that determination, ARB will defend the action at its own expense, including any requirement to pay attorney fees and court costs.

7. **Conflict of interest:** The GRANTEE certifies that it is in compliance with applicable State and/or federal conflict of interest laws.
8. **Disputes:** The GRANTEE shall continue with the responsibilities under this Grant Agreement during any dispute. GRANTEE staff or management may work in good faith with ARB staff or management to resolve any disagreements or conflicts arising from implementation of this Grant Agreement. However, any disagreements that cannot be resolved at the management level within 30 days of when the issue is first raised with ARB staff shall be subject to resolution by the ARB Executive Officer, or his designated representative. Nothing contained in this paragraph is intended to limit any of the rights or remedies that the parties may have under law.

9. **Environmental justice:** In the performance of this Grant Agreement, the GRANTEE shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State.

10. **Fiscal management systems and accounting standards:** The GRANTEE agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of State law or this Grant Agreement.

11. **Force majeure:** Neither ARB nor the GRANTEE shall be liable for or deemed to be in default for any delay or failure in performance under this Grant Agreement or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, etc.

12. **Governing law and venue:** This grant is governed by and shall be interpreted in accordance with the laws of the State of California. ARB and the GRANTEE hereby agree that any action arising out of this Grant Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The GRANTEE hereby waives any existing sovereign immunity for the purposes of this Grant Agreement.

13. **GRANTEE's responsibility for work:** The GRANTEE shall be responsible for work and for persons or entities engaged in work, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The GRANTEE shall be responsible for any and all disputes arising out of its contracts for work funded by this Grant Agreement, including but not limited to payment disputes with contractors, subcontractors, and providers of services. The State will not mediate disputes between the GRANTEE and any other entity concerning responsibility for performance of work.

14. **Indemnification:** The GRANTEE agrees to indemnify, defend and hold harmless the State and the Board and its officers, employees, agents, representatives, and successors-in-interest against any and all liability, loss, and expense, including reasonable attorneys' fees, from any and all claims for injury or damages arising out of the performance by the GRANTEE, and out of the operation of equipment that is purchased with funds from this Grant Award.

15. **Independent contractor:** The GRANTEE, and its agents and employees, if any, in the performance of this Grant Agreement, shall act in an independent capacity and not as officers, employees or agents of ARB.
16. **Nondiscrimination:** During the performance of this Grant Agreement, the GRANTEE and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, sexual orientation, medical condition, marital status, age (over 40) or allow denial of family-care leave, medical-care leave, or pregnancy-disability leave. The GRANTEE and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.

17. **No third party rights:** The parties to this Grant Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Grant Agreement, or of any duty, covenant, obligation or undertaking established herein.

18. **Prevailing wages and labor compliance:** If applicable, the GRANTEE agrees to be bound by all the provisions of State Labor Code Section 1771 regarding prevailing wages. If applicable, the GRANTEE shall monitor all agreements subject to reimbursement from this Grant Agreement to ensure that the prevailing wage provisions of State Labor Code Section 1771 are being met.

19. **Professionals:** For projects involving installation or construction services, the GRANTEE agrees that only licensed professionals will be used to perform services under this Grant Agreement where such services are called for and licensed professionals are required for those services under State law.

20. **Severability:** If a court of competent jurisdiction holds any provision of this Grant Agreement to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of those provisions, will not be affected.

21. **Term:** This Grant Award shall be effective upon full execution of this Grant Agreement and shall continue in full force and effect until all conditions of the Grant Agreement have been met. This award is conditional based on ARB receipt and approval of a fully executed Grant Agreement accepting Fiscal Year 2014-2015 (Year 17) Carl Moyer Funds by April 30, 2015.

22. **Termination:** ARB may terminate this Grant Agreement by written notice at any time prior to completion of projects funded by this Grant Award, upon violation by the GRANTEE of any material provision after such violation has been called to the attention of the GRANTEE and after failure of the GRANTEE to bring itself into compliance with the provisions of this Grant Agreement.

23. **Timeliness:** Time is of the essence in this Grant Agreement. The GRANTEE shall proceed with and complete projects funded by this Grant Award in accordance with the Carl Moyer Program Guidelines.

24. **Waiver of Rights:** Any waiver of rights with respect to a default or other matter arising under the Grant Agreement at any time by either party shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State provided for in this Grant Agreement are in addition to any other rights and remedies provided by law.
25. GRANTEE is authorized to administer a local program according to the requirements described in the following documents, which are incorporated as part of this Grant Agreement:

a. ARB-approved District Application to Administer the Carl Moyer Program for Fiscal Year 2014-2015 (Year 17).


c. Carl Moyer Program 2011 Guidelines, current Program Advisories and Mail-outs, and future Program Advisories and Mail-outs issued during grant agreement period.

d. Carl Moyer Program Fiscal Year 2014-2015 (Year 17) Grant Disbursement Request Form.

26. The Carl Moyer Program 2014-2015 funds specified in this Grant Agreement must be expended by June 30, 2017 per the 2011 Carl Moyer Program Guidelines, Part 1, Chapter 3 (Program Administration), Section B, Table 3-1. Expenditure of project funds may not be reduced due to any loss incurred in an uninsured bank or investment account. Funds not expended by June 30, 2017, must be returned by August 29, 2017, per the 2011 Carl Moyer Program Guidelines, Part 1, Chapter 3 (Program Administration), Section S.1.
Special Terms and Conditions (District-Specific):

None

ARB Contact Information:
- For project questions, contact your ARB district liaison or call the Grant Help Hotline at 877-56-GRANT (877-564-7268).
- For fiscal questions, contact Sibyl Britton, Associate Governmental Program Analyst, (916) 327-0555, or email sbritton@arb.ca.gov.
- General Mailing Address:
  California Air Resources Board
  MSCD Carl Moyer Program
  P.O. Box 2815
  Sacramento, California 95812

GRANTEE Contact Information (please complete items 1 – 4):

<table>
<thead>
<tr>
<th>(1) District Air Pollution Control Officer:</th>
<th>(209) 966-3689</th>
<th><a href="mailto:health@mariposacounty.org">health@mariposacounty.org</a></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Phone</td>
<td>Email Address</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(2) District Carl Moyer Program Manager:</th>
<th>(209) 966-3689</th>
<th><a href="mailto:health@mariposacounty.org">health@mariposacounty.org</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert W. Ryder, MD, MSc, Health Officer</td>
<td>Phone</td>
<td>Email Address</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(3) District General Mailing Address:</th>
<th>Mariposa County Health Department</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5100 Bullion Street</td>
</tr>
<tr>
<td></td>
<td>Post Office Box 5</td>
</tr>
<tr>
<td></td>
<td>Mariposa, CA 95338</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(4) District General Phone number:</th>
<th>(209) 966-3689</th>
</tr>
</thead>
</table>

APPROVED AS TO FORM:

[Signature]

STEVEN W. DAHLEM
COUNTY COUNSEL
Required Signatures:
The undersigned parties agree to the terms and conditions of this Grant Agreement, and certify under penalty of perjury that they are duly authorized to bind the parties to this Grant Agreement.

California Air Resources Board

Authorized ARB Official Signature
Name: Pam Biggins
Title: Budget Chief
Date: 3/16/15

Grantee

District Air Pollution Control Officer Signature
Name: Robert W. Ryder, MD, MSc, Health Officer
Title: Air Pollution Control Officer
Date: 3/30/2015

Note: This form was mailed in duplicate to the Grantee. Grantee must return one original signed form and maintain the other original signed form in their records.