

BOARD MEETING DATE: October 1, 2021

AGENDA NO. 3

**PROPOSAL:** Recognize Revenue, Transfer and Appropriate Funds, Amend Contract, Issue Purchase Orders, and Authorize Payment to Extend and Improve the Rule 1180 Fenceline and Community Monitoring Program

**SYNOPSIS:** As part of MATES V, an optical tent air measurement system was deployed at the Phillips 66 Wilmington refinery by the Regents of University of California, Los Angeles (UCLA), to demonstrate its ability to monitor fugitive VOC emissions. After the MATES V study concluded, the optical tent was adopted by the refinery as part of their fenceline air monitoring system for Rule 1180 implementation with continued oversight provided by UCLA for quality assurance/quality control and reporting for this new technology. These actions are to recognize revenue, transfer and appropriate funds to amend an existing contract with UCLA to extend the operation of the optical tent at the Phillips 66 Wilmington refinery and for the continued operation of the Rule 1180 community monitoring network, issue purchase orders, and authorize payment for sales tax to FluxSense, Inc. to extend and improve the Rule 1180 Fenceline and Community Monitoring Program.

**COMMITTEE:** Administrative, September 10, 2021; Recommended for Approval

**RECOMMENDED ACTIONS:**

1. Recognize revenue up to \$200,000 upon receipt from the Phillips 66 Company into the General Fund;
2. Appropriate up to \$200,000 from the General Fund Undesignated (Unassigned) Fund Balance to Science & Technology Advancement's (STA) FY 2021-22 Budget (Org 44), Services & Supplies Major Object and authorize the Executive Officer to use these funds to amend the current contract with the Regents of University of California, Los Angeles (UCLA) to continue to provide quality assurance/quality control (QA/QC) and reporting on the operation of the optical tent air monitoring system at the Phillips 66 Wilmington Refinery for two additional years;

3. Transfer and appropriate funds up to \$169,218.75 from the Rule 1180 Special Revenue Fund (78) to STA's FY 2021-22 Budget (Org 42), Capital Outlays Major Object, and authorize the payment of up to \$169,218.75 to FluxSense, Inc. (FluxSense) for sales tax related to the purchase of ten optical multi-pollutant analyzers using the existing purchase order;
4. Transfer and appropriate up to \$45,000 from the Rule 1180 Special Revenue Fund (78) to STA's FY 2021-22 Budget (Org 42), Capital Outlays Major Object, as listed in Table 1; and
5. Authorize the Procurement Manager, in accordance with South Coast AQMD Procurement Policy and Procedure, to issue sole source purchase orders for the following as listed in Table 1 and described in this letter:
  - a. One air monitoring station container from Martin Container, Inc. (Martin Container) not to exceed \$25,000;
  - b. Up to three replacement air conditioning systems including installation from KLM HVAC & Refrigeration (KLM HVAC) for Rule 1180 community air monitoring stations in an amount not to exceed \$20,000; and
  - c. Data review and QA/QC services from FluxSense for optical multi-pollutant systems at Rule 1180 community air monitoring stations in an amount not to exceed \$100,000.

Wayne Natri  
Executive Officer

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## **Background**

### *Optical Tent Air Monitoring System*

In 2018-2019, South Coast AQMD conducted the fifth Multiple Air Toxics Exposure Study (MATES V) to collect information on air toxics and their associated health risks based on long-term monitoring at ten fixed locations throughout the South Coast Air Basin. To complement fixed site monitoring, in October 2017 the Board authorized several Advanced Monitoring projects using state-of-the-art technologies to conduct enhanced air toxics monitoring in communities near refineries. As part of this advanced monitoring, the Board authorized staff to execute a contract with UCLA to design, build and deploy an optical tent air monitoring system. The optical tent system was developed and then installed at the Phillips 66 Wilmington refinery to demonstrate its ability to detect fugitive emissions of VOCs and other gaseous species from storage tanks. After the MATES V study ended, the optical tent system was adopted by the refinery as part of their fence-line air monitoring system used to satisfy Rule 1180 fence-line monitoring requirements and South Coast AQMD continued to obtain information on the use of this emerging technology with operational assistance from UCLA to provide QA/QC and

reporting on the integrity of this emerging technology. UCLA's contractual obligations for the operation of the optical tent system will end in October 2021. The continued operation of the optical tent is mutually beneficial to South Coast AQMD and the Phillips 66 Company, who has agreed to fund its operation for two additional years and to work with UCLA and South Coast AQMD to further explore its technical capabilities for research purposes. The optical tent system will also be used by the Phillips 66 Wilmington refinery as part of their fenceline monitoring to satisfy Rule 1180 requirements.

#### *Rule 1180 Program*

Rule 1180 - Refinery Fenceline and Community Air Monitoring, was adopted by the Board in December 2017 and requires all seven major refineries in the Basin to measure levels of various air pollutants at their fenceline. This Rule also establishes a fee schedule to fund a community air monitoring network developed and operated by South Coast AQMD to provide air quality information to the public about the potential impact of refinery emissions in their communities.

The Rule 1180 refinery fenceline and community air monitoring network began operation in January 2020. To satisfy the Rule 1180 air monitoring requirements, advanced optical remote sensing, auto-gas chromatograph and traditional analyzers have been deployed at all fenceline and community air monitoring sites, making this monitoring network the first of its kind in terms of complexity and technologies deployed.

The community air monitoring network is comprised of ten air monitoring stations operating instruments under controlled environmental conditions. Each station is equipped with an air conditioning system to assure stable temperature and relative humidity and minimal disruption in the operation of the monitoring equipment.

The VOC and other air toxic pollutant data produced by this community network is displayed on the Rule 1180 Public website, and used to issue public air quality notifications. The implementation of appropriate data validation and QA/QC procedures are of the utmost importance to ensure the data generated by all analyzers are of the highest quality.

#### Sales Tax Payment (FluxSense)

In July 2019, the Board authorized the Procurement Manager to issue a purchase order for up to ten optical multi-pollutant analyzers from FluxSense in an amount not to exceed \$2,193,125. FluxSense provided invoices with four-milestone payments for long-lead items required to manufacture the analyzers which did not include the requisite sales tax for Los Angeles County of 9.5 percent. FluxSense is now requesting payment for the associated sales tax. When this issue was brought to our attention, the Board authority to spend these funds had expired and the funds were transferred back to

Fund (78). Therefore, this request is to transfer and appropriate up to \$169,218.75 from Fund (78) to the Science & Technology FY 2021-22 (Org 42) Capital Outlays account for the sale tax payment to FluxSense.

### **Proposal**

#### *Optical Tent Air Monitoring System*

This action is to recognize revenue up to \$200,000 from the Phillips 66 Company into the General Fund. This action is also to appropriate up to \$200,000 from the General Fund Undesignated (Unassigned) Fund Balance to STA's FY 2021-22 Budget (Org 44), Services & Supplies Major Object and to use these funds to amend the current contract with the Regents of University of California, on behalf of UCLA, to continue operation of the optical tent air monitoring system at the Phillips 66 Wilmington Refinery for two additional years.

#### *Rule 1180 Program – Community Air Monitoring Network*

This action is to transfer and appropriate up to \$45,000 from the Rule 1180 Special Revenue Fund (78) into STA's FY 2021-22 Budget (Org 42) for expenditures in the Capital Outlays Major Object to support air monitoring activities required under Rule 1180, as shown in Table 1.

#### *Rule 1180 Program – Sales Tax Payment*

This action is to transfer and appropriate funds up to \$169,218.75 from the Rule 1180 Special Revenue Fund (78) to STA's FY 2021-22 Budget (Org 42), Capital Outlays Major Objects as shown in Table 1, and authorize the payment of up to \$169,218.75 to FluxSense for the sales tax related to the purchase of ten optical multi-pollutant analyzers.

#### Proposed Purchases through Sole Source

This action is to purchase the following equipment to improve and extend operational efficiency, as listed in Table 1, using the procurement method noted in the Recommended Actions.

#### *Air Monitoring Station Container*

An air monitoring container will be used to house air monitoring equipment at one of South Coast AQMD's community air monitoring sites. Martin Container is a local business located in Compton that has extensive expertise in manufacturing steel containers for air monitoring purposes. The majority of South Coast AQMD air monitoring containers have been manufactured by this vendor and the vendor is uniquely qualified to manufacture containers that completely satisfy Rule 1180 community monitoring requirements. The cost for one container shall not exceed \$25,000. Sufficient funds for this purchase are available in Fund (78).

### *Replacement Air Conditioning*

Spare air conditioning systems are needed for installation in case of failure of one or more of the existing air conditioning systems at any of the Rule 1180 community air monitoring sites. KLM HVAC is a small local business in Long Beach, and they have extensive expertise in the installation, service and repair of air conditioning systems at South Coast AQMD air monitoring stations. KLM HVAC have in-depth understanding of controlled environments required to operate air monitoring instrumentation, and they are uniquely qualified to select and install the appropriate air conditioning equipment. The cost for the purchase and installation of up to three replacement air conditioning systems shall not exceed \$20,000. Sufficient funds for this purchase are available in Fund (78).

### *Annual Data Review and QA/QC Services*

Ongoing data review and QA/QC services for optical multi-pollutant analyzers installed at the Rule 1180 community sites will ensure the reliability and accuracy of the real-time community air monitoring data and air quality notifications. FluxSense is the sole-source provider of this equipment and related software due to the use of proprietary technology and vendor's unique expertise. The cost for annual data quality assurance service shall not exceed \$100,000. Sufficient funds are available in the Services and Supplies Major Object in the Adopted FY 2021-22 Budget for the Rule 1180 program.

### **Sole Source Justification**

Section VIII.B.2 of the Procurement Policy and Procedure identifies four major provisions under which a sole-source award may be justified. The request for sole source purchases from Martin Container and KLM HVAC are made under Sections VIII.B.2.d(6): Projects requiring compatibility with existing specialized equipment, and VIII.B.2.b: The cost of labor for preparation of the described documents exceeds the possible savings that could be derived from such detailed documents. Martin Container and KLM HVAC are small local businesses that are established vendors with South Coast AQMD, have been providing containers and air conditioning systems compatible with existing air monitoring stations and equipment, and have been providing reliable services to support air monitoring efforts for the last decade.

The request for sole source purchase order for FluxSense is made under Sections VIII.B.2.c(1): The unique experience and capabilities of the proposed contractor or contractor; VIII.B.2.c(2): The project involves the use of proprietary technology. FluxSense is the only contractor who provides both extractive DOAS and extractive FTIR instruments with the required specifications, including proprietary software and, therefore, is uniquely qualified to provide data QA/QC services for the Rule 1180 community network.

**Benefits to South Coast AQMD**

Funding for the optical tent system and continued implementation of Rule 1180 community air monitoring will allow the South Coast AQMD to continue to understand the effectiveness of the optical tent system and to fulfill the requirements of Rule 1180 and the legislative directives of AB 1647, which will result in benefits to environmental justice communities and others working and residing in the Basin near refineries.

**Resource Impacts**

Phillips 66 Company will fully support the continued operation of the optical tent system at the Phillips 66 Wilmington Refinery for an additional two years. The initial payments received from refineries under Rule 1180 provide sufficient resources to establish the required community air monitoring program. Rule 301 annual fees will provide sufficient resources for ongoing community air monitoring operation and maintenance. The balance in the Rule 1180 Special Revenue Fund and the Adopted FY 2021-22 Budget for the Rule 1180 program have sufficient funds to support the activities described in this Board letter.

**Table 1  
FY 2021-22 Proposed Sole Source Expenditures for Rule 1180**

<b>Description</b>	<b>Appropriation from Fund 78</b>	<b>Included in FY 2021-22 Adopted Budget</b>	<b>Estimated Quantity</b>	<b>Total Estimated Amount</b>
<b>Capital Outlays</b>				
Air Monitoring Station Container	\$25,000	\$0	1	\$25,000
Air Conditioning Systems	\$20,000	\$0	Up to 3	\$20,000
<b>Total Capital Outlay Expenditures</b>				<b>\$45,000</b>
<b>Services and Supplies</b>				
Annual Data QC Services	\$0	\$100,000	1	\$100,000
<b>Total Services and Supplies Expenditures</b>				<b>\$100,000</b>