

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**
Meeting Date: July 28, 2010

***Request for Approval of an Interagency Agreement with the
California Energy Commission for the California Ethanol Producer Incentive Program***

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Summary. Staff is requesting Board approval of the an Interagency Agreement (IA) with the California Energy Commission (CEC) to establish program, administrative, and financial structures for the implementation of the California Ethanol Producer Incentive Program (CEPIP). The CEPIP is funded through the CEC’s Alternative and Renewable Fuel and Vehicle Technology Program (AB 118 Program) in an amount not to exceed \$15,000,000.

Background. The CEC issued a CEPIP Program Opportunity Notice (PON) to solicit applications from California ethanol fuel production facilities eligible to receive AB 118 funds. The CEPIP program is designed to provide an incentive for California ethanol producers to further improve their environmental footprint while providing a temporary financial safety net during periods of unfavorable market conditions. The assistance is provided only when needed and obligates ethanol producers to repay the funds when market conditions become favorable. The program will assist participants to transition away from corn and increase the use of locally-derived and low-carbon waste-based or energy crops, which will help meet the State goals for the Bio-Energy Action Plan and will result in decreased greenhouse gas emissions.

Under this IA, it shall be the sole responsibility of the CEC to establish and manage CEPIP Participant eligibility and terms and conditions for incentive payments to, and reimbursement from, CEPIP Participants. The CEC shall evaluate CEPIP Participant certification and verification, and shall be the ultimate custodian for all records concerning CEPIP Participant activities and transactions. This IA specifies tasks and deliverables associated with the development of incentive payment and reimbursement procedures for CEPIP Participants, and administration of the CEPIP Trust Account.

This IA identifies specific objectives, tasks, and deliverables needed for CAEATFA to provide financial assistance to eligible CEPIP Participants. CAEATFA will facilitate financial transactions through the acquisition of a CEPIP Trustee, as needed to fully implement the CEPIP. CAEATFA and the CEPIP Trustee are not responsible for making determinations on CEPIP actions with respect to incentive payments and/or reimbursements in the CEPIP Trust Account. CAEATFA and the CEPIP Trustee are not responsible for CEPIP marketing, outreach, or determinations of CEPIP Participant eligibility.

An Action Memorandum will be used by the CEC and by CAEATFA to communicate action, direction, approval, and other transactional information with respect to the transfer of funds, incentive payments/reimbursements, report dissemination, and CEPIP Participant status. Each month, the CEC will provide a list of CEPIP Participants eligible to receive incentive payment(s) or required to provide incentive reimbursement(s). Any transmittal directing incentive payment

or reimbursement otherwise affecting the list of eligible CEPIP Participants shall be signed by the Division Director of the CEC's Fuels and Transportation Division.

Summary of Major Components of Interagency Scope of Work.

Task 1 – Establish a CEPIP Trust Account

CAEATFA shall establish a CEPIP Trust Account for purposes of effectuating financial transactions of eligible CEPIP Participants. There will be an initial deposit of \$6 million into the CEPIP Trust Account. The CEC may authorize subsequent deposits of up to \$9 million into the CEPIP Trust Account, for a maximum total of up to \$15 million.

The CEPIP Trust Account shall be interest bearing and is to be used to:

- a. Provide for the issuance of incentive payment warrants to eligible CEPIP Participants;
- b. Deposit incentive reimbursements from CEPIP Participants; and
- c. Cover the CEPIP administrative costs of CAEATFA and the CEPIP Trustee.

Task 2 – Acquisition of the CEPIP Trustee

CAEATFA will acquire a CEPIP Trustee to provide financial administration of funds in the CEPIP Account, under direct oversight by CAEATFA, and subject to the direction provided by the CEC. The CEPIP Trustee will be responsible for the administration of all transactions, including but not limited to, account transfers, incentive payments, incentive repayments, deposit of funding, and calculation of any interest earned on funds in the account. CAEATFA shall develop policies and procedures outlining the establishment and management responsibilities of the CEPIP Trustee and use of the CEPIP Trust Account.

Task 3 – Subsequent Deposit of Funds

The Transportation Committee of the CEC may authorize the subsequent deposit of funds of up to \$9 million, for a total of \$15 million, into the CEPIP Trust Account. The Transportation Committee may also direct that funds be disencumbered from the CEPIP Trust Account and returned to the CEC. CAEATFA will notify the CEPIP Trustee regarding subsequent deposit or disencumbrance of funds into or from the CEPIP Trust Account.

Task 4 – Incentive Payments and Reimbursements

Procedures and approval processes will be put into place to instruct the CEPIP Trustee on appropriate transactions, for the CEPIP to issue warrants or wire transfers and to determine penalty percentage calculations on delinquent accounts.

Each month the CEC will identify the CEPIP incentive payment amount eligible to each CEPIP Participant or the CEPIP reimbursement amount owed by each CEPIP Participant. The CEC will also provide instructions to CAEATFA instructing the CEPIP Trustee to issue a warrant or to wire transfer funds or issue a request that requires the CEPIP Participant to provide reimbursement.

The following month the CEPIP Trustee will issue a warrant or wire transfer funds in the amount identified to each eligible CEPIP Participant or issue a request in the amount owed by each eligible CEPIP Participant. Funds for the warrant or wire transfer are to be drawn down from the

CEPIP Trust Account. Reimbursement monies collected by the CEPIP Trustee are to be deposited in the CEPIP Trust Account and credited to each CEPIP Participant.

CAEATFA will notify the CEC when a CEPIP Participant is delinquent in its reimbursement obligations.

Task 5 – Reporting

CAEATFA will provide quarterly reports to the CEC on CEPIP transactions, fund and account transfers, interest earned, etc. in the CEPIP Trust Account maintained by the CEPIP Trustee. Quarterly reports will also include program management issues the CEC should consider in implementing the CEPIP to ensure program success and program costs. CAEATFA will also provide a final report.

Administrative Costs. The Energy Commission will compensate CAEATFA for its costs associated with its task and deliverables under the tasks identifies in Exhibit A in the amount of \$10,000 per month. Payment for the costs incurred under the subcontract with the CEPIP trustee shall be for actual costs on reimbursement basis for the term of this Agreement. Total administrative costs shall not exceed five percent of the total amount of funds disbursed from the CEC to CAEATFA at any given time over the life of this IA.

Staff Recommendation. Staff recommends approval of Resolution to enter into an Interagency Agreement in an amount not to exceed \$15 million with the California Energy Commission for the California Ethanol Producer Incentive Program.

A RESOLUTION OF THE
CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION
FINANCING AUTHORITY
AUTHORIZING APPROVAL TO ENTER INTO AN INTERAGENCY AGREEMENT WITH
THE CALIFORNIA ENERGY COMMISSION

July 28, 2010

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (“Authority”) was created under the provisions of Division 16 (commencing with Section 26000) of the Public Resources Code; and

WHEREAS, Section 26040(a) of the Public Resources Code provides that the Authority is authorized to “receive and utilize grants or loans from the federal government, a public agency, or any other source for carrying out the purposes of (Division 16)” and

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority wishes to enter into an Interagency Agreement with the California Energy Commission to administer up to \$15,000,000 in Assembly Bill 118, (AB 118, Nunez, Chapter 750, Statutes of 2007) funds to establish program, administrative, and financial structures for the implementation of the California Ethanol Producer Incentive Program (CEPIP).

WHEREAS, AB 118, (Chapter 750, Statutes of 2007), established the Alternative and Renewable Fuel and Vehicle Technology Program and authorized the expenditure of funds to further the program’s policy directives. Under the California Energy Commission’s (CEC’s) Transportation Investment Plan, as required under AB118, programs will be developed and administered to improve air quality emissions and assist in the development of advanced transportation technologies in California.

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) provides financial assistance for projects that use alternative energy sources and technologies, and also provides financial assistance for projects to develop and commercialize advanced transportation technologies that conserve energy, reduce air pollution, and promote economic development and jobs.

WHEREAS, the purpose of this Interagency Agreement (IA) between the CEC and CAEATFA, (the “Parties”), is to develop and manage the CEC’s California Ethanol Producer Incentives Program (CEPIP).

WHEREAS, this IA creates the framework for the administrative procedures, legal agreements, and financial structures to be in place in order for the CEPIP program to commence.

Agenda Item – 4.B.

WHEREAS, CAEATFA will solicit specialized consultants for Trustee and if needed other related services, to establish and maintain the administrative structures necessary to carry out the interagency agreement and to provide the CEC with all of the services normally provided by CAEATFA in its role as operator of the financing program referenced above, and including any other services which may be necessary to ensure the success of this agreement.

NOW, THEREFORE, BE IT RESOLVED that the Executive Director of the Authority is hereby authorized to prepare and execute an Interagency Agreement with the California Energy Commission as follows:

Section 1. The CEC will advance up to \$15,000,000 to CAEATFA. Any subsequent transfers will be in amounts determined by the CEC based on program demand, funding availability, and agreement of the Parties.

Section 2. This resolution shall take effect immediately upon its passage and remain in full force and effect thereafter.