

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

July 17, 2019

Transfer a Lump Sum Tax-Exempt Private Activity Bond Allocation for the California Pollution Control Financing Authority (CPCFA) to use for Exempt Facility Projects

(Agenda Item No. 4)

ACTION:

To award a lump sum allocation of the remaining carryforward of \$124,350,000 and 2019 State Ceiling allocation of \$125,000,000 for CPCFA to sub-allocate for the exempt facility projects from their constituents.

DISCUSSION:

In order to better service their constituents, CPCFA suggests having a “One Stop Shop” where CDLAC would grant a lump sum allocation for CPCFA to sub-allocate as they receive exempt facility project requests. It would be a single source for the applications for allocation and resolutions for bond issuance while maintaining a single-source relationship between CPCFA and their stakeholders.

CPCFA and CDLAC agreed to reports and procedures that would provide accurate tracking of exempt facility tax-exempt private activity bond allocation used with CPCFA’s allocation to individual projects.

RECOMMENDATION:

Staff recommends, per resolution #19-073, the committee approve a lump sum remaining carryforward allocation of \$124,350,000 and a 2019 State Ceiling lump sum allocation of \$125,000,000 to CPCFA for their ability to sub-allocate to individual exempt facility projects.

Prepared by Evan Kass

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

RESOLUTION NO. 19-073

A RESOLUTION TRANSFERRING A PORTION OF THE 2019 STATE CEILING
ON QUALIFIED PRIVATE ACTIVITY BONDS FOR AN
EXEMPT FACILITY PROGRAM and CONVERTING A CARRYFORWARD ALLOCATION
OF 2018 STATE CEILING TO A CARRYFORWARD ALLOCATION OF
2018 STATE CEILING FOR AN EXEMPT FACILITY PROGRAM

WHEREAS, on January 16, 2019, the California Debt Limit Allocation Committee (“Committee”) awarded \$292,911,580 of the 2019 State Ceiling on Qualified Private Activity Bonds under Section 146 of the Internal Revenue Code of 1986, as amended, for use by the California Pollution Control Financing Authority (“Authority”) for purposes of issuing Bonds on behalf of Project Sponsors (capitalized terms used herein and not otherwise defined shall have the meanings described thereto in the Regulations of the Committee implementing the Allocation of the State Ceiling on Qualified Private Activity Bonds); and

WHEREAS, the allocation approved on January 16, 2019, required the Authority to seek approval from the Committee for each project allocation made; and

WHEREAS, on December 12, 2018, the Committee approved a carryforward election and lump sum allocation of the 2018 State Ceiling to the Authority in the amount of \$173,000,000, with each project receiving an allocation from that carryforward election to be approved by the Committee; and

WHEREAS, Section 5411 of the Committee’s regulations authorize the Committee to award an Allocation to the Authority “for the purposes of administering the Exempt Facility Project Pool,” and to “authorize CPCFA to allocate portions of the award to Project Sponsors for purposes of issuing Bonds”; and

WHEREAS, the Authority has requested that the Committee use the authority granted pursuant to Section 5411 and provide the Authority with authority to allocate its portion of the 2019 State Ceiling and the 2018 State Ceiling Carryforward directly to Project Sponsors to provide for administrative efficiencies, provide benefits to Project Sponsors, improve their access to capital, and enhance economic development in California; and

WHEREAS, the Authority requests that the allocation of 2019 State Ceiling authority be reduced to \$125,000,000; and

WHEREAS, \$124,350,000 remains available from the \$173,000,000 initially awarded as 2018 State Ceiling Carryforward; and

WHEREAS, the Committee desires to grant the Authority’s requests and identify terms and conditions that govern the Authority’s allocation authority to ensure compliance with Committee regulations and the Internal Revenue Code;

NOW, THEREFORE, the California Debt Limit Allocation Committee resolves as follows:

Section 1. There is hereby transferred to the Authority an amount of the 2019 State Ceiling on Qualified Private Activity Bonds equal to \$125,000,000. Such Allocation may be used only by the

Authority and only for the issuance of Bonds for Exempt Facility Projects. The Authority is not authorized to use this Allocation to make a carryforward election with respect to any Project.

Section 2. There is hereby transferred to the Authority an amount of the remaining 2018 Carryforward Allocation on Qualified Private Activity Bonds equal to \$124,350,000. Such allocation may be used only by the Authority and only for the issuance of Bonds for Exempt Facility Projects. The Authority is authorized to use this Allocation to make a carryforward election with respect to the Projects. This Allocation shall be retained by the Authority for the period allowed by Section 146(f)(3)(A) of the Internal Revenue Code regarding carry-forward elections.

Section 3. All of the terms and conditions of Exhibit A are incorporated herein as though set forth in full (this resolution, together with Exhibit A, hereinafter referred to collectively as “Resolution”) and apply to both allocations made in Sections 1 and 2 as described above.

Section 4. The terms and conditions of this Resolution shall be incorporated in appropriate documents related to Bonds issued for Exempt Facility Projects, and the Authority and the Project Sponsor, and all their respective successors and assignees, shall be bound by such terms and conditions.

Section 5. Any modification to the Exempt Facility Program established by the Authority must be reported to the Executive Director of the Committee and, if the Executive Director determines such modification to be material in light of the Committee’s Regulations, shall require reconsideration by the Committee before the Allocation may be used for further issuances within the Exempt Facility Program. Once Bonds are issued, the terms and conditions set forth in this Resolution shall be enforceable by the Committee through an action for specific performance or any other available remedy.

Section 6. The Authority shall be bound by the terms and conditions of this Resolution and all subsequent resolutions. The Authority shall monitor the Projects for compliance with the terms and conditions of this and all other subsequent resolutions. In addition, the Projects shall be subject to the monitoring provisions of the Committee’s Regulations applicable to Exempt Facility Projects.

Section 7. The Committee may consent to changes in the terms and conditions set forth in this Resolution as changed circumstances may dictate.

Section 8. The Authority is not authorized to transfer any Allocation made pursuant to this Resolution to any governmental unit in the State other than the Committee.

Section 9. This resolution takes effect immediately upon its adoption and supersedes in all respects the allocation of the 2019 State Ceiling to the Authority on January 16, 2019, and the carryforward election and lump sum allocation of 2018 State Ceiling approved on December 12, 2018.

RESOLUTION NO. 19-XXX
(AN EXEMPT FACILITY PROGRAM)
EXHIBIT A

1. Requester: California Pollution Control Financing Authority

2. Amount of Allocation: \$125,000,000 of 2019 State Ceiling / \$124,350,000 of 2018 Carryforward

3. CPCFA shall provide CDLAC with finalized staff reports, adopted CPCFA Final Resolutions and adopted Allocation Resolutions within 5-7 business days after the Final Resolution is approved by CPCFA.

4. Any allocation made by CPCFA pursuant to the authority granted by this Resolution shall automatically revert to CPCFA by the close of business ninety (90) days following the date the allocation is approved by CPCFA. In a case of extreme hardship, the CDLAC Executive Director may extend this date by up to five (5) business days. In addition, the CDLAC Executive Director may approve a maximum of two (2) extensions of up to ninety (90) days each, which approval shall not be unreasonably withheld.

5. Consistent with section 5052 of CDLAC's Regulations, a request to waive forfeiture of a performance deposit shall be submitted to the Committee for consideration.

6. Within 30 days of an allocation being made by CPCFA, CPCFA shall meet with CDLAC to provide an update of its allocation activity.

7. CPCFA may request additional allocation as necessary in 2019 and, in such situations, will provide such as information as CDLAC requires to document the need for additional allocation.

8. CPCFA shall report to CDLAC any unused allocation by November 1st of each year. At that time, such unused 2019 State Ceiling Allocation will be returned to CDLAC to use, as needed on other projects (such as multi-family and single-family).

9. CPCFA shall report on job creation to CDLAC by November 1st of each year. This report shall include: Company Name, Allocation Amount, Date of Allocation, County of Project, Number of Jobs created for all Projects, and other information related to the public benefits provided by the Projects that received an allocation from CPCFA during that year, to the extent such information is available.

10. CPCFA shall attest to, and provide evidence to CDLAC, that they will not approve any project without having all CEQA and other permits in place for the Project.

11. Within twenty-four (24) hours of issuing Bonds, CPCFA shall notify CDLAC via the email or the fax number as provided in section 5140 of CDLAC's regulations that the Bonds have been issued. This notice shall identify the Project Sponsor, the project or program, the date and amount of the Bonds issued.
12. CDLAC requires payment of all application fees and must receive the Report of Action Taken to release the Performance Deposit (which would happen within 5 days of receiving both items). CPCFA shall submit a completed Report of Action Taken to CDLAC no later than fifteen (15) calendar days of the Bond closing.
13. For any project that applies to CPCFA for an Allocation pursuant to this Resolution, if the Project Sponsor requests a delay in CPCFA's consideration of the application, no additional application fee will be due to CDLAC unless the delay extends into the next calendar year, or the project description or project financing details change in a material way.
14. As CPCFA manages and processes applications for this allocation award, CDLAC regulations sections: 5021, 5030, 5034, 5035, 5036, 5037 and 5039 are not applicable to CPCFA's sub-allocation of the award.
15. No later than March 1 annually and until project completion, CPCFA shall report to CDLAC via the Online Compliance System. CPCFA shall complete the Certification of Compliance II and the Certificate of Completion (both forms at this website: <http://www.treasurer.ca.gov/cdlac>).