

CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY (AUTHORITY)

Distressed Hospital Loan Program

Amendment to Resolution No. 2023-01 and Resolution No. 2023-02

Approval to Amend the Resolutions Authorizing the Delegation of Certain Powers to Implement the Distressed Hospital Loan Program Jointly with the Department of Health Care Access and Information and Authorizing the Interagency Agreement with the Department of Health Care Access and Information to Implement the Distressed Hospital Loan Program

August 31, 2023

PURPOSE OF THE REQUEST

Authority staff seeks approval of an Amendment to Resolution No. 2023-01, previously approved at the May 25th Authority meeting, that delegated authority to the Executive Director and the Deputy Executive Director to assist the Department of Health Care Access and Information (HCAI) with the implementation of the Distressed Hospital Loan Program (Program) pursuant to an interagency agreement and to issue loans at the direction of HCAI.

Authority staff also seeks approval of an Amendment to Resolution No. 2023-02, also previously approved at the May 25th Authority meeting, that authorized the execution of an interagency agreement with HCAI to assist with the implementation of the Program for the period of May 15, 2023 through December 31, 2031.

BACKGROUND

On May 15, 2023, the Program was established through the approval of urgency legislation, Chapter 6, Statutes of 2023 (Assembly Bill 112), authorizing \$150,000,000 from the General Fund to be used by the Authority and HCAI to co-administer the Program and issue loans to eligible hospitals in financial distress. Pursuant to Health and Safety Code Section 129382 (b), the Authority shall enter into an interagency agreement with the Department to implement the Program. The Authority has worked alongside HCAI to assist in determining the application process, underwriting review, and methodology for approval and distribution of the loans.

Subsequently, on July 10, 2023, Assembly Bill 118 (Chapter 42, Statutes of 2023) was signed into law, increasing the amount of funds available for the Program by an additional \$150,000,000, bringing the cumulative funding available for the Program to \$300,000,000.

The Authority received 30 applications in the first funding round, by the July 31st deadline, and will issue cashflow loans to those eligible hospitals awarded loans as determined by HCAI. In the future, the Authority will assist with the development of the application process for loan forgiveness or modification of the terms of the loan and grant those requests to eligible borrowers that qualify.

The previously approved authorization to enter into an interagency agreement with HCAI and the total reported Program Fund was in the amount of \$150,000,000. The amendments would remove the restriction of the total Program funding amount that was previously approved by the Authority board at \$150,000,000. If approved, the Authority will issue loans to eligible hospitals to the extent there are available funds for the Program in the Program Fund, at the direction of HCAI; this allows flexibility to issue loans for the recently allocated Program funding and any potential future funding.

RECOMMENDATION

Staff recommends the approval of Amendments to Resolution No. 2023-01 and Resolution No. 2023-02 to remove the maximum amount of Program funding, making the resolutions subject to available funding in the Program Fund, in light of new developments and in anticipation of any potential future funding that may be made available.

AMENDMENT TO RESOLUTION NO. 2023-01

**RESOLUTION OF THE CALIFORNIA HEALTH FACILITIES FINANCING
AUTHORITY AUTHORIZING THE IMPLEMENTATION OF THE
DISTRESSED HOSPITAL LOAN PROGRAM AND DELEGATING CERTAIN
POWERS TO THE EXECUTIVE DIRECTOR OR DEPUTY EXECUTIVE DIRECTOR**

WHEREAS, the California Health Facilities Financing Authority (the “Authority”), a public instrumentality of the State of California, is authorized by the provisions of Chapter 6, Statutes of 2023 (Assembly Bill 112) (Health and Safety Code Section 129380, et seq), and Chapter 42, Statutes of 2023 (Assembly Bill 118 – Health and Safety Code Section 129385, et seq), the Distressed Hospital Loan Program (the “Program”), to issue zero-interest cashflow loans for working capital to eligible not-for-profit and public hospitals in significant financial distress or to governmental entities representing a closed hospital to prevent closure or facilitate the reopening of a closed hospital ~~in a total amount of \$150,000,000, less administrative costs from available moneys in the Program Fund,~~ at the direction of the Department of Health Care Access and Information (the “Department”); and

WHEREAS, the Department may allocate an amount not to exceed five percent of the total Program funds to administer the program, including administrative costs to the Authority; ~~totaling \$7.5 million;~~ and

WHEREAS, California’s not-for-profit and public hospitals provide significant levels of care to the State’s uninsured population and Medi-Cal and Medicare recipients. In recent years, these hospitals have experienced and continue to experience substantial financial distress, adversely impacting ongoing operations. The negative operating margins in recent years may be attributed to a variety of factors, including, but not limited to responding to the COVID-19 pandemic, surging labor costs, increasing medical supply expenses, and inflation. The substantial increase in expenses over these past few years have far outpaced the rates of reimbursement paid by Medi-Cal and Medicare. As such, several hospitals have declared bankruptcy and ceased operations, with numerous other not-for-profit and public hospitals heading towards insolvency. Absent a capital infusion, additional not-for-profit and public hospitals will be at risk of closure, and thus the most vulnerable California populations will lose access to affordable healthcare. A cashflow infusion is needed to sustain day-to-day operations while the hospital’s governing bodies implement strategies to regain financial viability; and

WHEREAS, it is necessary to delegate certain powers and duties to the Executive Director and Deputy Executive Director, in the Executive Director’s absence, to assist the Department with the implementation of the Program pursuant to an interagency agreement;

NOW, THEREFORE, BE IT RESOLVED by the California Health Facilities Financing Authority as follows:

Section 1. The Authority hereby delegates to the Executive Director and the Deputy Executive Director, in the Executive Director’s absence, the authority to assist the Department with the implementation of the Program pursuant to an interagency agreement.

Section 2. The Authority hereby delegates to the Executive Director and the Deputy Executive Director, in the Executive Director’s absence, the power to issue Program cashflow loans for eligible hospitals in varying amounts as solely determined by the Department, pursuant to Health and Safety Code, Section 129383(c)(2), but solely to the extent there are available proceeds for the Program, as determined pursuant and subject to Section 3 hereof.

Section 3. The Authority hereby delegates to the Executive Director and the Deputy Executive Director, in the Executive Director's absence, the power to draw loan proceeds for the Program from the fund to be established, not to exceed those amounts as determined by the Department. The Authority hereby delegates to the Executive Director and the Deputy Executive Director, in the Executive Director's absence, the power to execute and deliver any and all documents necessary to complete the transfer of loan proceeds.

Section 4. The Authority hereby delegates to the Executive Director and the Deputy Executive Director, in the Executive Director's absence, the power to develop, in consultation with legal counsel, loan and security agreements and promissory notes for loans approved under the Program. The Authority hereby delegates to the Executive Director and the Deputy Executive Director, in the Executive Director's absence, the power to do any and all things necessary to execute and deliver any documents in connection with the issuance, disbursement, and prepayment of loans, including loan and security agreements, disbursement memorandums, loan closing documents, and Medi-Cal intercept agreements as security for the loans. The Authority hereby delegates to the Executive Director and the Deputy Executive Director, in the Executive Director's absence, the power to carry out any ministerial actions.

Section 5. The Authority hereby directs the Executive Director and the Deputy Executive Director, in the Executive Director's absence, to notify borrowers of loan proceeds from the Program that: 1) a borrower may apply to the Authority for loan forgiveness or modification of the terms of the loan, including a delay of the beginning of the loan repayment period or an extension of the 72-month loan repayment term, or both in the future; and 2) the eligibility criteria and determination of loan forgiveness or modification shall be shared by the Authority once it has been established.

Section 6. The Executive Director and the Deputy Executive Director, in the Executive Director's absence, shall report to the Authority at the next scheduled meeting all loans issued pursuant to this resolution.

Section 7. This resolution shall take effect immediately upon its approval and shall be repealed on January 1, 2032.

Date Approved: _____

AMENDMENT TO RESOLUTION NO. 2023-02

**RESOLUTION OF THE CALIFORNIA HEALTH FACILITIES
FINANCING AUTHORITY RELATING TO THE APPROVAL OF
AN INTERAGENCY AGREEMENT WITH THE
DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION**

WHEREAS, the California Health Facilities Financing Authority (the “Authority”), a public instrumentality of the State of California, is authorized under Government Code section 15438(o) to enter into agreements or contracts necessary to carry out the powers of the Authority; and

WHEREAS, the Authority is authorized by the provisions of Chapter 6, Statutes of 2023 (Assembly Bill 112 - Health and Safety Code Section 129380, et seq), [and Chapter 42, Statutes of 2023 \(Assembly Bill 118 – Health and Safety Code Section 129385, et seq\)](#), the Distressed Hospital Loan Program (the “Program”), to issue zero-interest cashflow loans for working capital to eligible not-for-profit and public hospitals in significant financial distress or to governmental entities representing a closed hospital to prevent closure or facilitate the reopening of a closed hospital ~~in a total amount of \$150,000,000, less administrative costs from available moneys in the Program Fund~~ at the direction of the Department of Health Care Access and Information (the “Department”); and

WHEREAS, the Department may allocate an amount not to exceed five percent of the total Program funds to administer the program, including administrative costs to the Authority, ~~totaling \$7.5 million~~; and

WHEREAS, the Executive Director and Deputy Executive Director, in the Executive Director’s absence, are delegated the power to assist the Department in determining the Program application process, underwriting review, and methodology for approval and distribution of the loans under the Program and to issue loans at the direction of the Department;

NOW, THEREFORE, BE IT RESOLVED that the Executive Director and the Deputy Executive Director are hereby authorized to prepare, execute, and take whatever steps necessary to obtain all required approvals for an interagency agreement with the Department of Health Care Access and Information ~~in an amount not to exceed \$150,000,000~~ for the period of May 15, 2023 through December 31, 2031.

Date of Adoption: _____