

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
CalCAP PROGRAM
Meeting Date: February 21, 2017

Request to Approve an Increase to the Federal Funding Allocation under the State Small Business Credit Initiative for the California Capital Access Program (CalCAP)

Prepared by: *Doreen Smith*

Summary: Staff requests Board approval of a Memorandum of Understanding (MOU) with the California Infrastructure and Economic Development Bank (IBank) to increase the amount of funds to be disbursed to CPCFA in support of Approved State Programs operated under the State Small Business Credit Initiative (SSBCI). The MOU is attached as Exhibit A.

Discussion: In January 2011, the State of California applied to the United States Department of the Treasury (Treasury) to receive funding provided by the federal State Small Business Jobs Act of 2010 (Act), with the intent of splitting any federal allocation to the State equally between CalCAP and the Small Business Loan Guarantee Program (SBLGP). In February 2011, and as subsequently amended, the Allocation Agreement between the Treasury and the State awarded California a total of \$168,623,821 under the Act and SSBCI to operate the CalCAP, Collateral Support and SBLGP programs as Approved State Programs.

Per the Act and the Allocation Agreement, approximately \$168 million federal allocation was distributed to the State in three tranches in 2011, 2014 and 2015 and the State evenly split each tranche between CPCFA and IBank.

IBank, through GO-Biz, included the federal allocation for the third ~~and final~~ tranche of SSBCI funds in its 2014/2015 GO-Biz budget. Since the amount included in the budget was \$440,207 less than the amount distributed to IBank, it is unable to spend that amount. The deadline to amend the budget was missed.

The SSBCI Funds may only be used to undertake the Approved State Programs authorized under the Allocation Agreement. To facilitate the uninterrupted operation of the CalCAP, Collateral Support and SBLGP programs, it is the intent of the IBank to permanently transfer the \$440,207 to CPCFA to support the CalCAP Small Business Loan Loss Reserve Program. The Allocation Agreement provides that IBank and CPCFA may transfer funds between their Approved State Programs in amounts up to ten percent of the Allocated SSBCI Funds without any approval from the Treasury.

Recommendation: Staff recommends approving the increase in federal funding allocation in the amount of \$440,207 to be used in support of the CalCAP Small Business Loan Loss Reserve Program; approving the Memorandum of Understanding with the IBank to transfer the SSBCI funds from IBank to CPCFA; and allowing the Executive Director to administer necessary actions under her delegated authority to administer the

Agenda Item 4.C

additional funding and programs. As of this printing, staff is finalizing the accounting mechanism to transfer the funds to CPCFA, and requests that the Board approve the MOU attached hereto, and delegate to the Executive Director the authority to make changes to accommodate the specific accounting mechanism ultimately identified to facilitate the transfer of the funds.

RESOLUTION OF THE CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY AUTHORIZING THE INCREASE TO THE FEDERAL FUNDING ALLOCATION UNDER THE STATE SMALL BUSINESS CREDIT INITIATIVE FOR THE CALIFORNIA CAPITAL ACCESS PROGRAM

February 21, 2017

WHEREAS, the California Pollution Control Financing Authority (“Authority”) was created under the provisions of Section 44500 of the Health and Safety Code; and

WHEREAS, Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the Health and Safety Code provides that the Authority is authorized to establish a Capital Access Program for Small Businesses (“CalCAP”); and

WHEREAS, Section 44519 of the Health and Safety Code provides that the Authority may employ an Executive Director and any other persons as are necessary to enable it to properly perform the duties imposed upon it by the Authority’s statutes; and

WHEREAS, On September 27, 2010, President Barack Obama signed into law the Small Business Jobs Act of 2010 (Pub. Law 111-240) which provided up to \$ 1.5 billion for approved State Capital Access Programs of which California received \$168,623,821; and

WHEREAS, On February 17, 2011, the Authority entered into an Allocation Agreement, and as subsequently amended, with the United States Department of the Treasury (Treasury) to receive the funds under the State Small Business Credit Initiative (SSBCI); and

WHEREAS, the Authority proposes to enter into a Memorandum of Understanding with the California Economic Development and Infrastructure Bank (“IBank”) to reallocate \$440,207 from IBank’s Small Business Loan Guarantee Program to CPCFA’s CalCAP Small Business Loan Loss Reserve Program; and

WHEREAS, this reallocation of allocated funds is authorized by the Small Business Jobs Act of 2010; and

NOW THEREFORE BE IT RESOLVED, that the Executive Director or Deputy Executive Director of the Authority is hereby authorized to execute the Memorandum of Understanding with IBank, and to do all things necessary to transfer the SSBCI funds from IBank to CPCFA and administer the programs utilizing the remaining funds.

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

among

THE CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

and

**THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC
DEVELOPMENT BANK**

for

THE STATE SMALL BUSINESS CREDIT INITIATIVE

This **Memorandum of Understanding (MOU)** dated as of February 1, 2017 is made and entered into by the California Pollution Control Financing Authority (**CPCFA**) and the California Infrastructure and Economic Development Bank (**IBank**), each of which is sometimes referred to individually as a “Party” and collectively as the “Parties”.

RECITALS

- A. CPCFA, an independent financing authority chaired by the California State Treasurer (**STO**), has administered the California Capital Access Program (**CalCAP**) under its statutory authority (see Health and Safety Code, sections 44559 et seq.) since 1994 to facilitate the ability of small businesses in California to access capital for start-up or expansion purposes.
- B. IBank, under the Governor’s Office of Business and Economic Development (**GO-Biz**), administers the Small Business Loan Guarantee Program (**SBLGP**), a state program established to provide guarantees of loans to small businesses that experience capital access barriers under IBank’s Small Business Finance Center as codified in Government Code Chapter 6 Section 63088-63089.98, the Small Business Finance Assistance Act of 2013.
- C. In January 2011, the State of California (**State**) applied to the United States Department of the Treasury (**Treasury**) to receive funding provided by the federal State Small Business Jobs Act of 2010 (**Act**), with the intent of splitting any federal allocation to the State equally between the CalCAP and SBLGP programs. In February 2011, and as subsequently amended, the Allocation Agreement between the Treasury and the State awarded to the State (**Allocation Agreement**) a total of \$168,623,821 (**Allocated SSBCI Funds**) under the Act and State Small Business Credit Initiative (**SSBCI**) to operate the CalCAP, Collateral Support and SBLGP programs as Approved State Programs.
- D. Per the Act and the Allocation Agreement, approximately \$168 million federal allocation was distributed to the State in three tranches in 2011, 2014 and 2015 and the State evenly split each tranche between CPCFA and initially the Business, Transportation, and Housing Agency (BT&H).
- E. The Small Business Loan Guarantee Program was a program within BT&H when the application for the Allocated SSBCI Funds was submitted by the

State, and the State received the 1st tranche of funding. Subsequently, the SBLGP became a part of IBank in the Governor's Reorganization Plan 2. The Allocated SSBCI Funds are not a grant or an award, rather they are an allocation that does not need to be returned after the program ends.

- F. CPCFA is a continuously appropriated authority and is authorized to place funds at its trustee banks; therefore, the Allocated SSBCI Funds to CPCFA were not included in the authority's budget.
- G. IBank is also continuously appropriated. However IBank, through GO-Biz, did include the federal allocation for the third ~~and final~~ tranche of SSBCI funds in the 2014/2015 GO-Biz budget.
- H. The amount of the third tranche of the SSBCI Allocated Funds included in the 2014/2015 budget for IBank, \$27,609,000, was lower than the amount, \$28,049,207.00, actually received by IBank by \$440,207 (**IBank SSBCI Funds**). The third tranche of the SSBCI Allocated Funds were not received by IBank from the Treasury until September 2015. The deadline to amend the budget was missed.
- I. The State is required by the Allocation Agreement to use all of the Allocated SSBCI Funds to undertake the activities authorized under Annex 1 of the Allocation Agreement. The IBank SSBCI Funds may be used by IBank only if they are released to IBank's Small Business Expansion Fund (0918). Alternatively, those funds may be released to CPCFA to be used in its CalCAP or Collateral Support Program. If IBank fails to use the IBank SSBCI Funds in accordance with the Allocation Agreement, this may cause IBank and CPCFA to be in non-compliance with the Allocation Agreement. The Treasury views IBank and CPCFA together as the State.
- J. To facilitate the uninterrupted operation of the CalCAP, Collateral Support and SBLGP programs and to fully use the IBank SSBCI Funds in at least one of the Approved State Programs authorized under Annex 1 of the Allocation Agreement, it is the intent of the Parties to permanently transfer the IBank SSBCI Funds from IBank and the SBLGP program to CPCFA to supplement the federal allocation for the CalCAP program.
- K. The Allocation Agreement provides that IBank and CPCFA may transfer between the Approved State Programs up to ten percent of the Allocated SSBCI Funds without any approval from the Treasury. Transferring the

IBank SSBCI Funds to CPCFA from SBLGP to CalCAP is within this allowance.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, the Parties hereby agree as follows:

1. IBank agrees to transfer to CPCFA Four Hundred Forty Thousand Two Hundred Seven Dollars and no cents (\$440,207.00) to be used by CPCFA to support its CalCAP Program (**IBank Transfer**).
2. To initiate the IBank Transfer, CPCFA shall submit one invoice totaling no more than Four Hundred Forty Thousand Two Hundred Seven Dollars and no cents (\$440,207.00) to IBank to request the IBank Transfer and to provide instructions for transferring the IBank SSBCI Funds to CPCFA.
3. Upon receipt of the invoice from CPCFA, IBank shall take steps necessary to promptly implement and complete the IBank Transfer of the IBank SSBCI Funds.
4. Upon receipt of the IBank SSBCI Funds, CPCFA may manage the funds consistent with its program management and accounting procedures, to be used in support of the CalCAP as permitted in the Allocation Agreement between Treasury and the State.
5. This MOU shall become effective upon the last date of either Party to execute this MOU, and shall be in effect from and after that date.
6. Either Party may withdraw from this MOU, but only (i) prior to the actual transfer of the IBank SSBCI Funds as contemplated in this MOU, (ii) after five (5) days prior written notice to the other Party, and (iii) after a good faith attempt to resolve the issue prompting the withdrawal. Upon the withdrawal of any Party, this MOU shall terminate.
7. Each signatory below attests that she is duly authorized to execute this MOU on behalf of the Party she represents.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their respectively duly authorized representatives.

Reneé Webster-Hawkins **Date**
Executive Director
California Pollution Control Financing Authority

Teveia Barnes **Date**
Executive Director
California Infrastructure and Economic Development Bank