

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Meeting Date: June 20, 2017

Request to Approve Amendment 5 to Interagency Agreement ARB13-606 with the California Air Resources Board (ARB) Regarding the California Capital Access Program (CalCAP) Independent Contributor Program

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Summary

Staff requests Board approval to amend Interagency Agreement No. 13-606 (“Agreement”) between the California Pollution Control Financing Authority (“CPCFA” or “Authority”) and the Air Resources Board (“ARB”). The Agreement funds loan loss reserve contributions for the On-Road Heavy Duty Vehicle Air Quality Loan Program (“CalCAP/ARB” or “Program”) and this amendment will:

- Extend the expiration date of the Agreement from December 31, 2017 to March 31, 2018;
- Increase the allocated amount of the Agreement from \$60 million to \$63 million;
- Allow for use of funds received from settlement of enforcement actions pursuant to ARB’s Supplemental Environmental Project Policy (“SEP”)¹;
- Allow program eligibility for engines using other fuel types and documenting the type of fuel used; and
- Allow CPCFA to set aside \$845,838.72 for administrative and trustee costs associated with loans enrolled under the previous interagency agreement (No. 08-607) between CPCFA and ARB.

Background

ARB is an Independent Contributor under CalCAP and provides financial assistance to small business owners with heavy-duty diesel vehicles affected by ARB’s Statewide In-Use Truck and Bus Regulation and the Heavy-Duty Vehicle Greenhouse Gas Emission Reduction Regulation. The Program started in 2009 under an interagency agreement with CPCFA (No. 08-607) totaling \$45 million, funded by ARB’s Air Quality Improvement Program (“AQIP”) monies. In November 2014, the Agreement was approved for an amount not to exceed \$20 million, including funds from SB 359 which supplemented the annual allocation of AQIP monies. On June 16, 2015, the Board approved Amendment 2 to the Agreement to increase the maximum amount of the Agreement to \$35 million, and also to provide no interest loans from CPCFA’s Small Business Assistance Fund (“SBAF”) in increments not to exceed \$5 million to cover a lag in revenues from license fees to ARB’s AQIP fund. On February 16, 2016, the Board approved Amendment 3 increasing the maximum amount of the Agreement to \$38 million. On June 21, 2016, the Board approved Amendment 4 to extend the expiration date to December 31, 2017, increase the allocated amount to \$60 million, direct CPCFA to recapture contribution funds through regulatory action, permit

¹ ARB’s SEP Policy allows community-based projects to be funded from a portion of the penalties received during settlement of enforcement actions. SEPs can improve public health, reduce pollution, increase environmental compliance, and bring public awareness to neighborhoods most burdened by environmental harm. ARB has a policy for allowing a SEP to be used in lieu of a portion of a penalty payment to mitigate the effects of a particular violation.

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CPCFA to use Small Business Assistance Funds to cover potential short-term cash flow needs, and direct CPCFA to research long-term sustainability.

Expenditures under the Program are accelerating, primarily due to three changes in the California economy. First, the price of newer vehicles is increasing along with the engineering and technology in the qualifying heavy duty trucks. Second, the Program has grown to accommodate more lending institutions that actively participate. Third, with ARB compliance deadlines nearing and ARB enforcement increasing, small business trucking companies are rushing to get into compliance with current regulations. As of June 1, 2017, CPCFA had 13,942 loans enrolled in CalCAP/ARB and 42 participating lenders.

As directed by ARB, CPCFA is currently working on emergency regulations that will include a mechanism to recapture loss reserve fund deposits as enrolled loans mature in order to create a more sustainable program. The recapture mechanism is being analyzed and drafted in collaboration with existing and potential lenders, as well as other stakeholders and advisors. CPCFA anticipates to present the emergency regulations for the Program to the Board for final approval at the July 18, 2017 Board meeting.

ARB and CPCFA will expedite the execution of Amendment 5 to the Agreement as soon as feasible after approval from the respective boards, so that the short term mitigations may be implemented without delay.

The Amended Agreement

The amendment will provide for the following:

- 1) Allocation of an additional \$3 million in funding to the Program, bringing the total program contribution from ARB's AQIP funding plan to \$63 million.
- 2) Extension of the expiration date of the Agreement to March 31, 2018. The extension will provide CPCFA the ability to use the increased allocation of funds, allow for additional time until ARB's fiscal year 2017-2018 funding plan is adopted by its board, and allow for program continuity.
- 3) Blending of funds received from settlement of enforcement actions pursuant to ARB's Supplemental Environmental Project Policy with AQIP funds to ensure additional funding coverage for the Program.
- 4) Clarification that heavy-duty vehicles equipped with engines using diesel fuel, compressed natural gas (CNG), liquefied natural gas (LNG), or other fuel are eligible for enrollment in the Program; and revise the Borrower's Certification form to include a record of the different fuel types.

The amended Agreement provides for a set aside amount of \$845,838.72 in order to reimburse CPCFA for administrative costs of the continuous maintenance of loans originated during the term of the previous interagency agreement (No. 08-607). This amount represents funds which were

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intended to be set aside by CPCFA under the allowable seven percent (7%) cap for administrative and trustee costs, but were not yet invoiced or executed before the interagency agreement (No. 08-607) expired. These costs would be applied to the entire allocation of both the previous interagency agreement (No. 08-607) and the current Agreement.

Staff Recommendation. Staff recommends approval of the attached Resolution to authorize the Executive Director or Deputy Executive Director to execute a fifth amendment to Interagency Agreement No. 13-606 with the revisions described above.

**RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR OR DEPUTY EXECUTIVE
DIRECTOR TO EXECUTE THE FIFTH AMENDMENT TO INTERAGENCY
AGREEMENT 13-606 WITH THE CALIFORNIA AIR RESOURCES BOARD**

June 20, 2017

WHEREAS, the California Pollution Control Financing Authority (“Authority”) was created under the provisions of Division 27 (commencing with Section 44500) of the Health and Safety Code;

WHEREAS, Section 44522(c) of the Health and Safety Code provides that the Authority is authorized to do all things generally necessary or convenient to carry out its powers and the purposes under the California Pollution Control Financing Authority Act;

WHEREAS, the California Air Resources Board (“ARB”) is an approved Independent Contributor under the Authority’s California Capital Access Program (“CalCAP”), as provided under Interagency Agreement No. 13-606 (“Agreement”) between the Authority and ARB;

WHEREAS, pursuant to the Agreement, the Authority provides ARB all the services it normally provides to Independent Contributors in the role as administrator of CalCAP, and other services specified in the Agreement in support of the On-Road Heavy-Duty Vehicle Air Quality Loan Program; and

WHEREAS, ARB desires to increase the maximum amount of the Agreement from \$60 million to \$63 million, to extend the expiration date of the Agreement from December 31, 2017 to March 31, 2018, allow for the use of funds received from settlement of enforcement actions, allow program eligibility for engines using other fuel types, and allow the Authority to set aside an amount of \$845,838.72 for administrative and trustee costs associated with loans enrolled under the previous interagency agreement (No. 08-607) between the Authority and ARB, in addition to current program and administrative costs;

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director or Deputy Executive Director of the Authority is hereby authorized to execute the Fifth Amendment to Interagency Agreement No. 13-606 with the California Air Resources Board in an amount not to exceed \$63,000,000.00 to effectuate the changes described herein.