

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Meeting Date: December 12, 2017

Request for Approval of Amendment 6 to Interagency Agreement No. 13-606 with the California Air Resources Board Regarding the California Capital Access Program Independent Contributor Program

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Summary

Staff requests 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 March 31, 2018 to March 31, 2019;
- Increase the allocated amount of the Agreement from \$63 million to \$83 million; and
- Add provisions to establish a Recapture Account and allow for 7% set aside for administrative and trustee costs associated with enrolled loans.

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 zero 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 Authority approved Amendment 3 increasing the maximum amount of the Agreement to \$38 million. On June 21, 2016, the Authority 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 CPCFA to use Small Business Assistance Funds to cover potential short-term cash flow needs, and direct CPCFA to research long-term sustainability. On June 20, 2017, the Authority approved Amendment 5 to extend the expiration date of the Agreement from December 31, 2017 to March 31, 2018, increase the allocated amount to \$63 million, allow for use of funds received from settlement of enforcement actions pursuant to ARB’s Supplemental Environmental Project Policy, allow program eligibility for engines using other fuel types and documenting the type of fuel used,

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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.

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 October, 2017, CPCFA had 15,000 loans enrolled in CalCAP/ARB.

As directed by ARB, CPCFA pursued regulatory action to establish procedures to recapture contribution funds from a lender's loss reserve account. Annually upon maturation of enrolled loans, recaptured funds will be used to support future contributions for eligible loans and administrative costs. Recapture is not applicable to the contributions for loans which have defaulted or were charged-off.

The proposed additional funding of \$20 million funded through ARB's Air Quality Improvement Program ("AQIP") monies is part of ARB's funding plan for fiscal year 2017-2018 and is scheduled for consideration and approval at the December 14, 2017 ARB meeting.

The Amended Agreement

The amendment will provide for the following:

- 1) Allocation of a proposed additional \$20 million in funding to the Program, bringing the total program contribution from ARB's AQIP funding plan to \$83 million. ARB's funding plan for fiscal year 2017-2018 is not currently approved, so the possibility of an adjusted amount from AQIP funds to be allocated to the CalCAP/ARB Program exists.
- 2) Extension of the expiration date of the Agreement to March 31, 2019. The extension will provide CPCFA the ability to administer the program during fiscal year 2017-2018.
- 3) Provisions to establish a Recapture Account to deposit recapture funds that will be providing additional funding to be used for the Program, and to also allow for 7% set aside for administrative and trustee costs associated with enrolled loans.

Staff Recommendation. Staff recommends approval of Resolution No. 17-02-001 to authorize the Executive Director or Deputy Executive Director to execute a sixth amendment to Interagency Agreement No. 13-606 with the revisions described above, contingent on the amount of AQIP funding approved for the CalCAP/ARB Program at the December 14, 2017 Air Resources Board meeting.

**RESOLUTION NO. 17-02-001 OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR OR DEPUTY EXECUTIVE
DIRECTOR TO EXECUTE THE SIXTH AMENDMENT TO INTERAGENCY
AGREEMENT 13-606 WITH THE CALIFORNIA AIR RESOURCES BOARD**

December 12, 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 \$63 million to approximately \$83 million, contingent upon ARB’s approval of fiscal year 2017-2018 AQIP funding allocation, to extend the expiration date of the Agreement from March 31, 2018 to March 31, 2019, allow the recapture of funds to be used for the Program, and to allow for 7% set aside from recaptured funds for administrative and trustee costs associated with enrolled loans;

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director and Deputy Executive Director of the Authority are each hereby authorized, jointly and severally, to execute the Sixth Amendment to Interagency Agreement No. 13-606 with the California Air Resources Board in an amount of \$83,000,000.00 or more, contingent upon ARB’s approval, to effectuate the changes described herein.