

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
Meeting Date: February 19, 2019**

***Request for Approval of Interagency Agreement No. 18MSC004 with
the California Air Resources Board Regarding
the California Capital Access Program Independent Contributor Program***

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Summary

The California Air Resources Board (“CARB”) desires to continue as an Independent Contributor in the California Capital Access Program (“CalCAP”), to provide loan loss reserve funding for the Heavy-Duty Vehicle Air Quality Loan Program (“HDV Air Quality Loan Program” or “Program”). The proposed Interagency Agreement 18MSC004 (the “Agreement”) between the California Pollution Control Financing Authority (the “Authority” or “CPCFA”) and CARB allocates \$25,600,000 of CARB funds for the fiscal year 2018/2019, to continue the HDV Air Quality Loan Program that began in 2009. These funds will be used to provide financial assistance to small business owners of heavy-duty diesel vehicles affected by the CARB’s Statewide In-Use Truck and Bus Regulation and the Heavy-Duty Vehicle Greenhouse Gas Emission Reduction Regulation (the “Regulations”). The term of the Agreement will be from April 1, 2019 through June 30, 2020.

This Agreement will make some programmatic changes to provide for the new CARB emission requirements effective January 1, 2020; limiting the financing of new and used trucks to 2010 and later model year engines CARB-certified to 2010 and later model year emission standards; no longer permitting the financing of exhaust retrofits; and allowing the financing of equipment warranty, when funded with the purchase of an eligible truck.

As with Interagency Agreement 13-606 (“ARB 13-606”), staff requests authorization for the Executive Director to execute additional amendments to the Agreement if CARB decides to supplement the allocation of funds towards the Program, subject to subsequent reporting to the Authority. Changes to all other material terms, including but not limited to extending the term of the Agreement and changes to the Program rules, will be presented to the Authority for its approval. Health and Safety Code section 44519 provides that, “The authority may, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the authority any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority.”

Background

CARB is an Independent Contributor under CalCAP and provides financial assistance to small business owners with heavy-duty diesel vehicles affected by CARB’s Statewide In-Use Truck and Bus Regulation and the Heavy-Duty Vehicle Greenhouse Gas Emission Reduction Regulation.

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- The Program started in 2009 under an Interagency Agreement with CPCFA (“ARB 08-607”) totaling \$44.3 million, funded by CARB’s Air Quality Improvement Program (“AQIP”) monies.
- In February 2014 a second contract, ARB 13-606, was executed for an amount not to exceed \$10 million from SB 359 which supplemented ARB’s AQIP monies.
- In November 2014, ARB 13-606 was amended for an amount not to exceed \$20 million.
- On June 16, 2015, the Board approved Amendment 2 to ARB 13-606 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 CARB’s AQIP fund.
- On February 16, 2016, the Authority approved Amendment 3 to ARB 13-606 increasing the maximum amount of the agreement to \$38 million.
- On June 21, 2016, the Authority approved Amendment 4 to ARB 13-606 to extend the expiration date to December 31, 2017, increase the allocated amount to ARB 13-606 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, and allow CPCFA to set aside \$845,838.72 for administrative and trustee costs associated with loans enrolled under the previous interagency agreement (ARB 08-607) between CPCFA and CARB.
- On December 12, 2017, the Authority approved Amendment 6 to ARB 13-606 to 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.
- On July 17, 2018, the Authority approved Amendment 7 to ARB 13-606, to increase the allocated amount of the Agreement from \$83 million to \$98 million.

The table below represents the allocation amount and the expiration term for the interagency agreements and their respective amendments.

Contract (month/year)	Allocation (millions)	Term Expiration
I/A ARB 08-607 (04/2009)	\$44	12/2014
I/A ARB 13-606 (02/2014)	\$10	12/2015
I/A ARB 13-606 Amendment 1 (11/2014)	\$10	03/2016
I/A ARB 13-606 Amendment 2 (6/2015)	\$15	12/2016
I/A ARB 13-606 Amendment 3 (2/2016)	\$3	12/2016
I/A ARB 13-606 Amendment 4 (6/2016)	\$22	12/ 2017
I/A ARB 13-606 Amendment 5 (6/2017)	\$3	03/2018
I/A ARB 13-606 Amendment 6 (12/2017)	\$20	03/2019
I/A ARB 13-606 Amendment 7 (7/2018)	\$15	03/2019
Total	\$142	

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 CARB compliance deadlines nearing and CARB enforcement increasing, small business trucking companies are rushing to get into compliance with current regulations.

As directed by CARB, CPCFA pursued regulatory action in July 2017, establishing procedures to recapture contribution funds from a lender's loss reserve account. Annually upon maturation of enrolled loans, recaptured funds are 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 amount recaptured for 2017 was \$6,152,066.55. The total amount recaptured for 2018 was \$2,587,677.55.

Since the inception of the Program thru January 31, 2019, 21,455 loans have been enrolled in the Program and approximately \$107 million in contributions have been distributed to lenders loan loss reserve accounts from the Program account.

The Interagency Agreement

This proposed Agreement between the Authority and CARB is a continuation of the HDV Air Quality Loan Program currently administered by the Authority under ARB13-606, and will allocate an amount of \$25.6 million of new CARB funds toward the HDV Air Quality Loan Program, while the term of the Agreement will be from April 1, 2019 through June 30, 2020. The proposed additional funding of \$25.6 million is part of CARB's funding plan for Air Quality Improvement Program and Low Carbon Transportation Greenhouse Gas Reduction Fund Investments for fiscal year 2018-2019.

CARB expects to face unprecedented demand in the future as truck owners take action to meet truck replacement requirements. The Truck and Bus Regulation requires most heavy-duty vehicles to be equipped with 2010 or newer model year engines between 2020 and 2023. Beginning in 2020, the Road Repair and Accountability Act of 2017 (SB 1, Beall, Chapter 5, Statutes of 2017) will only allow clean trucks in compliance with California Air Resources Board's (CARB) Truck and Bus Regulation to be registered by the Department of Motor Vehicles. Additionally, CARB has begun a streamlined enforcement process in preparation for replacement deadlines and Senate Bill 1.

As such the additional changes to the Program include:

- limiting the financing of new and used trucks to 2010 and later model year engines CARB-certified to 2010 and later model year emission standards (previously 2007 or later models);
- no longer permitting the financing of exhaust retrofits;
- allowing the financing of equipment warranty, when funded with the purchase of an eligible truck; and

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- amending the Borrower Eligibility Criteria and Self-Certification Form to help track the loan enrollment of fleets that have received Notices of Non-Compliance from CARB's streamlined enforcement process.

The proposed Agreement is intended to continue the HDV Air Quality Loan Program administered under the ARB 13-606, with the above-described modifications. When the proposed Agreement is effective, ARB 13-606 will be terminated, and any funds transferred to CPCFA under ARB 13-606, including interest, that have not been transferred to a lender's CARB loan loss reserve account, or have not been used to cover costs related to maintaining the CARB Trustee Accounts or CPCFA administration costs of the HDV Air Quality Loan Program under ARB 13-606, shall be transferred for use in the new Agreement, up to \$35 million, subject to a subsequent and corresponding amendment to the maximum amount of this Agreement.

Participating lenders may utilize the same loss reserve accounts established and maintained, either by the participating lender or the Trustee, under ARB 13-606 for the purpose of the new HDV Air Quality Loan Program.

Under certain circumstances the acceptance of additional funds allocated by CARB to the Program is dependent on critical deadlines, especially towards the end of the fiscal year. The request before the Board will allow the Executive Director to execute this new Agreement with CARB and to approve any further amendments accepting additional funds towards the Program. This delegation resolution will be in force through the term of this Agreement which is June 30, 2020.

Staff Recommendation. Staff recommends approval of Resolution No. 19-02-001 to authorize the Executive Director or Deputy Executive Director to execute a new Interagency Agreement No. 18MSC004 with the California Air Resources Board to continue to participate as an Independent Contributor in CalCAP for the HDV Air Quality Loan Program in the amount of \$25,600,000, with a term from April 1, 2019 through June 30, 2020. Resolution No. 19-02-001 also authorizes the Executive Director or Deputy Executive Director to execute any further amendments should CARB desire to allocate additional funding to the Program.

**RESOLUTION NO. 19-02-001 OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR OR DEPUTY EXECUTIVE
DIRECTOR TO EXECUTE THE INTERAGENCY AGREEMENT 18MSC004
WITH THE CALIFORNIA AIR RESOURCES BOARD**

February 19, 2019

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, Section 44519 of the Health and Safety Code provides that the Authority may, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the authority any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority;

WHEREAS, the California Air Resources Board (“CARB”) 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 CARB;

WHEREAS, pursuant to the Agreement, the Authority provides CARB 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, CARB desires to continue the On-Road Heavy-Duty Vehicle Air Quality Loan Program and to enter into a new Interagency Agreement No. 18MSC004 with the Authority in an amount of \$25.6 million, for the term of April 1, 2019 through June 30, 2020, to make additional programmatic changes to the On-Road Heavy-Duty Vehicle Air Quality Loan Program, and to provide for any undistributed funds under the previous Interagency Agreement No. 13-606 to be used under the terms of the new Interagency Agreement No. 18MSC004.

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 Interagency Agreement No. 18MSC004 with the California Air Resources Board in an amount of \$25,600,000.00. The Executive Director and Deputy Executive Director are also each authorized to execute any further amendments to Interagency Agreement No. 18MSC004 necessary to accommodate additional funding to CalCAP from CARB. This resolution is effective through June 30, 2020.