

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Meeting Date: December 10, 2019

Request to Approve an Amendment to Interagency Agreement No. 18MSC004 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. 18MSC004 (“CARB 18MSC004”) between the California Pollution Control Financing Authority (“CPCFA” or “Authority”) and the California Air Resources Board (“CARB”). The Agreement funds loan loss reserve contributions for the On-Road Heavy Duty Vehicle Air Quality Loan Program (“CalCAP/CARB” or “Program”) and this amendment will:

- increase the allocated amount from \$25.6 million to \$73.6 million; and
- transfer the remaining balances (up to \$37 million) including all accrued interest under the Interagency Agreement No. 13-606 to Interagency Agreement No. 18MSC004 to be used for continuation of the Program; and
- extend the term from June 30, 2020 to June 30, 2021.

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 the California Capital Access Program (“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.

- 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

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\$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 ARB 13-606 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 from \$83 million to \$98 million.
- On February 19, 2019, the Authority approved a new Interagency Agreement No. 18MSC004 that provides an additional \$25.6 million for allocation to the Program for the fiscal year 2018-2019.
- On March 19, 2019, the Authority approved Amendment 8 to ARB 13-606, to extend the term from March 31, 2019 to June 30, 2020.

As directed by CARB, 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 amount recaptured for 2017 was \$6,152,066.55. The total amount recaptured for 2018 was \$2,587,677.55.

The Amended Agreement

The amendment will provide for the following:

- an increase in the allocated amount from \$25.6 million to \$73.6 million;
- a transfer of the remaining balances (up to \$37 million) including all accrued interest under the Interagency Agreement No. 13-606 to Interagency Agreement No. 18MSC004 to be used for continuation of the Program, resulting in a combined program account balance of \$110.6 million; and
- extend the term from June 30, 2020 to June 30, 2021.

Program Change Discussion Based on lender response, CPCFA and CARB staff are currently in discussions regarding future amendments to the Program, as follows:

1. Return to a 10 percent contribution rate

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The CPCFA staff recommendation is to increase the ongoing contribution amount to 10 percent of the enrolled loan for each participating financial institution whose total contributions in the loss reserve account exceeds \$500,000.

2. Permit refinances for the limited purpose of covering the cost of repairs

The CPCFA staff recommendation is to allow a refinance with an increase in the loan amount to cover the cost of truck repairs to decrease the number of loan defaults and claims filed, as well as to assist Independent owners in keeping their trucks on the road and in business.

These changes will allow CPCFA to not only increase our network of participating lenders, they will also sustain the commitments to the program by our current lenders and support a higher rate of loan enrollments. CPCFA staff anticipates an agreement with CARB and an implementation of mutually acceptable program changes in 2020.

Staff Recommendation. Staff recommends approval of Resolution No. 19-02-003 to authorize the Executive Director or Deputy Executive Director to execute an amendment to Interagency Agreement No. 18MSC004 increase the maximum amount of the agreement to approximately \$73.6 million; to transfer the remaining balances (up to \$37 million) from the Interagency Agreement No. 13-606 to Interagency Agreement No. 18MSC004; and to extend the term of the Agreement from June 30, 2020 to June 30, 2021.

**RESOLUTION NO. 19-02-003 OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR OR DEPUTY EXECUTIVE
DIRECTOR TO EXECUTE AN AMENDMENT TO INTERAGENCY
AGREEMENT 18MSC004 WITH THE CALIFORNIA AIR RESOURCES BOARD**

December 10, 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. 18MSC004 (“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 increase the maximum amount of the agreement to approximately \$73.6 million; to transfer the remaining balances (up to \$37 million) from the Interagency Agreement No. 13-606 to Interagency Agreement No. 18MSC004; and to extend the term of the Agreement from June 30, 2020 to June 30, 2021.

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 Amendment to Interagency Agreement No. 18MSC004 with the California Air Resources Board in an amount of \$110.6 million and extending the term from June 30, 2020 to June 30, 2021.