

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Meeting Date: June 16, 2015

Request to Approve Amendment 2 to Interagency Agreement ARB13-606 with the California Air Resources Board (ARB) Regarding the California Capital Access Program (CalCAP) Independent Contributor Program

and

Request to Approve A Temporary Loan from the Small Business Assistance Fund to ARB

Prepared by: *Robert Canepa*

Summary. Staff requests Board approval to amend Interagency Agreement (Agreement) ARB13-606 between the California Pollution Control Financing Authority (CPCFA or Authority) and ARB which funds loan loss reserve contributions for the On-Road Heavy Duty Vehicle Air Quality Loan Program (Program). The amendment will:

- Extend the expiration date of the Agreement from March 31, 2016 to December 31, 2016;
- Increase the allocated amount of the Agreement from \$20 million to \$35 million;
- Permit the modification of contribution amounts that are deposited into lender loss reserve accounts;
- Give CPCFA the option to use funds from the Small Business Assistance Fund (SBAF) account as a no interest loan to the Program to cover short-term cash flow needs; and
- Direct CPCFA to examine other strategies to ensure the long-term sustainability of the Program.

Background. ARB is an Independent Contributor under CalCAP and provides financial assistance to small business owners of 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 ARB Program began in 2009 under an interagency agreement with CPCFA (ARB 08-607) totaling \$45 million, funded by ARB's Air Quality Improvement Program (AQIP) monies. In November 2014, ARB 13-606 was approved for an amount not to exceed \$20 million, including funds from SB 359 which supplemented the annual allocation of AQIP monies. The current expiration date of ARB13-606 is March 31, 2016. On June 4, 2015 approximately \$3.4 million remains unobligated with loans totaling \$1.1 million in contributions submitted to CPCFA for final approval. Since the Program's inception, CalCAP has enrolled 5,792 loans totaling \$453 million, in support of new and upgraded heavy-duty diesel trucks.

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 on board the qualifying heavy duty trucks. Second, the CalCAP/ARB Program has grown to accommodate more lending institutions who 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 a result, the current demand for the program exceeds the annual allocation of approximately \$10 million. In the first quarter of 2015 alone, expenditures exceeded \$5.7 million.

With an increase in contributions, ARB and CPCFA staff realize that there needs to be short and long term changes in place to mitigate the possibility of running out of future funds. Proposals for short term changes include:

- The ARB staff is recommending to its Board to increase the annual allocation from \$10 million to \$15 million for fiscal year 2015-16. The ARB Board convenes on June 25, 2015 to consider the recommendation.
- The CPCFA staff is recommending that the Authority approve a temporary loan of Small Business Assistance Fund monies to ARB, to cover a potential lag in vehicle license fee revenues to ARB's AQIP fund. The loan would not exceed \$5 million, and would be repaid by ARB in advance of AQIP dollars funding Program contributions.
- Both agencies will expediting the execution of the Interagency Agreement as soon as feasible after the ARB and CPCFA board meetings in June, so that the short term mitigations may be implemented.

Proposals for long term strategies to create a more sustainable program include:

- CPCFA will consider modifications to the loan loss contribution formula to mitigate the program expenditures, balancing the lender's need for adequate portfolio insurance against the prudent use of public funds. The amended Agreement will enable CPCFA to implement a modified contribution formula as long as it doesn't exceed the allowable rates currently in place.
- CPCFA may also consider the possibility of creating a mechanism to recapture loss reserve fund deposits, as enrolled loans mature.

Any long term strategies will be studied in collaboration with existing and potential lenders, as well as other stakeholders and advisors. Any recapture mechanism would be further vetted through a rulemaking process and would be presented to the Board for final approval.

The Amended Agreement. Assuming the funding increase is approved by the ARB Board, this amendment will provide \$15 million in additional funding to the Program allocated to CalCAP as part of ARB's AQIP funding plan for Fiscal Year 2015-2016.

This amended Agreement will also extend the expiration date of ARB13-606 to December 31, 2016. The extension will provide CalCAP the ability to use the entire allocation of funds under IA ARB13-606 and allow for program continuity through the end of the fiscal year and until any subsequent amendments may be approved.

The amended Agreement will permit the modification to the contribution structure of the On-Road Program. Currently, ARB contributes twenty or ten percent of the enrolled amount to the lenders loss reserve account, depending on the amount in the account. Under the proposed amendment, the Executive Officer of ARB and Executive Director of CPCFA would have the authority to lower the contribution rates contribution rates.

The amended Agreement will also add a provision to allow CPCFA to explore a recapture of program funds from lenders' loss reserve accounts, or to otherwise mitigate the amount of funds dedicated to individual loan loss reserve accounts. The recapture would be designed to balance the lender's interest in adequate coverage of a reasonable number of losses against the State's interest in administering a sustainable program. The recaptured funds would be returned to the Program Account to support future contributions for eligible loans and administrative costs. CPCFA staff will conduct meetings with lenders to gather stakeholder input in regards to recapturing funds for program sustainability. If warranted, the recapture of funds from lender loss reserve accounts would require changes to the CalCAP regulations, which will be brought to the Board for approval at a later date.

In the event of a temporary shortfall in funds from the ARB AQIP Fund prior to February 2016, the Agreement will give the Executive Director of CPCFA the delegated authority to make a zero interest bridge loan using funds from its Small Business Assistance Fund (SBAF) to cover enrollments into the Program until AQIP money replenishes. The maximum outstanding balance of the loan shall not exceed \$5,000,000 (\$5 million), or the difference between \$35,000,000 and the total amount disbursed by ARB, whichever is less, at any given time. All monies loaned by CPCFA to the Loan Program will be repaid first in full by the ARB when AQIP funds become available.

Staff Recommendation. Staff recommends approval of the attached Resolutions to authorize the Executive Director or Deputy Executive Director to execute the amended IA ARB13-606 with the revised modifications as described above; and to authorize the Executive Director or Deputy Executive Director to approve a loan from the Authority's Small Business Assistance Fund to cover short term cash flow needs of the CalCAP ARB Program under IA ARB 13-606.

**RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR OR DEPUTY EXECUTIVE
DIRECTOR TO SIGN AMENDMENT 2 TO INTERAGENCY AGREEMENT
ARB13-606 WITH THE CALIFORNIA AIR RESOURCES BOARD**

June 16, 2015

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

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

WHEREAS, pursuant to Interagency Agreement ARB13-606 (“Agreement”), the California Air Resources Board (“ARB”) is an approved Independent Contributor under the Authority’s California Capital Access Program (“CalCAP”); and

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 \$20 million to \$35 million, to extend the expiration date of the Agreement from March 31, 2015 to December 31, 2016 to provide the Authority additional time to use the entire allocation of funds as amended under the Agreement, change contribution requirements, and explore additional strategies for program sustainability.

NOW THEREFORE BE IT RESOLVED, that the Executive Director or Deputy Executive Director of the Authority is hereby authorized to execute Amendment 2 to Interagency Agreement ARB13-606 with the California Air Resources Board, the total amount of which will not exceed \$35,000,000.00.

**RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR OR DEPUTY EXECUTIVE
DIRECTOR TO APPROVE A LOAN FROM THE AUTHORITY'S SMALL
BUSINESS ASSISTANCE FUND (SBAF) TO COVER SHORT TERM CASH
FLOW NEEDS OF THE CALCAP ARB PROGRAM UNDER IA ARB 13-606**

June 16, 2015

WHEREAS, the California Pollution Control Financing Authority (“Authority”) is authorized by Health and Safety Code section 44548 regulations to establish one or more small business assistance funds to fund a capital access program for small businesses.

WHEREAS, the Authority is authorized by Health and Safety Code sections 44559 et seq. to provide financing assistance to small businesses through the California Capital Access Program for Small Businesses (“CalCAP”);

WHEREAS, demand for financing assistance by small businesses and under the CalCAP program continues to draw on the Authority’s CalCAP Program Account; and the Authority must adequately fund the CalCAP program to continue providing financing assistance to small businesses;

NOW, THEREFORE, BE IT RESOLVED by the Authority, as follows:

The Authority hereby authorizes the transfer of up to \$5,000,000 from the Authority’s Small Business Assistance Fund to the CalCAP ARB On-Road 13-606 Program Account managed by U.S. Bank, to make necessary deposits in loan loss reserve accounts under the CalCAP ARB program.

The Executive Director or Deputy Executive Director is hereby authorized and directed to do any and all things, including executing and delivering any documents, which he or she deems necessary or advisable to effectuate the purposes of this Resolution and the transactions contemplated therein.

This resolution shall take effect immediately upon its approval.