

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
Meeting Date: January 16, 2024**

Request to Approve a Fifth Amendment to an Interagency Agreement with the California Air Resources Board (“CARB”) Regarding the California Capital Access Loan Program Independent Contributor Program, Heavy-Duty Vehicle Air Quality Loan Program

Prepared by: *Doreen Smith*

Summary. The California Pollution Control Financing Authority (“CPCFA”) has an Interagency Agreement (“IA”) with the California Air Resources Board (“CARB”) under the California Capital Access Loan Program (“CalCAP”) to administer CARB’s Heavy-Duty Vehicle Air Quality Loan Program (“Program”). This item seeks a fifth amendment to the IA, under CARB 18MSC004 (“CARB 18MSC004”), between CPCFA and CARB to extend the term of the IA and to clarify the administration and compliance of the program since funding has ended and no new loans are being enrolled.

Background. CARB was an Independent Contributor under CalCAP and provided financial assistance to small-business owners who have heavy-duty vehicles affected by CARB’s Truck and Bus Regulation and other air pollution control mandates.

The Program started in 2009 under an IA with CPCFA (“ARB 08-607”) totaling \$44.3 million funded by CARB’s Air Quality Improvement Program (Article 3 (commencing with Section 44274) of Chapter 8.9 of Part 5 of Division 26 of the Health and Safety Code) (“AQIP”) moneys.

In February 2014, a second IA (“ARB 13-606”) between CPCFA and CARB was executed to provide additional funding in an amount not to exceed \$10 million as appropriated in SB 359 (Chapter 415, Statutes of 2013) to supplement CARB’s AQIP Fund moneys that had been exhausted. ARB 13-606 was amended eight times to provide additional funding and clarify program terms.

On February 19, 2019, the CPCFA Board approved CARB 18MSC004 to provide additional funding in the amount of \$25.6 million to the Program for Fiscal Year 2018-2019. That IA was effective April 1, 2019. CARB 18MSC004 was previously amended four times to increase funding, combine the IA with ARB 13-606, and extend the term of the agreement.

CPCFA has contributed \$270.69 million in CARB funds towards 43,043 loans in the Program. CARB is not providing additional funding for this program. Loans were due to be submitted to CalCAP by July 31, 2023.

Current Request. CPCFA and CARB are seeking a fifth amendment to CARB 18MSC004 to extend the term of the agreement to allow for CPCFA to provide

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administrative and compliance duties until the enrolled loans mature. The amendment will also clarify end of program terms and requirements. The proposed Amendment to CARB 18MSC004 is attached as Exhibit A.

Staff Recommendation. Staff recommends the approval of Resolution No. 24-02-001 to authorize the Executive Director or Deputy Executive Director to execute Amendment 5 to Interagency Agreement CARB 18MSC004 to extend the term of the agreement and clarify the administration and compliance of the program.

**RESOLUTION NO. 24-02-001 OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR OR DEPUTY EXECUTIVE
DIRECTOR TO EXECUTE A FOURTH AMENDMENT TO INTERAGENCY
AGREEMENT 18MSC004 WITH THE CALIFORNIA AIR RESOURCES BOARD**

January 16, 2024

WHEREAS, the California Pollution Control Financing Authority (“Authority”) was created under the provisions of the California Pollution Control Financing Authority Act (Division 27 (commencing with 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 the purposes”; and

WHEREAS, Section 44519 of the Health and Safety Code provides that the Authority may employ an Executive Director and any other persons as are necessary to enable it to properly perform the duties imposed upon the Authority by the California Pollution Control Financing Authority Act, and the Authority may delegate to the Executive Director the power to enter into contracts on its behalf; and

WHEREAS, the California Capital Access Loan Program (“CalCAP”) is administered by the Authority, as established in Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the Health and Safety Code, with the Legislature finding and declaring, “Better access to capital will allow small businesses to more easily comply with environmental mandates, and to remediate contamination of properties with a reasonable potential of economically beneficial reuse, and to succeed economically, generating additional revenue to state and local governments that can be used for environmental improvements, all to the benefit of all the residents of the state”; and

WHEREAS, on April 1, 2019, the Authority entered into Interagency Agreement 18MSC004 with the California Air Resources Board (“CARB”) to utilize \$25.6 million in funding for a loan loss reserve program called the Heavy-Duty Vehicle Air Quality Loan Program to specifically provide financial assistance to owners of heavy-duty vehicles affected by the CARB’s Truck and Bus Regulation;

WHEREAS, pursuant to Interagency Agreement 18MSC004, 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 Interagency Agreement 18MSC004 in support of the Heavy-Duty Vehicle Air Quality Loan Program; and

WHEREAS, the Authority desires to extend the term of the agreement.

NOW, THEREFORE, BE IT RESOLVED, by the California Pollution Control Financing Authority the following:

Section 1. The Executive Director and Deputy Executive Director of the Authority are hereby authorized to prepare, enter into, and execute Amendment 5 to Interagency Agreement 18MSC004 with the California Air Resources Board for the Authority to administer the program end compliance for the Heavy-Duty Vehicle Air Quality Loan Program, a loan loss reserve program through the California Capital Access Loan Program.

**EXHIBIT A
SCOPE OF WORK****PURPOSE**

The California Pollution Control Financing Authority (“CPCFA” or “Contractor” or “Authority”) agrees to approve the California Air Resources Board (“CARB”) as an Independent Contributor under the California Capital Access Program (“CalCAP”) to provide CARB all the services CPCFA normally provides to Independent Contributors in CPCFA’s role as administrator and operator of CalCAP, and other services specified in this Agreement.

In consideration of the above, CARB agrees to participate in CalCAP as an Independent Contributor, to commit up to \$130,880,000.00 (\$130.88 Million) to CalCAP, and to perform all the duties and services normally performed by Independent Contributors to CalCAP, except where specified in this Agreement.

A. ACRONYMS

CARB	California Air Resources Board
CalCAP	California Capital Access Program, administered by CPCFA
CPCFA	California Pollution Control Financing Authority
HDV Air Quality Loan Program	Heavy-Duty Vehicle Air Quality Loan Program
STO	State Treasurer’s Office

B. MISSION OF THE ADMINISTRATOR AND INDEPENDENT CONTRIBUTOR

The mission of CARB is to promote and protect public health, welfare, and ecological resources through the effective and efficient reduction of air pollutants while recognizing and considering the effects on the economy of the State. To these ends, CARB has created the Heavy-Duty Vehicle Air Quality Loan Program (HDV Air Quality Loan Program or the Program), in partnership with the CPCFA, to provide financial assistance to owners of heavy-duty vehicles. The HDV Air Quality Loan Program began in April 2009 and was implemented by CPCFA through Interagency Agreement Number 08-607 to specifically provide financial assistance to owners of heavy-duty vehicles affected by the CARB’s Statewide In-Use Truck and Bus Regulation and the Heavy-Duty Vehicle Greenhouse Gas Emission Reduction Regulation. Initial program funding was provided through a one-time appropriation of 2008-2009 fiscal year Air Quality Improvement Program (“AQIP”) funds authorized by AB 1338 (Chapter 760, Statutes of 2008). With the original AQIP funds exhausted, Senate Bill 359 (Chapter 415, Statutes of 2013) provided additional funds to continue the HDV Air Quality Loan Program focusing on qualified small business trucking fleets affected by the Statewide In-Use Truck and Bus Regulation. In January 2014 implementation of the HDV Air Quality Loan Program by CPCFA continued through Interagency Agreement Number 13-606, and in April 2019, the implementation continued through Interagency Agreement 18MSC004-1. Additional funding was approved at the October 25, 2018 CARB Board meeting, as part of the Fiscal Year 2018-19 Funding Plan for Air Quality Improvement Program and Low Carbon Transportation Greenhouse Gas Reduction Fund Investments, the October 24, 2019 CARB Board meeting as part of the Fiscal Year 2019-20 Funding Plan, the November 19, 2021 CARB Board meeting as part of the Fiscal Year 2021-22 Funding Plan, and at the November 17, 2022 CARB Board meeting as part of the Fiscal Year 2022-23 Funding Plan. The additional funding came from the AQIP.

CARB Independent Funding for the HDV Air Quality Loan Program has ended. Eligible enrollments in the program ended July 31, 2023. Loans enrolled in the program up until July 31, 2023, are considered enrolled in the program until the loan enrollment matures or until June 30, 2030, whichever is earlier. After processing loans enrolled by July 31, 2023, interagency

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agreement duties will include the maintenance and compliance tasks necessary for CPCFA to process claims, communicate with lenders, and for the trustee to process transactions per CPCFA direction.

This program may also be funded from a portion of the penalties received during settlement of enforcement actions pursuant to CARB's Supplemental Environmental Project Policy. Such funds will be directed to CPCFA and blended with AQIP monies.

CPCFA is committed to stimulating local economies in California by delivering innovative financing for projects that protect and restore the environment and making capital more accessible to small businesses. CPCFA administers CalCAP, authorized by Assembly Bill 1496 (Chapter 1164, Statutes of 1993), which encourages banks and other financial institutions to make loans to small businesses. CalCAP is a form of "loan portfolio insurance" that provides up to ~~100% percent~~ coverage on certain loan defaults. Since April 2009, CPCFA has administered the HDV Vehicle Air Quality Loan Program on behalf of CARB, directing CARB's contributions into loss reserve funds to support loans for over ~~40,000 truck upgrades, as of November 2022,~~ **44,000 truck upgrades** to deploy cleaner emission trucks on the road. The success of the HDV Air Quality Loan Program is due in part to the CalCAP lenders ~~currently~~ participating in the program statewide.

C. THE ROLE OF THE INDEPENDENT CONTRIBUTOR IN THE CALCAP PROGRAM

Health and Safety Code section 44559.2(a) allows third-party entities to participate in CalCAP as "Independent Contributors" to CalCAP lenders' loan loss reserve accounts, thereby contributing the premium costs on behalf of the borrower, the lender, and CPCFA. Requirements for participation as an Independent Contributor in CalCAP are found in the California Code of Regulations, title 4, division 11, article 7. CalCAP regulation § 8078 (Participation in the Program by Certain Public or Private Entities) enables CPCFA to permit any individual, company, corporation, institution, utility, government agency or other entity to become an Independent Contributor in CalCAP, making possible the collaboration with CARB to aid lenders with financing new, cleaner-emission heavy-duty trucks and buses. Additionally, Senate Bill 225 (Chapter 492, Statutes of 2011), effective October 2011, authorizes CalCAP to allow lenders to enroll Terminal Rental Adjustment Clause (TRAC) leases, in addition to loans, in CalCAP's Independent Contributor program. For implementation of the HDV Air Quality Loan Program, CARB, as an Independent Contributor to CalCAP, shall contribute the premiums typically funded by the borrower, lender, and CPCFA each time a loan is approved in the HDV Air Quality Loan Program.

The loan qualifications stated below apply to loans enrolled on or before July 31, 2023. Loans are not eligible to be enrolled after July 31, 2023, and these qualifications are not applicable.

To incentivize participation in the HDV Air Quality Loan Program, for each new and existing lender whose loan loss reserve account has not yet reached \$500,000, CARB shall contribute the premiums required by CPCFA, as well as the premiums typically required by the borrower and lender, in an amount equal to ~~14% percent~~ of a borrower's enrolled loan amount each time a loan is approved in the HDV Air Quality Loan Program. When contributions deposited in a lender's loan loss reserve account are \$500,000 or more, the contribution rate will be ~~10% percent~~.

In consultation with CPCFA, the Executive Officer of CARB may direct that the premium contribution schedule be adjusted, so long as the premium contributions for each enrolled loan do not exceed the amounts stated above. In addition, the total premium contribution for each loan shall be no less than

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~~4%~~ percent of the borrower's enrolled loan amount. Such adjustments shall take into account program objectives including maximizing available program funding, and increasing participation by lenders and borrowers in the HDV Air Quality Loan Program throughout California. Any such change to the premium contribution schedule shall be enacted by written memorandum from the Executive Officer of CARB.

As the Independent Contributor, CARB has requested further specific changes to the regular CalCAP rules, including:

1. Setting the maximum eligible fleet size at ~~ten (10)~~ vehicles consistent with fleet reporting requirements in CARB's Statewide In-Use Truck and Bus Regulation;
2. Capping the maximum interest rate a lender may charge at ~~twenty (20%)~~ percent annual percentage yield (APY);
3. Capping the maximum annual business revenues at \$10 million averaged over the prior ~~three (3)~~ years;
4. Decreasing the number of employees a Borrower may have to ~~one hundred (100)~~;
5. Prohibiting refinances of existing loans to be enrolled in the Program;
6. Allowing the financing of equipment warranty and maintenance plans, when funded with the purchase of an eligible truck;
7. Non-profit organizations may have more than 10 vehicles but must satisfy all other requirements of the CalCAP and HDV Air Quality Loan Programs.
8. Limiting eligibility of enrollment in the Program to financing of vehicles registered in California, substantiated by the California Department of Motor Vehicles registration.

Lastly, to ensure a sustainable HDV Air Quality Loan Program, CPCFA may consider, in consultation with lenders, financial advisors and other stakeholders, other program modifications, including whether or not to charge the lender and borrower a fee for each loan enrolled in the CalCAP for Small Business Program, and how to structure the recapture of funds from a lender's loss reserve account on a periodic basis when enrolled loans mature. These changes would be adopted either by subsequent amendment to this Agreement or by rulemaking promulgated by the Authority under its CalCAP regulations.

D. SCOPE OF WORK

The parties, CPCFA and CARB, hereby agree to the following terms and conditions:

1. The term of the Agreement shall commence on April 1, 2019, through ~~June 30, 2024~~ **December 31, 2030**, unless sooner terminated by either party giving of 30 days written notice of intent to terminate this Agreement.
2. CARB will provide funds in an amount of up to \$130,880,000.00 (\$130.88 Million) to CPCFA. CPCFA has established three CARB-designated accounts with its Trustee Bank through this Agreement 18MSC004-1: 1) an interest-bearing CARB Program Account to provide funds for the premium contributions to the lenders' CARB loan loss reserve accounts; 2) an interest-bearing CARB Cost Account; and 3) an interest-bearing CARB Recapture Account. Deposits into the CARB Cost Account shall come from; 1) depositing 7% of each transmittal of funds from CARB, 2) depositing 7% of recaptured funds; and CPCFA's authorized collection of interest earned on each lender's CARB loan loss reserve account and interest earned on funds held in the CARB Program Account prior to transfer to a lender's CARB loan loss reserve account. Interest generated from funds held in the CARB Cost Account shall remain in the CARB Cost Account. Deposits in the

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CARB Recapture Account shall come from the funds recaptured on an annual basis, of which 7% will be deposited thereafter into the CARB Cost Account and the remaining funds will be deposited in the CARB Program Account.

- Funds held in the CARB Cost Account maintained by the Trustee shall be used to cover Trustee costs related to maintaining the three (3) CARB-designated accounts. CARB shall authorize CPCFA to withdraw funds from the CARB Cost Account, upon receipt of quarterly Requests for Payment (See Exhibit B, Attachment 1), in an amount not to exceed ~~seven (7%) percent~~ of the total funds provided to CPCFA under this Agreement to cover Trustee costs and CPCFA's Administrative costs. Admin costs are calculated using the following:

Loans and Claims processed (per month)	Maximum Cost (per month)
0-25	\$18,500.00
26-50	\$26,000.00
51-100	\$33,500.00
101-150	\$41,000.00
151-200	\$48,500.00
201-250	\$56,000.00
251-300*	\$63,500.00

*The processing of each incremental additional 50 loans above 300 will result in an increase of \$7,500.00 per month.

Loans and claims processed through December 31, 2023, will be processed per the above schedule. Effective January 1, 2024, claims will be processed per actual staff hours worked at the CPCFA determined hourly rate as outlined below under Post Program Administration.

Travel costs and marketing costs will be submitted on the quarterly Requests for Payment, and may be in excess of the ~~seven (7%) percent~~ Trustee and Administrative costs but shall not exceed \$5,000.00 per quarter without prior written consent from CARB. Unused funds shall remain under the authority of the CARB.

Post Program Administration

Once program funds have been expended and no new loans are being enrolled in the Program, CalCAP is authorized to charge for administrative costs until all loans enrolled in the Program have matured. These costs will include maintaining files, correspondence with the Trustee and the participating lenders, and processing claims. CPCFA will record staff hours devoted to working on this Program and will bill CARB for actual staff hours worked at an hourly rate CPCFA determines at the beginning of each fiscal year. **CPCFA will notify CARB regarding an increase in the staff hourly rate before a new rate is invoiced.** Administrative costs billed to the Cost Account will not exceed the available balance in the Cost Account.

- In order to reconcile expenditures by the end of the Agreement term, CPCFA shall provide CARB a report on unused funds, including interest, in the CARB Program Account, the CARB Cost Account, and the CARB Recapture Account maintained by the Trustee three (3) months prior to the end of the Agreement. CPCFA and CARB agree that funds (including interest) that have not been

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transferred to a lender's CARB loan loss reserve account, or have not been used to cover costs related to maintaining the Trustee accounts or CPCFA costs for administration of the HDV Air Quality Loan Program, will remain in the respective account at the Trustee until CARB requests transfer to another designated account for HDV air quality loan programs, or requests the return of the funds.

5. CPCFA shall require lenders to maintain CARB loan loss reserve accounts for the purpose of the HDV Air Quality Loan Program separate from their other CalCAP loan loss reserve accounts. The CARB loan loss reserve accounts for the HDV Air Quality Loan Program may be held at either the participating lender or at the Trustee, based on standard CalCAP practices authorized by CPCFA. Participating lenders may also utilize the same loss reserve accounts established and maintained, either by the participating lender or the Trustee, under previous Interagency Agreements 08-607, 13-606, or 18MSC004-1 for the purpose of the HDV Air Quality Loan Program.
6. CARB and CPCFA will require the borrower to complete the *HDV Air Quality Loan Program Borrower Eligibility Criteria and Self-Certification Form* (Exhibit A, Attachment 1 - Borrower Form). The purpose of the Borrower Form is for each borrower to certify that the small business meets specified requirements of both CalCAP and CARB's program parameters prioritized by AQIP and SB 359. Any subsequent modifications to the Borrower Form will require an amendment to the Agreement.
7. The Borrower Form contains the lender's certification that it has adhered to all of its responsibilities and collected all loan enrollment documentation required by the CalCAP regulations. CPCFA shall require the lender to submit the completed Borrower Form, on behalf of the borrower, to CPCFA for review. CPCFA shall be responsible for review of the Borrower Form and shall respond to a lender's request for loan enrollment within fifteen (15) working days from receipt of the lender's request. CPCFA shall bear no responsibilities for verification of information submitted by the Borrower on the Borrower Form. CPCFA will enroll qualified loans in the HDV Air Quality Loan Program under CalCAP unless questions regarding eligibility arise during the review process. If questions arise or if a loan is determined to be ineligible, CPCFA will contact the lender as per CalCAP regulations.
8. CARB, as an Independent Contributor to CalCAP, shall contribute the premiums typically funded by CPCFA each time a loan is approved in the HDV Air Quality Loan Program. To incentivize participation in the HDV Air Quality Loan Program, for each new and existing lender whose loan loss reserve account has not yet reached \$500,000, CARB shall contribute the premiums required by CPCFA, as well as the premiums typically required by the borrower and lender, in an amount equal to ~~14% percent~~ of a borrower's enrolled loan amount each time a loan is approved in the HDV Air Quality Loan Program. When contributions deposited in a lender's loan loss reserve account are \$500,000 or more, the contribution rate will be ~~10% percent~~.

In consultation with CPCFA, the Executive Officer of CARB may direct that the premium contribution schedule be adjusted, so long as the premium contributions for each enrolled loan do not exceed ~~14% percent~~. In addition, the total premium contribution for each loan shall be no less than ~~4% percent~~ of the borrower's enrolled loan amount. Such adjustments shall take into account program objectives including maximizing available program funding, and increasing participation by lenders and borrowers in the HDV Air Quality Loan Program throughout California. Any such change to the premium contribution schedule shall be enacted by written memorandum from the Executive Officer of CARB.

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9. CARB understands that CPCFA has no role in underwriting loans. Loan approval is made solely by the lender. CPCFA's role is limited to approving the enrollment of loans into the HDV Air Quality Loan Program under CalCAP.
10. As Independent Contributor, CARB has set the maximum interest rate a lender may charge on any single loan at ~~twenty (20%)~~ percent APY. Any adjustment to the maximum interest rate shall be made through an amendment to the Agreement.
11. During CARB's participation in CalCAP under this Agreement, the CARB's liability under the program to any person or entity shall not exceed premium contributions paid by CPCFA on behalf of CARB into any single lender's loan loss reserve account.
12. To increase the longevity of the Program funds, CPCFA has established regulatory procedures (California Code of Regulations, title 4, Section 8078.25) to recapture contribution funds from a lender's loss reserve account on an annual basis upon maturity of enrolled loans. These funds shall be returned to the Program Account to support future contributions for eligible loans and administrative costs. Recapture is not applicable for contributions on defaulted or charged off loans for which a claim has been approved, unless the amount recovered through the liquidation of the collateral exceeds the approved claim. All other terms of the loans enrolled in the CalCAP CARB program shall remain the same. CPCFA shall be authorized to withdraw an amount not to exceed ~~seven percent (7%)~~ of the recaptured funds to cover administrative expenditures.
13. During the CARB's participation in CalCAP under this Agreement, the CARB's entire liability shall not exceed the total amount paid into all loan loss reserve accounts over ~~the course of this Agreement and the prior Interagency Agreement Numbers 08-607, 13-606, 18MSC004-418MSC004-5~~ or an amount not to exceed \$130,880,000.00 (\$130.88 Million) ~~plus the total amount deposited under the prior agreements, whichever is less.~~
14. Premium contributions funded by CARB in lenders' loan loss reserve accounts made under ~~this Agreement and the prior Interagency Agreement Numbers 08-607, 13-606, or 18MSC004-418MSC004-5~~ on behalf of the borrower, the lender and CPCFA shall be **made available to fund the Zero-Emission Truck Loan Pilot Project**, returned to CARB, or, at CARB's direction, held in one of the two CARB-designated accounts at the Trustee, once all loans guaranteed by the loan loss reserve account have been repaid. CARB may also request the return of uncommitted CARB funds from CARB's Program, Cost, and Recapture Accounts at any time for CPCFA's failure to meet the terms and conditions of this Agreement.
15. CPCFA shall make available to CARB, upon request, all copies of the Borrower Form, subject to the allowable use and disclosure provision in Section D(21) below.
16. CPCFA shall provide monthly reports on loans enrolled in the HDV Air Quality Loan Program to CARB. The report will include the following information for each loan: borrower's city, county, and zip code, CalCAP loan number, date enrolled, type of loan, interest rate and maturity date of loan, percentage and dollar amount of the premium contribution, type of business, borrower's annual revenue three year average, number of employees, and minority/woman/veteran-owned business information, to be provided in the form of a spreadsheet to be submitted to CARB electronically. In addition, the information shown below will be reported and submitted to CARB electronically:

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- a. Number of loans and Terminal Rental Adjustment Clause Leases (TRAC Leases) enrolled in CalCAP (monthly activity and cumulative activity);
- b. Dollar amount transferred into each lender's CARB loan loss reserve account including adjustments;
- c. Total dollar amount of fund transfers to or from CARB Program Account and the date of such fund transfers;
- d. Dollar amounts, including applicable interest in or out of the CARB Program Account;
- e. Interest deposits into the CalCAP/CARB Cost Account;
- f. Administrative costs related to management of CARB-designated accounts and by CPCFA for administration of the HDV Air Quality Loan Program (quarterly report);
- g. Information for each claim including enrolled loan amount, dollar amount paid from lender's CARB loan loss reserve account;
- h. Project information from the Borrower Form, Section III;
- i. A document signed by CPCFA's Executive Director stating that to the best of his/her knowledge the information contained in the reports is complete and accurate.

All other loan enrollment data on the Borrower Form will be collected by CPCFA, and the Borrower Form will be available to CARB as a physical document upon request, subject to a nondisclosure agreement pursuant to Section (D)21 below.

17. In addition to the monthly reports described above, CARB shall coordinate with CPCFA to prepare any summary or annual reports that may be required as a result of program implementation.
18. After funding the last project, CARB and CPCFA shall assess the reporting requirements related to the claims made by lenders for reimbursement to lenders to determine the form and frequency that this information will be reported to CARB.
19. CARB reserves the right to audit CPCFA's implementation of the HDV Air Quality Loan Program. Such audits shall be limited to the records, data, and other information CPCFA is required to collect from borrowers and lenders pursuant the Agreement.
20. CARB has directed CPCFA to perform three or more annual audits of participating lenders' HDV Air Quality Loan Program portfolios until December 31, 2023. These audits will be completed by CPCFA staff, independent certified public accountants, or other State of California Agencies or Departments. CARB reserves the right to approve the plan and cost of these audits. Audit costs incurred by CPCFA may be in excess of funding provided to CPCFA to cover Trustee costs and CPCFA's Administrative costs under Section D(3), above. These audits will be performed subject to CARB's prior written approval to reimburse CPCFA for actual travel costs involved in performing such audits notwithstanding the payment provisions in Exhibit B.

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21. CARB and CPCFA acknowledge that certain personal information of individual borrowers is protected under the California Information Practices Act (CIPA), Government Code sections 1798 et seq., and that the maintenance and dissemination of such information is subject to strict limits. CPCFA shall require lenders to provide each borrower a copy of the Privacy Notice (~~Exhibit A, Attachment 2~~) at: <https://www.treasurer.ca.gov/cpcf/calcap/forms/privacy.pdf> which identifies CPCFA as the responsible agency under CIPA. If and when CARB requests copies of the Borrower Form pursuant to Sections D(15) & (16) above that includes personal information, CARB and CPCFA shall first execute a nondisclosure agreement that specifies the purpose for which the information is to be used, any foreseeable disclosures of such information, and the notice, maintenance and safeguard procedures that CARB will implement to ensure compliance with Government Code section 1798.18 – 1798.22.
22. **Through July 31, 2023**, CPCFA and CARB shall coordinate to market the HDV Air Quality Loan Program throughout California to secure lenders to serve the trucking sector, and to educate heavy-duty truck owners, truck dealers, and retrofit and equipment vendors on the program.

E. SELECTION OF TRUSTEE

CPCFA shall select and appoint a Trustee, which CARB will utilize to disburse and receive program and loans funds from borrowers, lenders, CARB and CPCFA.

F. CONTRACT REPRESENTATIVES

The Project Managers during the term of this Agreement will be:

Requesting Agency: CARB	Providing Agency: State Treasurer's Office
Section/Unit: Mobile Source Control Division	Section/Unit: CPCFA
Name: Eric Patton Jessica Johnson	Name: Doreen Smith
Address: 1001 I Street, 5 th Floor Sacramento, CA 95814	Address: 915 Capitol Mall Sacramento, CA 95814
Phone: (279) 208-7483 (279) 208-7652	Phone: (916) 653-3993
Email: Eric.Patton@arb.ca.gov Johnso n.Jessica@arb.ca.gov	Email: mailto:Doreen.Smith@treasurer.ca.gov Doreen.Smith@treasurer.ca.gov

Direct all Administrative inquiries to:

Requesting Agency: CARB	Providing Agency: State Treasurer's Office
Section/Unit: Mobile Source Control Division	Section/Unit: CPCFA
Attention: Eric Patton Jessica Johnson	Attention: Nicholas Montalvo Robert Salls
Address: 1001 I Street, 5 th Floor Sacramento, CA 95814	Address: 915 Capitol Mall Sacramento, CA 95814
Phone: (279) 208-7483 (279)	Phone: (916) 653-6217 651-7894

**EXHIBIT A
SCOPE OF WORK**

<u>208-7652</u>	
Email: Eric.Patton@arb.ca.gov Johnson.Jessica@arb.ca.gov	Email: Nicholas.Montalvo@treasurer.ca.gov Robert.Salls@treasurer.ca.gov

Direct all inquiries to the Administrative Representatives.

The parties may change their Contract Representative(s) upon providing ~~ten~~ (10) days written notice to the other party's Contract Representative(s). The notifying party shall provide complete contact information for the replacement Contract Representative(s) to include the information provided above.

EXHIBIT A, ATTACHMENT 1 – BORROWER FORM

Borrower Name _____
Lender/Participating Financial Institution _____
Lender Loan No. _____

HEAVY-DUTY VEHICLE AIR QUALITY LOAN PROGRAM (HDV AIR QUALITY LOAN PROGRAM) BORROWER ELIGIBILITY CRITERIA AND SELF-CERTIFICATION FORM

The undersigned Borrower hereby applies to the California Pollution Control Financing Authority (CPCFA) for funds to pay the Borrower's premium for participation in the CPCFA's California Capital Access Program (CalCAP). The lender will submit this form with the CalCAP CARB Programs Loan Enrollment Form to CPCFA at:

California Pollution Control Financing Authority (CPCFA)
801 Capitol Mall, 2nd Floor
Attention: California Capital Access Program (CalCAP)
Sacramento, CA 95814
Fax: (916) 589-2805

For assistance, lenders please call CPCFA staff at (916) 654-5610.

SECTION I HDV AIR QUALITY LOAN PROGRAM ELIGIBILITY

By initialing on each line, Borrower certifies to eligibility under the HDV Air Quality Loan Program.

(a)____ Borrower will use the program only to purchase on-road heavy duty vehicles and equipment for compliance with the California Air Resources Board's (CARB) Statewide In-Use Truck and Bus Regulation (Regulation) (California Code of Regulations, title 13, Section 2025), refer to:
<https://ww2.arb.ca.gov/our-work/programs/truck-bus-regulation/truck-and-bus-regulation-regulation-advisories>

Eligible purchases with loan proceeds include:

- Used and new trucks equipped with 2010 and later model year engines CARB-certified to 2010 and later model year emission standards;
- Equipment Warranty, when funded with the purchase of an eligible truck; and
- The engines can use diesel fuel, compressed natural gas (CNG), liquefied natural gas (LNG), or other fuels including zero-emission technology.

(b)____ Borrower certifies that his/her fleet has 10 or fewer on-road vehicles subject to the Regulation referenced in the above statement, or is a non-profit entity that meets all other CalCAP requirements. Consistent with fleet reporting requirements in California Code of Regulations, title 13, section 2025, the Borrower shall include vehicles whether or not they are registered, and include vehicles registered as non-operating. In Section III, the Borrower shall provide the total number of on-road heavy-duty vehicles in his/her fleet subject to the Regulation. *(Non-profit organizations may have more than 10 vehicles but must satisfy all other requirements of the CalCAP and HDV Air Quality Loan Programs).*

(c)____ Borrower certifies that he/she has 100 or fewer employees and \$10 million or less in annual revenues averaged over the prior three (3) years.

(d)____ Borrower is aware that CARB is developing the Advanced Clean Fleet regulation which would require State and local government fleets, drayage trucks, high priority fleets, and federal fleets to phase in medium- and heavy-duty zero-emission vehicles (ZEVs), and light-duty package delivery ZEVs over time. The proposed regulation sets an end date for combustion-powered new medium- and heavy-duty vehicle sales in California. Complete regulatory language, and the current status of the regulatory development, can be found at: <https://ww2.arb.ca.gov/rulemaking/2022/acf2022>. Borrower understands they may be subject to potential future obligations under this and other regulations requiring transition to zero-emission

EXHIBIT A, ATTACHMENT 1 – BORROWER FORM

technology. Borrower is aware their purchase with the enrolled loan may affect their compliance.

(e)____Borrower has submitted a public attestation online at: CAZEVLaborLawcompliance.org that they are in full compliance with all labor laws and other conditions as required by Assembly Bill 794 (Statutes of 2021).

By initialing either (f) (g), or (h) below, Borrower certifies that either (f) (g), or (h) is true and correct. If Borrower has not received a CARB grant or is not approved for a voucher below, DO NOT INITIAL ANY OF THE STATEMENTS.

(f)_____ Borrower certifies that he/she has received a grant through CARB's Proposition 1B Goods Movement Emission Reduction Program for the vehicle(s) being financed.

(g)_____ Borrower certifies that he/she has received a grant through the CARB's Carl Moyer Program On-Road Heavy-Duty Vehicle Voucher Incentive Program (VIP) for the vehicle(s) being financed.

(h)_____ Borrower certifies that he/she is approved for a voucher for CARB's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) to purchase or lease a hybrid or zero-emission truck or bus.

Borrower Name _____
Lender/ Participating Financial Institution _____
Lender Loan # _____

SECTION II
CalCAP ELIGIBILITY

By initialing on each line, the Borrower certifies to eligibility under CalCAP.

- (a) _____ Borrower is a qualified business as defined in the CalCAP regulations section 8078.22.

- (b) _____ Borrower obtained a loan that is for a vehicle registered in California with the Department of Motor Vehicles.

- (c) _____ Borrower agrees to allow the participating financial institution to provide information from financial records of the Borrower upon request of the Executive Director of CPCFA.

- (d) _____ Borrower has no legal, beneficial, or equitable interest in the fees or the contribution.

- (e) _____ Borrower does not have a total enrolled principal amount in excess of \$2,500,000 at any CalCAP participating financial institution over a three (3) year period.

- (f) _____ Borrower has secured or made application for all applicable licenses or permits needed to conduct its business.

- (g) _____ Borrower has received CPCFA's CalCAP/CARB Privacy Notice dated December 5, 2018.

- (h) _____ Borrower is not: an executive officer, director or principal shareholder of the lender/ participating financial institution; a member of the immediate family of those individuals; or a related interest of those individuals.

Borrower Name _____
 Lender/ Participating Financial Institution _____
 Lender Loan # _____

SECTION III

By initialing below, the Borrower certifies that each statement is true and correct.

(1) _____ Borrower certifies that the qualified business meets state and federal requirements to operate in California.

(2) _____ Borrower agrees to allow CARB staff or its designee to inspect the affected vehicle.

The Borrower is to provide the applicable information in the table below, including the engine manufacturer and model year of a truck that is replaced with a truck purchased with loan proceeds.

Additional Information for Completion by the Borrower				
Fleet Size^a				
For Truck Purchases				
For truck purchased, state the GVWR^b:				
	Engine Manufacturer	Engine Model Year	Engine Horsepower	Fuel Type ^c
New Vehicle Purchase				
Used Vehicle Purchase				
Replaced Truck (if purchase is to replace an existing truck)				
DID BORROWER RECEIVE A NOTICE OF NON-COMPLIANCE FROM CARB? <input type="checkbox"/> YES <input type="checkbox"/> NO				
For Trailer Purchases^d				
	Trailer Manufacturer	Trailer Model Year	SmartWay Certified? (Y)es or (N)o	
Trailer				

^a The Borrower shall write in the total number (example: 8) of on-road vehicles subject to the Regulation referenced in the beginning of this form, in his or her fleet.

^b Information about Gross Vehicle Weight Rating (GVWR) is available at <http://www.arb.ca.gov/msprog/truckstop/azregs/labels.htm>.

^c Fuel Codes: D-Diesel, E-Electric, N-Natural Gas, Q-Hybrid, P-Propane.

^d Trailers may be eligible for financing ONLY in conjunction with the purchase of an eligible tractor.

 (Business Name)

The undersigned declares under penalty of perjury, under the laws of the State of California, that all statements and responses made in this self-certification are true and correct, with full knowledge that all statements and responses are subject to investigation and that any incomplete, unclear, false, or dishonest response may be grounds for Borrower’s disqualification in the HDV Air Quality Loan Program and may also result in Borrower being barred from participating in any other California-sponsored or other state programs, or from doing business with the State of California. The Borrower acknowledges, understands and accepts that by providing or making any false statements or providing false information, the Borrower may be in a violation of the California False Claims Act (Government Code Section 12650 et seq.).

 (Print Individual’s Name)

 (Individual’s Title as it pertains to the the business)

(Individual's Signature)

(Date)

(Business Address, City, State, Zip Code)

(Phone Number)

(CPCFA Review: Signature and Date)

<i>CPCFA USE ONLY</i>	

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. BUDGET CONTINGENCY CLAUSE

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

2. PROMPT PAYMENT CLAUSE

- A. Costs for this Agreement shall be computed in accordance with State Administrative Manual Sections 8752 and 8752.1.
- B. Nothing herein contained shall preclude advance payments pursuant to Article 1, Chapter 3, Part 1, Division 3, and Title 2 of the Government Code of the State of California.

3. FUNDING DISBURSEMENT FOR \$130,880,000.00 (\$130.88 Million)

- A. CARB will transfer the amount of \$130,880,000.00 (\$130.88 Million) to CPCFA upon signing of this Interagency Agreement by both parties and upon receipt of an Invoice(s) for Fund Transfer from CPCFA. For accounting purposes, all Invoices for Fund Transfer will contain the following accounting codes: **PCA Code: 80008; Source Code: 2999000; Controller Fund #: 0930.001**. All fund transfers to CPCFA shall occur before June 30, 2024.
- B. CPCFA will deposit the funds in accounts established at its Trustee Bank: 1) an interest-bearing CARB Program Account to provide funds for lenders' CARB loan loss reserve accounts; 2) an interest-bearing CARB Cost Account; and 3) a CARB Recapture Account. Deposits into the CARB Cost Account shall come from funds transferred from the CARB Program Account and the CARB Recapture Account necessary to cover CPCFA's administrative costs not to exceed ~~seven percent (7%)~~ of the total funds provided to or recaptured by CPCFA under this Agreement, plus travel and marketing costs and CPCFA's authorized collection of interest earned on each lender's CARB loan loss reserve account as well as interest earned on funds held in the CARB Program Account prior to transfer to a lender's CARB loan loss reserve account. Interest generated from funds held in the CARB Cost Account shall remain in the CARB Cost Account.
- C. In the event of a temporary shortfall in revenue into the AQIP Fund precluding full disbursement from CARB to CPCFA prior to June 30, 2024, upon written request by CARB's Executive Officer, CPCFA in its discretion may agree to a bridge loan of funds from its Small Business Assistance Fund (SBAF) into an interest-bearing CARB SBAF Loan Account established at the Trustee Bank. The maximum outstanding balance of the loan shall not exceed \$10,000,000 (\$10 million). This will be a zero interest loan. All monies loaned by

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

CPCFA to the HDV Air Quality Loan Program will be repaid first in full by the CARB when AQIP funds become available. Interest earned on the funds in the CARB SBAF Loan Account shall be repaid to CPCFA on a quarterly basis.

- D. After a lender has enrolled an eligible loan in the program, CPCFA shall approve the transfer of funds from the CARB Program Account to a lender's CARB loan loss reserve account to cover the eligible premiums of the borrower, lender, and CPCFA as provided in Exhibit A, Section D(8).
- E. CPCFA has established regulatory procedures (California Code of Regulations, title 4, Section 8078.25) to recapture contribution funds from a lender's loss reserve account. Annually upon maturation of enrolled loans recaptured funds shall be deposited in the CARB Recapture Account for use into 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. Existing loans will be covered up to the previously approved covered term of the loan. CPCFA shall be authorized to withdraw an amount not to exceed ~~seven percent (7%)~~ of the recaptured funds to cover administrative expenditures.

4. ACCOUNT INTEREST EARNINGS AND MAINTENANCE FEES

- A. CARB funds shall be maintained in interest-bearing accounts as described in the Scope of Work (Exhibit A). Interest generated from funds held in the CARB Program Account, and in the CARB Recapture Account shall be deposited quarterly in the CARB Cost Account maintained by the Trustee.
- B. Interest collected from each lender's CARB loan loss reserve account through CPCFA's authorized collection procedures shall be deposited, at a minimum, annually in the CARB Cost Account maintained by the Trustee.
- C. Interest generated from funds held in the CARB Cost Account shall remain in the CARB Cost Account.
- D. Funds held in the CARB Cost Account shall be used to cover Trustee costs related to maintaining the CARB Program Account, CARB SBAF Loan Account and the CARB Cost Account, other Trustee costs related to the maintenance and management of funds and accounts under this interagency agreement, and CPCFA's approved administrative, **and** travel and marketing costs.

5. UNUSED FUNDS

- A. In order to reconcile expenditures by the end of the Interagency Agreement term, CPCFA shall provide CARB a report on unused funds, including interest, in the CARB Program Account, in the CARB Recapture Account, and in the CARB Cost Account maintained by the Trustee three (3) months prior to the end of this Interagency Agreement.
- ~~B. When Interagency Agreement Number 13-606 is terminated, CPCFA and CARB agree that funds previously transferred to CPCFA under Interagency Agreement Number 13-606, including interest, that have not been transferred to a lenders CARB loan loss reserve account, or have not been used to cover costs related to maintaining the CARB Program~~

**EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS**

~~Accounts or CPCFA costs for administration of the HDV Air Quality Loan Program under Interagency Agreement Number 13-606 shall be used for the purpose of the HDV Air Quality Loan Program described in the Scope of Work (Exhibit A) in this Agreement. CPCFA and CARB anticipate executing an amendment to this Agreement to increase the maximum amount of this Agreement, so that the funds previously transferred under Interagency Agreement Number 13-606 can be transferred for use under this Agreement.~~

- C. CPCFA transferred the previous balance, including any accrued interest, available in the CARB Program, Cost, and Recapture Accounts established for the Interagency Agreement 13-606 (up to \$37,000,000.00) into the respective CARB Program, Cost, and Recapture Accounts established for the Interagency Agreement 18MSC004 to use the funds for the purpose of the HDV Air Quality Loan Program described in the scope of work (Exhibit A) in this Agreement.
- D. CPCFA and CARB agree that funds, 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 Program Account, CARB SBAF Loan Account or CPCFA costs for administration of the HDV Air Quality Loan Program, will remain in the respective account at the Trustee until CARB requests transfer to another designated account for HDV air quality loan programs, or authorizes the use of the funds for ~~another HDV air quality loan program~~ **the Zero-Emission Heavy-Duty Vehicle Air Quality Loan Program** under an amended or separate Agreement, or requests the return of the funds.

6. REQUESTS FOR PAYMENTS

- A. **CPCFA shall submit Requests for Payment not more frequently than quarterly, and within the quarter following the quarter for which payment is requested.** Upon receipt of Requests for Payment (See Exhibit B, Attachment 1), ~~not more frequent than quarterly,~~ CARB shall authorize CPCFA to withdraw funds from the CARB Cost Account to cover Trustee costs related to maintaining the two CARB-designated accounts, and for administration of the HDV Air Quality Loan Program. CPCFA shall be authorized to withdraw an amount not to exceed ~~seven percent (7%)~~ of the total funds provided to or recaptured by CPCFA under this Agreement. Travel costs and ~~M~~marketing costs will be submitted on the Requests for Payment, and may be in excess of the ~~seven (7%) percent~~ Trustee and Administrative costs but shall not exceed \$5,000.00 per quarter without prior written consent from CARB.
- B. Post Program Administration
Once program funds have been expended and no new loans are being enrolled in the Program, CalCAP is authorized to charge for administrative costs until all loans enrolled in the Program have matured. These costs will include maintaining files, correspondence with the Trustee and the participating lenders, and processing claims. CPCFA will record staff hours devoted to working on this Program and will bill CARB for actual staff hours worked at an hourly rate CPCFA determines at the beginning of each fiscal year. **CPCFA will notify CARB regarding an increase in the staff hourly rate before a new rate is invoiced.** Administrative costs billed to the Cost Account will not exceed the available balance in the Cost Account.