

RESOLUTION NO. 17-04

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK APPROVING THE TRANSFER OF CERTAIN FUNDS TO THE CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Infrastructure and Economic Development Bank (“IBank”) is established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 et seq.) (the “IBank Act”), for the purpose of providing financial assistance to eligible entities in the State of California (the “State”) through a variety of financing mechanisms, which include, among other things, guarantees for loans made to small businesses in the State;

WHEREAS, IBank, under the Governor’s Office of Business and Economic Development (“GO-Biz”), administers the Small Business Loan Guarantee Program (“SBLGP”), a State of California (the “State”) program established to provide guarantees of loans to small businesses that experience capital access barriers, under IBank’s Small Business Finance Center as codified in Government Code Chapter 6 Section 63088-63089.98, the Small Business Finance Assistance Act of 2013;

WHEREAS, the California Pollution Control Financing Authority (“CPCFA”), an independent financing authority chaired by the California State Treasurer (“STO”), has since 1994 continuously administered the California Capital Access Program (“CalCAP”) to facilitate California small businesses’ access to capital for start-up or expansion purposes;

WHEREAS, In January 2011, the State applied to the United States Department of the Treasury (the “Treasury”) for funding under the federal State Small Business Jobs Act of 2010 (the “Federal Act”), and the State intended to divide equally any federal allocation under the Federal Act between the CalCAP and SBLGP Programs;

WHEREAS, in February 2011, the Treasury and the State entered into an Allocation Agreement (the “Allocation Agreement”), pursuant to which federal funding of \$168,623,821 (the “Allocated SSBCI Funds”) was allocated under the Federal Act and the State Small Business Credit Initiative (“SSBCI”) to operate the CalCAP and SBLGP Programs;

WHEREAS, Pursuant to the Federal Act and the Allocation Agreement, the approximately \$168 million federal allocation was distributed to the State in three tranches, the first in 2011, the second in 2014 and the third in 2015;

WHEREAS, the SBLGP was a program within the Business, Transportation, and Housing Agency (“BT&H”) at the time of the State’s application for the Allocated SSBCI Funds and continuing through the date the State received the first tranche of funding in 2011;

WHEREAS, the State evenly split the first tranche between CPCFA (to administer the CalCAP Program) and BT&H (to administer the SBLGP Program);

WHEREAS, thereafter, the SBLGP was transferred to IBank as part of the Governor’s Reorganization Plan 2 and the second and third tranches of Allocated SSBCI Funds were split evenly between CPCFA and IBank;

WHEREAS, the Allocated SSBCI Funds are not a grant or an award, instead they are an allocation that does not need to be returned to the Treasury after the program ends;

WHEREAS, CPCFA is a continuously appropriated authority of the STO and is authorized to place funds at its trustee banks, therefore, the Allocated SSBCI Funds transferred to CPCFA were not included in the STO’s budget;

WHEREAS, IBank is also continuously appropriated, however IBank, through GO-Biz, included IBank’s share of the third tranche of Allocated SSBCI Funds in the 2014/2015 GO-Biz budget in the amount of \$27,609,000;

WHEREAS, IBank’s share of the third tranche of the Allocated SSBCI Funds was actually \$28,049,207 - \$440,207 (the “Excess IBank SSBCI Funds”) more than the budgeted amount;

WHEREAS, the Treasury did not disburse the third tranche of the Allocated SSBCI Funds until September 2015 and the deadline to amend the budget was missed;

WHEREAS, the Allocation Agreement requires the State to use all of the Allocated SSBCI Funds to undertake the activities authorized under Annex 1 of the Allocation Agreement and the Excess IBank SSBCI Funds may be used only if they are released to IBank’s Small Business Expansion Fund (0918) or to CPCFA under its CalCAP or Collateral Support Programs;

WHEREAS, IBank’s non-use of the Excess IBank SSBCI Funds in accordance with the Allocation Agreement could cause IBank and the STO to be in non-compliance with the Allocation Agreement; the Treasury views IBank and CPCFA together as the State;

WHEREAS, the Allocation Agreement provides that IBank and CPCFA may transfer between their respective programs up to ten percent of the Allocated SSBCI Funds without any approval from the Treasury; and

WHEREAS, to facilitate the uninterrupted operation of the CalCAP, Collateral Support and SBLGP programs and to fully use the Excess IBank SSBCI Funds in at least one of the activities authorized under Annex 1 of the Allocation Agreement, IBank proposes to transfer permanently the Excess IBank SSBCI Funds to CPCFA (the “Proposed Transfer”).

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the California Infrastructure and Economic Development Bank (the “Board”), as follows:

Section 1. The Board hereby finds that the above recitals are true and correct.

Section 2. All actions heretofore taken by the officers and employees of IBank with respect to the Proposed Transfer are hereby approved, confirmed and ratified.

Section 3. The Board hereby approves the Proposed Transfer and directs the Executive Director of IBank to enter into one or more agreements and to take all other actions necessary or desirable to implement the Proposed Transfer and to further the purposes of this Resolution.

Section 4. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED at a meeting of the California Infrastructure and Economic Development Bank on February 28, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

By _____
Teveia R. Barnes, Executive Director

ATTEST

By _____
Stefan R. Spich,
Secretary of the Board of Directors