

Borrower Name \_\_\_\_\_

Lender \_\_\_\_\_

Lender Loan # \_\_\_\_\_

## **CALCAP AMERICANS WITH DISABILITIES ACT FINANCING PROGRAM BORROWER CERTIFICATION**

**Your loan is being enrolled in the California Capital Access Program (CalCAP) Americans with Disabilities Act (ADA) Financing Program. You are the "Borrower". By signing this document, you certify to the following:**

- The business is a Small Business and Qualified Business as defined in 4 CCR §8078.8 (l) of the California Code of Regulations:

**8078.8 (l)** "Small Business" or "Qualified Business" means a business referred to in subdivisions (i) and (m) of Section 44559.1, that meets the following additional criteria:

  - 1) Thirty or fewer full-time equivalent employees; or
  - 2) Less than five million dollars (\$5,000,000) in total gross annual income from all sources; and
  - 3) Does not provide overnight accommodations.

**44559.1 (i)** "Qualified business" means a small business concern that meets both of the following criteria, regardless of whether the small business concern has operations that affect the environment:

  - (1) It is a corporation, partnership, cooperative, or other entity, whether that entity is a nonprofit entity or an entity established for profit that is authorized to conduct business in the state.
  - (2) It has its primary business location within the boundaries of the state.

**44559.1 (m)** "Small business concern" has the same meaning as in Section 632 of Title 15 of the United States Code, or as otherwise provided in regulations of the authority.
- "Primary business location in California" as defined in 4 CCR §8070(o) of the California Code of Regulations means that a business will be deemed to be located in California if either:
  - (1) a majority of the employees of the business are located in California; or
  - (2) the Executive Director determines that the Primary business location is in California by finding that the average of the "Payroll Factor" as defined in Revenue and Taxation Code Section 25132, the "Income Factor" as defined in Revenue and Taxation Code Section 25128, and the "Sales Factor" as defined in Revenue and Taxation Code Section 25134 is greater than 50 percent.
- Borrower obtained a loan that is for a business activity that has its primary economic effect in California as defined in 4 CCR §8070(q) of the California Code of Regulations:

**8070 (q)** "Primary economic effect in California" means, as applied to a business activity, that either of the following conditions exists:

  - (1) At least 51 percent of the total revenues of the business activity are generated in California; or
  - (2) At least 51 percent of the total jobs of the business activity are created or retained in California.
- The Borrower has provided a CASp Report and a Cost Estimate to the Participating Financial Institution as defined in 4 CCR §8078.8 (d) and (e) of the California Code of Regulations, and the physical alterations or retrofits to be financed are included in the CASp Report.

**8078.8 (d)** "CASp Report" means a written inspection report pursuant to Section 55.53 of the California Civil Code.

**8078.8 (e)** "Cost Estimate" means a written proposal or estimate of the costs of materials, services and other expenses to complete some or all of the physical alterations or retrofits identified in the CASp Report, as provided by the CASp or by a licensed contractor.
- Borrower will use loan proceeds for Eligible Costs as defined in 4 CCR §8078.8 (f) of the California Code of Regulations:

**8078.8 (f)** "Eligible Costs" means and includes all or any part, as defined in subdivision (b)(3) of Section 44559.13 of the Health and Safety Code, of the price of construction, purchase price of real or personal property, the price of demolishing or removing any buildings or structures, the price of all machinery and equipment, the amount of financing charges and interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the price of insurance during construction, the amount of funding or financing noncapital expenses, the amount of reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, the price of engineering, financial, and legal services and other service contracts, the price of plans, specifications, studies, surveys, estimates, administrative expenses, and any other expenses of funding or financing, that are necessary and allocable to the eligible project, and shall not include costs not directly related to physical alterations necessary for compliance with the Americans with Disabilities Act.
- Borrower will use loan proceeds for an Eligible Project as defined in 4 CCR §8078.8 (g) of the California Code of Regulations:

**8078.8 (g)** "Eligible Project" means the physical alterations or retrofits to an existing small business facility as defined in subsection (l) necessary to ensure that the facility is in compliance with the Americans with Disabilities Act as identified in a CASp report on the facility, and the financing necessary to pay eligible costs of the project.

**8078.8 (m)** “Small Business Facility” or “Facility” means an existing small business facility of less than 10,000 square feet plus common areas and publicly or privately owned access points such as sidewalks and parking lots, if responsibility for those areas has been shifted to the small business owner pursuant to local ordinance or an enforceable lease agreement.

- If the physical alteration(s) or retrofit(s) financed through this Program is a part of a larger construction project carried out by the Borrower, the enrolled amount of the loan in this Program is limited to Eligible Costs necessary and allocable to the Eligible Project.
- The loan is a Qualified Loan as defined in 4 CCR §8078.8 (i) of the California Code of Regulations:  
**8078.8 (i)** “Qualified Loan” means a loan or portion of a loan as defined in Section 44559.1 subdivision (j)(1) of the Health and Safety Code, where the proceeds of the loan or portion of the loan are limited to the Eligible Costs for an Eligible Project under this Program, where the loan or portion of the loan does not exceed fifty thousand dollars (\$50,000), and where the term of loss coverage for each qualified loan is no more than sixty (60) months. “Qualified Loan” does not include any of the following:
  - 1) Any portion of a loan to the extent the same portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program; and
  - 2) Any loan where the total amount or value of loans enrolled in the Program by the Borrower exceeds \$50,000.**44559.1 (j) (1)** “Qualified loan” means a loan or a portion of a loan made by a participating financial institution to a qualified business for any business activity that has its primary economic effect in California. A qualified loan may be made in the form of a line of credit, in which case the participating financial institution shall specify the amount of the line of credit to be covered under the program, which may be equal to the maximum commitment under the line of credit or an amount that is less than that maximum commitment. A qualified loan made under the program may be made with the interest rates, fees, and other terms and conditions agreed upon by the participating financial institution and the borrower.
- The Small Business Facility is located within the boundaries of the State of California.
- The Borrower has legal control of the facility for a term that is equal to or greater than the length of the enrolled loan and assumes financial liability of the loan.
- The Borrower agrees to allow the participating financial institution to provide information from the financial records of the Borrower upon request of the Executive Director of CPCFA.
- The Borrower has no legal, beneficial, or equitable interest in the CalCAP/ADA Contribution.
- The Borrower has secured or made application for all applicable licenses or permits needed to conduct its business.
- The Borrower will provide all applicable licenses or permits needed for construction related retrofit(s) or alteration(s) to the Participating Financial Institution.
- The 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.
- The Borrower was notified, in writing, if the participating financial institution's share of the fees for the qualified loan were paid by the Borrower.
- The Borrower was notified that upon loan enrollment, the small business may be eligible for reimbursement, equal to up to 5% of the CalCAP/ADA enrolled loan amount, toward the cost of the Certified Access Specialist (CASp) Report. A CASp reimbursement form must be filled out by the borrower and submitted to CalCAP along with the notice of access inspection completed by a CASp and a copy of the invoice for the cost of the CASp inspection report at the time of loan enrollment submission or within 60 days thereafter.
- The Borrower agrees to allow CPCFA staff or its designee to inspect the project site.
- The Borrower has received the CalCAP/ ADA Privacy Notice.

\_\_\_\_\_  
**Business Name** (please print)

\_\_\_\_\_  
**Lender Loan #**

\_\_\_\_\_  
**Individual Name** (please print)

\_\_\_\_\_  
**Individual Title** (as it pertains to the business)

\_\_\_\_\_  
**Signature of above Individual**

\_\_\_\_\_  
**Date**