



CalCAP

CALIFORNIA CAPITAL ACCESS PROGRAM



CALIFORNIA
POLLUTION
CONTROL
FINANCING
AUTHORITY

CALCAP ELECTRIC VEHICLE CHARGING STATION FINANCING PROGRAM LENDER MANUAL



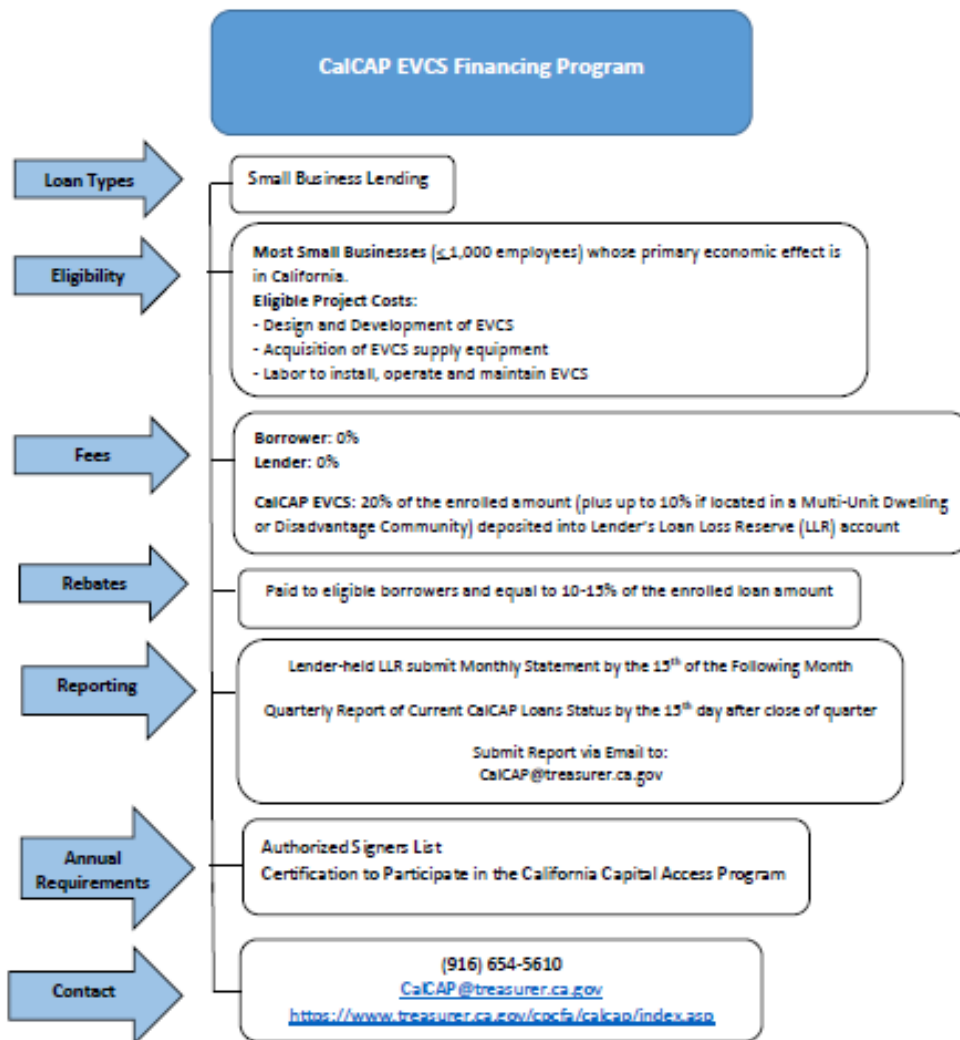
CALIFORNIA
CAPITAL
ACCESS
PROGRAM

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I. AT A GLANCE

This California Capital Access Program Electric Vehicle Charging Station (CalCAP EVCS) Financing Program Lender Manual provides lenders enrolled in the Program with instructions, examples and regulations for enrolling loans, filing claims, and submitting rebate applications. Lenders are encouraged to use this manual as a guide and to frequently visit the CalCAP website at <http://www.treasurer.ca.gov/cpcf/calcap/index.asp> for the most current version of the manual, updated forms, and latest rules and regulations. Lenders should also ensure that CalCAP is kept informed of changes to the lender's primary contact information.



II. Program Participation Requirements

A. Overview

The California Capital Access Program (CalCAP) is administered by the California Pollution Control Financing Authority (CPCFA). The California Capital Access Program Electric Vehicle Charging Station (CalCAP/EVCS) Financing Program encourages banks and other financial institutions to make loans to small businesses that have difficulty obtaining financing. The CalCAP/EVCS Financing Program is a Loan Loss Reserve (LLR) Program with a Borrower Rebate component that may provide up to 100% coverage on certain loan defaults. The funding for this program is provided by the California Energy Commission. Loan proceeds must be utilized toward the design, acquisition and/ or installation of Electric Vehicle Charging Stations (EVCS) at small business locations or Multi-Unit Dwellings (MUDs) in California.

CalCAP EVCS Financing Program	
<p>Business and Loan Requirements</p> <p>☞ Full text of CalCAP Regulations can be found in Chapter IX.</p>	<ul style="list-style-type: none"> ▪ Maximum amount enrolled is \$500,000 per borrower ▪ Business must contain 1,000 or fewer employees, and it must not be dominant in its field of operation. ▪ Majority of business conducted in California¹ • The EVCS supply equipment must meet the minimum technical requirements set by the Energy Commission as follows: <ul style="list-style-type: none"> ➤ Direct current fast chargers shall utilize: Either the CHAdeMO standard, or SAE combination standard, or a combination of both; <u>and</u> an open standard protocol for purposes of network interoperability. ➤ Level 2 charging equipment shall utilize: The SAE J1772 standard; <u>and</u> an open standard protocol for purposes of network interoperability. ☞ Open standard protocol is waived for medium- and heavy-duty EVCS supply equipment
<p>Authorized Loan Types or Uses</p> <p>☞ Full text of CalCAP Regulations can be found in Chapter IX.</p>	<ul style="list-style-type: none"> ▪ The design and development of EVCS in locations accessible to either the Borrower's employees, tenants if in a MUD, or the public generally ▪ The acquisition of EVCS supply equipment, electric panel or grid improvements, materials and supplies (including conduit and construction materials), signage, and hardware and software necessary and allocable for fully operational charging station(s) ▪ Labor necessary and allocable to install fully operational charging station(s) ▪ The costs for operating, servicing and maintaining the EVCS during the term of the loan, if the Borrower's primary business is not EVCS installation, operation or manufacturing

¹ 51% or more of the total revenues or total jobs of the business activity must be created or retained in California

B. CalCAP/EVCS Financing Program

The CalCAP/EVCS Financing Program offers lenders a mechanism to provide loans to small businesses that may not otherwise be able to obtain a loan under conventional underwriting. With CalCAP, lenders are able to cover portions of loans that exceed the risk threshold normally set for business loans.



Loans may be used for Electric Vehicle Charging Station supply equipment, design, development, installation, operation, and maintenance during the term of the loan. Most companies, corporations, partnerships, firms, or other entities engaged in operations within California and which together with their affiliates have 1,000 or fewer employees are eligible borrowers under CalCAP, with few exceptions noted below.



The use of loan proceeds is limited to that which is **directly related** to the operation or installation of one or more Electric Vehicle Charging Station(s) at an eligible place of business. Prohibited business types include, but are not limited to, massage parlors, hot tub facilities, racetracks, facilities primarily used for gambling or to facilitate gambling, liquor stores, bars, stores whose principal business is the sale of firearms or tobacco products, escort services, nudist camps, adult entertainment facilities, gun clubs, shooting ranges or galleries. Individuals and public entities do not qualify as Borrowers for this program.



Refer to CalCAP Regulations 8070, 8072 and 8078.3 as appended in Chapter X for full disclosure of eligible and ineligible uses of loan proceeds and business types.

Flexibility	Restrictions
<ul style="list-style-type: none"> • Lenders set all the terms and conditions of the loan and decide which loans to enroll into the CalCAP/EVCS Financing Program. • Loans can be short- or long-term, have fixed or variable rates, be secured or unsecured and bear any type of amortization schedule. • Lenders may enroll all or a portion of a loan. • CPCFA will deposit a contribution equal to 20% of the enrolled amount or 30% if EVCS are installed in a Multi-Unit Dwelling or Disadvantaged Community into the LLR account for each loan enrolled in the Program. CPCFA may authorize payment from the LLR account to reimburse the lender for: <ul style="list-style-type: none"> - Outstanding Principal - Accrued and Unpaid Interest - Reasonable Out-of-Pocket Expenses • The Borrower <u>may</u> qualify for a Rebate equal to 50% of the LLR contribution for the loan. If the Borrower qualifies, funds will be withdrawn from the LLR account to pay the Borrower Rebate; if the Borrower does <u>not</u> qualify, funds will remain in the LLR account to compensate the lender in the event of a loan default. <ul style="list-style-type: none"> ☞ Refer to CalCAP Regulations 8078. LLR accounts may be lender-held or Trustee held 	<ul style="list-style-type: none"> • \$500,000 maximum enrollment amount per borrower at any given time regardless of which Participating Financial Institution disbursed the previous loan(s). • Loans may be covered by CalCAP for a maximum of 48 months from the date of first disbursement. • The charging station(s) must be installed within California and must be accessible to either the Borrower’s employees, tenants if in a MUD, or the public generally. • Level I EVCS are ineligible for enrollment in the CalCAP EVCS Financing Program. • The borrower’s business must be in one of the industries listed in the North American Industry Classification System (NAICS) codes list. <ul style="list-style-type: none"> ☞ NAICS: http://www.census.gov/eos/www/naics/ The small business must be classified as a small business under U.S. Small Business Administration guidelines (Title 13 of the Code of Federal Regulations) and have 1,000 or fewer employees. <ul style="list-style-type: none"> ☞ U.S. Small Business Administration Guidelines: https://www.sba.gov/ • Qualified loans do not include any loan or portion thereof to the extent the same loan or portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program. • The Lender must submit a completed EVCS Financing Program Borrower Rebate Request to CPCFA within 90 calendar days of the Borrower Rebate eligibility date (the date of loan repayment <u>or</u> the beginning of month 49) whether the Borrower does or does not qualify. • The Lender must notify the Borrower of rebate ineligibility, if applicable.

III. Enrolling a Loan

A. Overview

Lenders must submit to CalCAP the following forms and documentation with each loan enrollment request:

	CalCAP	Provide to Borrower
Required		
1. EVCS Financing Program Loan Enrollment Application (1 page) ☞ http://www.treasurer.ca.gov/cpcfaca/calcap/evcs/enrollment.pdf	√	
2. CalCAP/EVCS Lender Certification (1 page) ☞ http://www.treasurer.ca.gov/cpcfaca/calcap/evcs/lender_cert.pdf	√	
3. CalCAP/EVCS Borrower Eligibility Criteria and Self-Certification Form (3 pages) ☞ http://www.treasurer.ca.gov/cpcfaca/calcap/evcs/certification.pdf	√	
4. NAICS Print-Out (most current year) ☞ http://www.census.gov/eos/www/naics/	√	
5. Borrower Privacy Notice ☞ http://www.treasurer.ca.gov/cpcfaca/calcap/evcs/privacy.pdf		√
If Applicable		
6. CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects (1 page) ☞ http://www.treasurer.ca.gov/cpcfaca/calcap/evcs/supplemental.pdf	√	
7. Multi-Unit Dwelling (MUD) Information	√	
8. “Qualified Disadvantaged Communities” Print-Out demonstrating EVCS will be located in a Disadvantaged Community (DAC), if applicable: ☞ http://www.treasurer.ca.gov/cpcfaca/calcap/evcs/disadvantaged.pdf	√	



Completed CalCAP EVCS Financing Program Loan Enrollment Applications must be **received** at CalCAP within **15 business days of the “Date of First Disbursement” (Date of Loan)** by email, fax, or regular mail:

- ☞ CalCAP@Treasurer.ca.gov
- ☞ (916) 589-2805
- ☞ CPCFA/CalCAP EVCS Financing Program
P.O. Box 942809
Sacramento, CA 94209-0001

B. CalCAP EVCS Financing Program Loan Enrollment

Before submitting a CalCAP EVCS Financing Program Loan Enrollment Application packet, lenders should ensure the following pertinent documentation is fully completed:

Required

- ✓ EVCS Financing Program Loan Enrollment Application
- ✓ Lender Certification
- ✓ Borrower Certification
- ✓ NAICS Print-Out

If Applicable

- ✓ Multi-Unit Dwelling information
- ✓ “Qualified Disadvantaged Communities” Print-Out
- ✓ CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects



Pursuant to the California Information Practices Act of 1977 (Civil Code Section 1798.17), lenders are to provide the borrower with a copy of the Borrower Privacy Notice disclosing borrower data collected by lenders on behalf of CalCAP. Additionally, any alteration of certifications need to be approved by CalCAP prior to use.

Copies of these documents need to be submitted with the loan enrollment package, and the original set should be maintained with the borrower’s loan file and made available to CalCAP for review upon request.

All individuals who are party to the loan and/or have signed the loan documents on behalf of the business, including borrowers, co-borrowers, and guarantors, must also sign and complete a Borrower Certification for Small Business Loan Enrollments form, which must be submitted with the loan enrollment package.

Lenders must maintain documentation in their loan files demonstrating that the small business borrower is licensed to operate in California. Satisfaction of this requirement is at the sole discretion of CPCFA staff, and the documents should be made available to CPCFA for review upon request. The following are examples of recommended documents, any one of which may demonstrate eligibility:

- ✓ Secretary of State Business Entity Filing
- ✓ Fictitious Business Name Filing
- ✓ Articles of Incorporation
- ✓ Seller’s Permit
- ✓ Business Tax Returns
- ✓ Personal Tax Returns demonstrating self-employment income

- ✓ Sales Tax Licenses
- ✓ Business Tax Certificates
- ✓ Annual Business Income Tax Statements

Instructions for Completing the CalCAP/EVCS Loan Enrollment Application

This section provides instructions for lenders on how to complete the EVCS Financing Program Loan Enrollment Application, which is the primary form needed for lenders to enroll a loan with the CalCAP EVCS Financing Program.

A copy of the application can be found in Chapter VIII of this manual. However, lenders should always check CalCAP’s website for the most current version of the application:

☞ <http://www.treasurer.ca.gov/cpcfca/calcap/evcs/enrollment.pdf>

Form 1: EVCS Financing Program Loan Enrollment Application

Lender Information Section									
<p>CALIFORNIA CAPITAL ACCESS PROGRAM California Pollution Control Financing Authority CalCAP@treasurer.ca.gov (916) 654-5610</p>	<p>Mailing Address: P.O. Box 942809 Sacramento, CA 94209-0001 Fax (916) 589-2805</p>								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 5px;">CalCAP Use Only</td> <td style="padding: 5px;">CalCAP Loan #</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">Date Received</td> </tr> </table>	CalCAP Use Only	CalCAP Loan #		Date Received	<p>CALCAP ELECTRIC VEHICLE CHARGING STATION (EVCS) FINANCING PROGRAM LOAN ENROLLMENT APPLICATION</p>				
CalCAP Use Only	CalCAP Loan #								
	Date Received								
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #e1eef6;"> <th colspan="2" style="text-align: left; padding: 5px;"><u>Lender Information</u></th> </tr> </thead> <tbody> <tr> <td style="width: 50%; padding: 5px;">Participating Lender _____</td> <td style="width: 50%; padding: 5px;">Lender ID # _____</td> </tr> <tr> <td style="padding: 5px;">Lender Contact Name _____</td> <td style="padding: 5px;">Phone _____</td> </tr> <tr> <td style="padding: 5px;">Lender Contact Email _____</td> <td style="padding: 5px;"></td> </tr> </tbody> </table>		<u>Lender Information</u>		Participating Lender _____	Lender ID # _____	Lender Contact Name _____	Phone _____	Lender Contact Email _____	
<u>Lender Information</u>									
Participating Lender _____	Lender ID # _____								
Lender Contact Name _____	Phone _____								
Lender Contact Email _____									
Field:	Information Needed:								
▪ Participating Lender	✓ Name of the financial institution making and holding the loan.								

▪ Lender ID#	✓ The financial institutions' assigned CalCAP Lender ID. This number was issued and provided on the signed copy of the lender's "Financial Institution Enrollment" agreement and "Welcome Letter" that accompanied it. (This number never changes.)
▪ Lender Contact Name	✓ Name of lender representative CalCAP can contact with questions about this enrollment.
▪ Phone	✓ Direct phone number with area code for Lender Contact named above.
▪ Lender Contact Email	✓ Email of Lender Contact named above.

Borrower Information Section

Borrower Name _____ DBA _____
 Name of Responsible Person _____ Title _____
 Address _____ City _____ County _____ Zip _____
 Type of Business/Activities _____
 Average Annual Revenue Last 3 Years \$ _____
 Number of Employees _____ Jobs created _____ Jobs retained _____
 Will loan monies be used at above address? Yes No If No, location where loan monies will be used:
 Address _____ City _____ County _____ Zip _____
 NAICS Code _____ <http://www.census.gov/eos/www/naics/> Census Tract # _____ <http://www.ffiec.gov/Geocode/default.aspx>
 Description of Eligible Project Costs (Purpose of Loan) _____
 Is EVCS installation in a Multi-Unit Dwelling? Yes No
 Is EVCS installation in a Disadvantaged Community? Yes No
 Is business minority owned? Yes No Decline to Answer
 Is business woman owned? Yes No Decline to Answer
 Is business veteran owned? Yes No Decline to Answer

Field:	Information Needed:
▪ Borrower Name	✓ Name of the primary borrower representing the business.
▪ DBA	✓ Name of business (sole proprietor, partnership, corporation, etc.)

<ul style="list-style-type: none"> ▪ Name of Responsible Person 	<ul style="list-style-type: none"> ✓ Name of Responsible Person who is certifying to the terms of the loan.
<ul style="list-style-type: none"> ▪ Title 	<ul style="list-style-type: none"> ✓ Title of Responsible Person who is certifying to the terms of the loan.
<ul style="list-style-type: none"> ▪ Address, City, County, Zip 	<ul style="list-style-type: none"> ✓ Physical address of the business.
<ul style="list-style-type: none"> ▪ Type of Business/Activities 	<ul style="list-style-type: none"> ✓ List the function of the business. “What does the business do?” (e.g. retail sales, carpet cleaning, burger restaurant, etc.)
<ul style="list-style-type: none"> ▪ Average Annual Revenue Last 3 Years 	<ul style="list-style-type: none"> ✓ List the borrower’s combined average annual business revenue for the last three years—rounded to the nearest whole dollar amount. ☞ If the business is a start-up, use the current income or \$0. ☞ If the business was established within the last three years, determine the average annual revenue for each year in which it <u>did</u> generate revenue.
<ul style="list-style-type: none"> ▪ Number of Employees 	<ul style="list-style-type: none"> ✓ Number of all full-time or part-time employees of the business. This cannot exceed 1,000. ☞ Refer to the FAQs in Chapter VII for instructions on how to report the number of employees.
<ul style="list-style-type: none"> ▪ Jobs created 	<ul style="list-style-type: none"> ✓ Number of jobs created for the business <u>as a result of the loan</u>. ☞ If jobs are not created as a result of the loan, use “0”.
<ul style="list-style-type: none"> ▪ Jobs retained 	<ul style="list-style-type: none"> ✓ Number of jobs retained for the business <u>as a result of the loan</u>. ☞ If jobs are not retained as a result of the loan, use “0”.
<ul style="list-style-type: none"> ▪ Will loan monies be used at above address? <input type="checkbox"/>Yes <input type="checkbox"/>No ▪ If no, location where loan will be used: Address, City, County, Zip 	<ul style="list-style-type: none"> ✓ Indicate whether the proceeds of the loan are being used to support the business at a different business location than listed in the “Business Address” field above. ✓ If answered “yes”, leave address, city, county, zip fields blank. ✓ If answered “no” and borrower will be installing EVCS at a single location, list the address of where the loan proceeds will be used. ✓ If answered “no” and borrower will be installing EVCS at multiple locations, utilize the CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects to list the addresses of where the loan proceeds will be used (http://www.treasurer.ca.gov/cpcf/calcap/evcs/supplemental.pdf) ☞ Please refer to Section III for instructions on how to complete the Supplemental Form for Multiple EVCS Projects.

▪ NAICS Code

✓ Six digit number used by the North American Industry Classification System (NAICS) to categorize business types. Please provide the most current print-out of the applicable NAICS code for the borrower's business.

<http://www.census.gov/eos/www/naics/>

The screenshot shows the NAICS search interface. The search term 'Farm Equipment' is entered in the search box. The results list several 2012 NAICS codes and their descriptions. A red box highlights the search input field with the text 'Step 1: Enter business activity type (e.g. Farm)'. Another red box highlights the search results with the text 'Step 2: Select 6-digit code that best describes the business activity'.

2012 NAICS Code	Description
333111	Feed processing equipment, farm-type, manufacturing
333111	Drags, farm-type equipment, manufacturing
423800	Planting machinery and equipment, farm-type, merchant wholesalers
423800	Farm machinery and equipment merchant wholesalers
423800	Conveying equipment, farm, merchant wholesalers
423800	Conveying equipment (except farm) merchant wholesalers
532490	Farm equipment rental or leasing
811310	Tractor, farm or construction equipment repair and maintenance services
811310	Farm machinery and equipment repair and maintenance services

▪ Census Tract #

✓ 11-digit number used to identify the specific location of a business to provide more reporting consistency and uniformity.

<https://geomap.ffiec.gov/FFIECGeocMap/GeocodeMap1.aspx>

FFIEC Main | Disclaimer | Privacy Policy | Contact Us | Search

FFIEC Year: 2014 Address: Search

Matched Address

Address	
MSA/MD Code	
State Code	
County Code	
Tract Code	
MSA/MD Name	
State Name	
County Name	

Census Demographic Data

User Select Tract

Geocoding System

The FFIEC Geocoding/Mapping System (System) helps financial institutions meet their legal requirement to report information on mortgage, business, and farm loan applications. Geocoding refers to the Metropolitan Statistical Area/Metropolitan Division (MSA/MD), State, County, Census Tract combination (address information) that must be provided for each reported loan application and the System allows institutions to enter a street address to determine the corresponding geocode. The System also provides Census demographic information about a particular census tract, including income, population, and housing data.

Please select the appropriate activity year for the address being geocoded. The tract definitions for 2012, 2013, and 2014 data are based on the 2010 Census. It is critical that the correct activity year is selected when using the FFIEC Geocoding System.

[Census Updates](#)

FFIEC Year: 2014 Address: 915 Capitol Mall Sacramento Ca Search Reset

Matched Address

Address	915 Capitol Mall, SACRAMENTO, CA, 95814
MSA/MD Code	40900
State Code	06
County Code	067
Tract Code	0011.01
MSA/MD Name	SACRAMENTO-ROSEVILLE-ARDEN-ARCADE, CA
State Name	CALIFORNIA
County Name	SACRAMENTO COUNTY

Census Demographic Data

User Select Tract

Use:

1. State Code: 06
2. County Code: 067
3. Tract Code: 0011.01

This Census Tract # is:
060670011.01

<ul style="list-style-type: none"> ▪ Description of Eligible Project Costs (Purpose of Loan) 	<ul style="list-style-type: none"> ✓ Brief description of the use of loan proceeds (e.g. “EVCS supply equipment,” “EVCS installation costs”, “EVCS signage”, “grid improvements”)
<ul style="list-style-type: none"> ▪ Is EVCS installation in a Multi-Unit Dwelling? <input type="checkbox"/>Yes <input type="checkbox"/>No 	<ul style="list-style-type: none"> ✓ Indicate whether the business is in a Multi-Unit Dwelling (MUD) as described in CalCAP Regulations 8078.3: <i>“Multi-Unit Dwelling” or “MUD” means a classification of housing where multiple housing units are contained within one building or multiple buildings within a complex or community. Common types of MUDs include duplexes, townhomes, and apartments, mobile homes and manufactured-home parks.</i> ✓ The following must be provided if one or more EVCS will be installed in a MUD: <ul style="list-style-type: none"> ➢ The type of Multi-Unit Dwelling in which the EVCS will be installed ➢ The name of the property (if applicable) ➢ The total number of units in the Multi-Unit Dwelling <p>(**Additional documentation may be required to reasonably substantiate the claim for additional premiums**)</p>
<ul style="list-style-type: none"> ▪ Is EVCS installation in a Disadvantaged Community? <input type="checkbox"/>Yes <input type="checkbox"/>No 	<ul style="list-style-type: none"> ✓ Indicate whether the business is in a Disadvantaged Community (DAC) as described in CalCAP Regulations 8078.3: <i>“Disadvantaged Communities” means the top twenty five (25) percent of communities that are disproportionately affected by environmental pollution and socioeconomic characteristics as described by CalEnviroScreen 2.0 Tool.</i> ☞ Follow the instructions below to determine whether the EVCS will be installed in a DAC. If “yes”, provide a print-out of the applicable page of the “Qualified Disadvantaged Communities” list that is posted on the CalCAP EVCS Financing Program website with the EVCS Financing Program Loan Enrollment Application and the applicable data highlighted.

Disadvantaged Communities

To determine whether an Electric Vehicle Charging Station will be installed within a Disadvantaged Community (DAC), follow these steps:

- Using the Census Tract Number relative to the location of the Electric Vehicle Charging Station installation site (see the Census Tract Number instructions above), check the “Qualified Disadvantaged Communities” List by navigating to <http://www.treasurer.ca.gov/cpcf/calcap/evcs/disadvantaged.pdf> and locating the corresponding Census Tract Number, if listed (**Note:** *The entries are arranged in numerical order, and the first digit of the Census Tract Numbers are omitted.*)

Census Tract	California County	ZIP	City	CES 2.0 Percentile Range
6085501502	Santa Clara	95116	San Jose	86-90%
6085501600	Santa Clara	95112	San Jose	86-90%
6085501700	Santa Clara	95110	San Jose	76-80%
6085503105	Santa Clara	95122	San Jose	96-100% (highest scores)
6085503110	Santa Clara	95122	San Jose	81-85%
6085503117	Santa Clara	95122	San Jose	76-80%
6085503121	Santa Clara	95125	San Jose	86-90%
6085503122	Santa Clara	95112	San Jose	81-85%
6085503214	Santa Clara	95111	San Jose	81-85%
6085503601	Santa Clara	95133	San Jose	91-95%
6085503602	Santa Clara	95116	San Jose	86-90%
6085503709	Santa Clara	95133	San Jose	86-90%
6085504318	Santa Clara	95131	San Jose	81-85%
6085504319	Santa Clara	95133	San Jose	81-85%
6085505100	Santa Clara	95110	San Jose	76-80%
6085505202	Santa Clara	95050	Santa Clara	76-80%
6085512310	Santa Clara	95037	Morgan Hill	76-80%
6085512602	Santa Clara	95020	Gilroy	86-90%
6087110400	Santa Cruz	95076	Watsonville	76-80%
6095250701	Solano	94590	Vallejo	76-80%
6095253500	Solano	94571	Rio Vista	81-85%
6099000301	Stanislaus	95367	Riverbank	96-100% (highest scores)

- If the Census Tract Number relative to the EVCS installation site is present on the “Qualified Disadvantaged Communities” List, the loan will qualify for the additional DAC premium contribution. **If the Census Tract Number relative to the EVCS installation site is not present on the “Qualified Disadvantaged Communities” List, the loan will not qualify for the additional DAC premium contribution.**
- Ensure that the appropriate County, Zip Code, and City on the “Qualified Disadvantaged Communities” List correspond with the EVCS installation address provided on the EVCS Financing Program Loan Enrollment Application. **Provide a print-out of the applicable page of the “Qualified Disadvantaged Communities” List which lists the corresponding EVCS installation site Census Tract Number.** Highlight the applicable row, and submit the print-out to CalCAP with the applicable Loan Enrollment Application.

<ul style="list-style-type: none"> ▪ Is business minority owned? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decline to Answer 	<ul style="list-style-type: none"> ✓ The business is minority owned if at least 51% of the business is owned by one or more minority individuals.
<ul style="list-style-type: none"> ▪ Is business woman owned? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decline to Answer 	<ul style="list-style-type: none"> ✓ The business is woman owned if at least 51% of the business is owned by one or more women.
<ul style="list-style-type: none"> ▪ Is business veteran owned? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decline to Answer 	<ul style="list-style-type: none"> ✓ The business is veteran owned if at least 51% of the business is owned by one or more veterans.

Loan Information Section

Loan Information

Lender Loan Number _____

Total Loan Amount \$ _____ Loan Amount Enrolled in CalCAP \$ _____

Date of First Disbursement (Date of Loan) _____ Maturity Date _____

Interest Rate _____ % APR Fixed Variable Is the loan secured? Yes No

Field:	Information:
<ul style="list-style-type: none"> ▪ Lender Loan Number 	<ul style="list-style-type: none"> ✓ List the unique loan number associated with the borrower’s loan. ☞ If the enrollment is a pre-qualification request, leave field blank.
<ul style="list-style-type: none"> ▪ Total Loan Amount 	<ul style="list-style-type: none"> ✓ The total amount loaned to the borrower associated with the unique loan number (regardless of amount enrolled in CalCAP).
<ul style="list-style-type: none"> ▪ Loan Amount Enrolled in CalCAP \$ 	<ul style="list-style-type: none"> ✓ The portion of the loan the lender requests to enroll with CalCAP. This amount should be equal to or less than the amount in the “Total Loan Amount” field.
<ul style="list-style-type: none"> ▪ Date of First Disbursement (Date of Loan) 	<ul style="list-style-type: none"> ✓ Date of initial disbursement of funds. ☞ This date triggers the clock for the 15-day deadline to submit an enrollment application to CalCAP. ☞ If the enrollment is a pre-qualification request, leave this field blank.
<ul style="list-style-type: none"> ▪ Maturity Date 	<ul style="list-style-type: none"> ✓ The date (MM/DD/YYYY) the enrolled loan matures. ☞ CalCAP will cover or support the enrollment for a maximum of 48 months, regardless of maturity date. ☞ If the enrollment is a pre-qualification request, leave this field blank.
<ul style="list-style-type: none"> ▪ Interest Rate <input type="checkbox"/> Fixed <input type="checkbox"/> Variable 	<ul style="list-style-type: none"> ✓ Annual Percentage Rate (APR) for the enrolled loan. ✓ Indicate whether interest rate remains the same (fixed) or changes (variable) over the life of the loan. ☞ If answered “variable”, provide the starting rate and the index the variable rate is tied to.

- Is the loan secured?
 Yes No

✓ If collateral is used to secure the loan, answer “yes”—otherwise, answer “no”.

Form 2: CalCAP/EVCS Lender Certification

Lender Certification Section

CALIFORNIA CAPITAL ACCESS PROGRAM
 California Pollution Control Financing Authority
CalCAP@treasurer.ca.gov

Mailing Address: P.O. Box 942809
 Sacramento, CA 94209-0001
 Fax (916) 589-2805

Borrower Name

Lender Loan Number

LENDER CERTIFICATION

Enrolling a loan in the EVCS Financing Program requires the Participating Financial Institution to certify to each of the following Program Regulations.

*All capitalized terms are defined in the 4 CCR §8070 & §8078.3 of the California Code of Regulations.

- 1) The loan is a Qualified Loan as defined in 4 CCR §8078.3 of the California Code of Regulations.
- 2) The business receiving the Qualified Loan is a Qualified Business, as defined in 4 CCR §8078.3 of the California Code of Regulations.
- 3) The Participating Financial Institution will provide information from financial records of the Borrower upon request of the Executive Director of the CPCFA, and the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.
- 4) The Participating Financial Institution has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable, interest in the Fees or the CalCAP contribution.
- 5) The total amount of loans enrolled for the Borrower in the EVCS Financing Program does not exceed \$500,000.
- 6) The Participating Financial Institution has obtained a written representation from the Borrower that it has secured or made application for all applicable licenses or permits needed to conduct its business and carry out the purpose of the loan.
- 7) The Participating Financial Institution has not, and will not, enroll the same loan or portion thereof in any other government program substantially similar to the Program.
- 8) The Borrower has received CPCFA’s CalCAP/EVCS Privacy Notice.
- 9) The Participating Financial Institution acknowledges that its lending activities are subject to safety and soundness standards as set forth in any applicable lending regulations.

Field:

Information Needed:

▪ Borrower Name

- ✓ Name of borrower.
- ☞ Field will auto-fill if form is completed electronically.

▪ Lender Loan Number

- ✓ List the unique loan number associated with the borrower’s loan.
- ☞ If the enrollment is a pre-qualification request, leave field blank.
- ☞ Field will auto-fill if form is completed electronically.

Signature and Certification Section (continued)

By signing below and enrolling this loan the Participating Financial Institution certifies, based in part on information provided by the Borrower, that each of the above assurances is true and accurate.

_____ Title _____ Date _____
 Authorized Lender Signature

 Authorized Lender Printed Name

Field:	Information Needed:
▪ Authorized Lender Signature	✓ To be signed by the lender-designated authorized signer.
▪ Title	✓ Title of the lender-designated authorized signer.
▪ Date	✓ Date the enrollment was signed.
▪ Authorized Lender Printed Name	✓ Full printed name of the lender-designated authorized signer.

Form 3: CalCAP/EVCS Borrower Eligibility Certification

Section I – Borrower Eligibility Criteria and Self-Certification

**SECTION I
 CALCAP EVCS FINANCING PROGRAM ELIGIBILITY**

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

(a) _____ Borrower will use the program only to purchase and install electric vehicle charging stations (EVCS) in compliance with the California Energy Commission's Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) (California Health and Safety Code Section 44272) and the EVCS Financing Program Regulations. Eligible acquisitions with loan proceeds include:

- Design and development of EVCS in locations accessible to either the Borrower's employees, the Borrower's tenants if in an Multi-Unit Dwelling (MUD), or the public generally;
- Acquisition of EVCS, supply equipment, electric panel or grid improvements, materials and supplies (including conduit and construction materials), signage, and hardware and software necessary for fully operational charging stations;
- Labor to install fully operational charging station(s).

(b) _____ Borrower certifies that the acquisition and installation of EVCS subject to the statute referenced in the above statement meets all other CalCAP EVCS Financing Program requirements.

(c) _____ Borrower understands they may be eligible for a Borrower Rebate at an amount of 50 percent of the Program premium contribution, contingent upon: repayment of the enrolled loan amount or 48 months from the date of first disbursement of the enrolled loan, whichever occurs first; loan payments were made in a timely manner with no more than one 30 day late payment over the term of the loan; submission of a EVCS Certificate of Commissioning; and a certification that any outstanding balance of the loan repaid at the time of application for the Borrower Rebate was not refinanced into another credit structure with any Participating Financial Institution.

Initial (d) and (e) only if applicable:

(d) _____ Borrower certifies that the location of the installed EVCS is in a multi-unit dwelling property as defined in the EVCS Financing Program Regulations.

(e) _____ Borrower certifies that the location of the installed EVCS is in a disadvantaged community as defined in the EVCS Financing Program Regulations.

Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Yellow Blank Spaces 	<ul style="list-style-type: none"> ✓ Borrower to initial the statement(s) if applicable. Each statement must be initialed for the loan to be eligible for CalCAP enrollment.
<ul style="list-style-type: none"> ▪ Green Blank Spaces 	<ul style="list-style-type: none"> ✓ These statements should only be initialed by the borrower if the EVCS will be installed in a Multi-Unit Dwelling, a Disadvantaged Community, or both as defined in the EVCS Financing Program Regulations.

Section II – Borrower Eligibility Criteria and Self-Certification

Borrower Name _____
 Lender _____
 Lender Loan # _____

**SECTION II
CALCAP EVCS FINANCING PROGRAM BUSINESS ELIGIBILITY**

By initialing on each line, the Borrower certifies to eligibility under EVCS Financing Program.

(a) Borrower is a qualified business defined as follows:

- "Qualified Business" means any entity eligible under section 8078.3(i) that together with its affiliates has 1,000 or fewer employees.

(b) Borrower certifies the EVCS installation is located within the boundaries of the State of California.

(c) Borrower certifies that it has legal control of the EVCS installation site for a term that is equal to or greater than the length of the enrolled loan, and will assume financial liability of the loan.

(d) 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.

(e) Borrower has no legal, beneficial, or equitable interest in the CalCAP contribution.

(f) Borrower does not have a total principal amount in excess of \$500,000 enrolled in the CalCAP EVCS Financing Program at any participating financial institution.

(g) Borrower has received the CPCFA CalCAP/EVCS Financing Program Privacy Notice dated August 1, 2015.

(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.

Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Yellow Blank Spaces 	<ul style="list-style-type: none"> ✓ Borrower to initial the statement(s) if applicable. Each statement must be initialed for the loan to be eligible for CalCAP enrollment.

Section III – Borrower Eligibility Criteria and Self-Certification

**SECTION III
CALCAP EVCS FINANCING PROGRAM PROJECT ELIGIBILITY**

By initialing on each line, the Borrower certifies that each statement below is true and correct. Please also provide the applicable information in the table below, including the EVCS manufacturer and model purchased with EVCS Financing Program loan proceeds.

(a) If the EVCS installation 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 the portion of costs of the total project as reasonably allocated to the installation and operation of the EVCS, as documented by the master contractor and/or installer of the EVCS.

(b) Borrower certifies that the facility at which the EVCS will be installed is not any of those prohibited by the CalCAP regulations, including: massage parlor, hot tub facility, racetrack, facility primarily used for gambling or to facilitate gambling, liquor store, bars, a store or other facility whose principal business is the sale of firearms, a store or other facility whose principal business is the manufacture or sale of tobacco or tobacco products, escort service, nudist camp, adult entertainment (including strip clubs, adult book stores, and businesses whose principal business is the sale of pornography), gun club, shooting range or gallery.

(c) Borrower has secured or made application for all applicable licenses or permits needed to install and operate the EVCS to be procured with the Qualified Loan.

(d) Borrower agrees to allow California Energy Commission staff or its designee to inspect the EVCS and EVCS installation site.

(e) Borrower certifies that minimum technical requirements for direct current (DC) fast chargers include: 1) either the CHAdeMO standard, or the SAE combination standard (CCS), or a combination of both; and 2) EVCS' use an open standard protocol for purposes of network interoperability. Level 2 charging equipment must meet the SAE J1772 standard and use an open standard protocol. The open standard protocol is waived by CPCFA for medium-and heavy-duty EVCS.

(f) Borrower acknowledges awareness of potential regulations from the California Department of Food and Agriculture, Division of Measurement Standards, governing the retail sale of electricity from EVCS. Once effective, installed EVCS may be required to adhere to adopted regulation requirements. Please see www.cdfa.ca.gov for more information.

Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Yellow Blank Spaces 	<ul style="list-style-type: none"> ✓ Borrower to initial the statement(s) if applicable. Each statement must be initialed for the loan to be eligible for CalCAP enrollment.

Last Page of the Borrower Certification

BorrowerName... _____
 Lender _____
 Lender Loan # _____

Additional Information for Completion by the Borrower

Manufacturer:	
Model(s):	
Total Units to be Purchased:	
Number of Networked Communication Units:	
Total number of charging ports:	
Total EVCS Cost:	
Estimated installation cost:	

 (Business Name)

 (Print Borrower's Name)

 (Borrower's Signature)

 (Date)

 (Business Address)

 (Phone Number)

 (CPCFA Review: Signature and Title)

 (Date)

If one or more EVCS will be installed at a single location, please complete all fields on page 5 of the EVCS Financing Program Loan Enrollment Application.

If EVCS will be installed at multiple locations, complete the fields on page 5 of the EVCS Financing Program Loan Enrollment Application according to the instructions below, and complete the CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects for each EVCS project location. The supplemental form is available on the CalCAP EVCS Financing Program website: <http://www.treasurer.ca.gov/cpcf/calcap/evcs/supplemental.pdf>

Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Manufacturer 	<ul style="list-style-type: none"> ✓ Name of the EVCS manufacturer(s) at that project location. <ul style="list-style-type: none"> ☞ If EVCS will be installed at multiple locations, leave blank. Provide on the Supplemental Form for Multiple EVCS Projects.
<ul style="list-style-type: none"> ▪ Model(s) 	<ul style="list-style-type: none"> ✓ Name of the EVCS model(s) at that project location. <ul style="list-style-type: none"> ☞ If EVCS will be installed at multiple locations, leave blank. Provide on the Supplemental Form for Multiple EVCS Projects.
<ul style="list-style-type: none"> ▪ Total Units to be Purchased 	<ul style="list-style-type: none"> ✓ Number of individual EVCS to be purchased. <ul style="list-style-type: none"> ☞ If EVCS will be installed at multiple locations, indicate the cumulative number of units purchased.
<ul style="list-style-type: none"> ▪ Number of Networked Communication Units 	<ul style="list-style-type: none"> ✓ Number of charging stations that communicate with a network. <ul style="list-style-type: none"> ☞ If EVCS will be installed at multiple locations, indicate the cumulative Number of Networked Communication Units.
<ul style="list-style-type: none"> ▪ Total number of charging ports 	<ul style="list-style-type: none"> ✓ Number of charging ports available for use by electric vehicles at that EVCS project location. <ul style="list-style-type: none"> ☞ If EVCS will be installed at multiple locations, indicate the cumulative number of charging ports.
<ul style="list-style-type: none"> ▪ Total EVCS Cost 	<ul style="list-style-type: none"> ✓ Total costs related to the acquisition of the hardware and software necessary and allocable for the charging station unit(s). <ul style="list-style-type: none"> ☞ If EVCS will be installed at multiple locations, indicate the cumulative cost of the hardware and software.
<ul style="list-style-type: none"> ▪ Estimated installation cost 	<ul style="list-style-type: none"> ✓ All other costs related to the design, development, operation, servicing, installation, maintenance, and other hardware costs necessary and allocable for fully operational charging station(s). <ul style="list-style-type: none"> ☞ If EVCS will be installed at multiple locations, indicate the cumulative Estimated Installation Cost. ☞ Do not include any operation, servicing, or maintenance costs in the loan if the borrower's primary business is EVCS installation, operation, or manufacturing.

Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Business Name 	<ul style="list-style-type: none"> ✓ List the business' name as written on the first page of the EVCS Financing Program Loan Enrollment Application.
<ul style="list-style-type: none"> ▪ Print Borrower's Name 	
<ul style="list-style-type: none"> ▪ Borrower's Signature 	<ul style="list-style-type: none"> ✓ Print the borrower's name (must be the name of the <u>individual</u> signing the certification)
<ul style="list-style-type: none"> ▪ Date 	<ul style="list-style-type: none"> ✓ Please provide the Borrower's signature.
<ul style="list-style-type: none"> ▪ Business Address 	<ul style="list-style-type: none"> ✓ Date borrower signed the certification.
<ul style="list-style-type: none"> ▪ Phone Number 	<ul style="list-style-type: none"> ✓ List the business address as written on the first page of the EVCS Financing Program Loan Enrollment Application.
<ul style="list-style-type: none"> ▪ CPCFA Review: Signature and Title 	<ul style="list-style-type: none"> ✓ List the business phone number.
<ul style="list-style-type: none"> ▪ Date 	<ul style="list-style-type: none"> ✓ Do not write on this line (CalCAP use only).
	<ul style="list-style-type: none"> ✓ Do not write on this line (CalCAP use only).

Instructions for Completing the CalCAP/EVCS Financing Program Supplemental Form for Multiple EVCS Projects

This section provides instructions for lenders on how to complete the CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects, which is used as a supplement to the Loan Enrollment Application if electric vehicle charging stations will be financed with the proceeds from a single loan and installed at **multiple** locations. Lenders should complete one EVCS Project Site chart (see below) for each EVCS project location that will be financed using the loan.

A copy of the CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects can be found in Chapter VIII of this manual. However, lenders should always check CalCAP’s website for the most current version of the application:

<http://www.treasurer.ca.gov/cpcfca/calcap/evcs/supplemental.pdf>

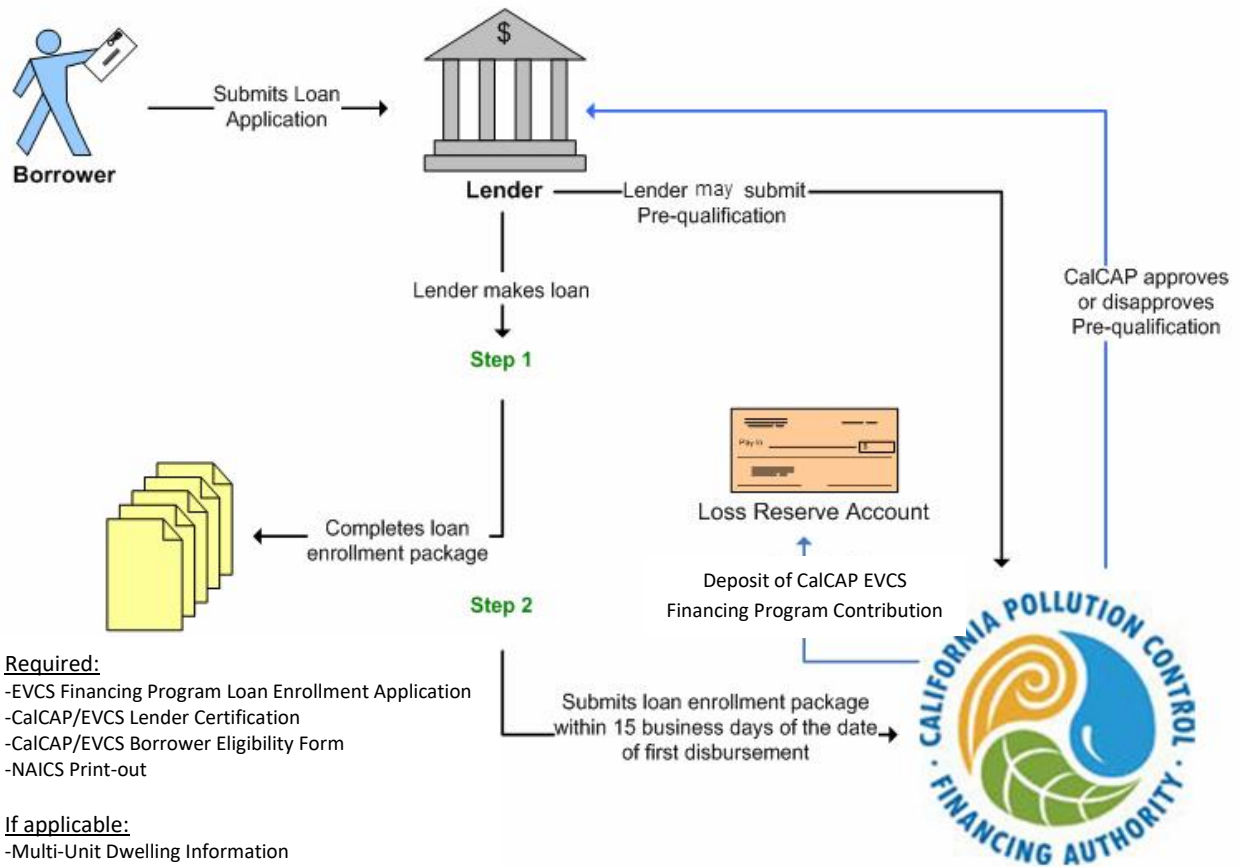
Form 4: CalCAP/EVCS Financing Program Supplemental Form for Multiple EVCS Projects

EVCS Project Site Section			
California Pollution Control Financing Authority CalCAP@treasurer.ca.gov		Lender Loan #: _____	
Participating Lender: _____		Borrower Name: _____	
CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects			
EVCS Project Site # _____	Name of Project Site	Is EVCS installation in a MUD?	▼
	Street Address	Is EVCS installation in a DAC?	▼
	City	Manufacturer	
	County	Model(s)	
	Zip Code	Total Units to be Purchased	
	Project Business Type	Number of Networked Communication Units	▼
	Type of Business/Activities	Total Number of Charging Ports	
	Project NAICS Code	Total EVCS Cost	
	Project Census Tract #	Estimated Installation Cost	
When complete, please send to: CalCAP@treasurer.ca.gov or by fax (916) 589-2805			
Page ____ of ____			

Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Lender Loan # 	<ul style="list-style-type: none"> ✓ List the unique loan number associated with the borrower’s loan. ☞ If the enrollment is a pre-qualification request, leave field blank.
<ul style="list-style-type: none"> ▪ Borrower Name 	<ul style="list-style-type: none"> ✓ Name of business.
<ul style="list-style-type: none"> ▪ EVCS Project Site # 	<ul style="list-style-type: none"> ✓ Indicate the number pertaining to that EVCS project installation site (1, 2, 3, 4, 5, 6, 7, 8, 9...).
<ul style="list-style-type: none"> ▪ Name of Project Site 	<ul style="list-style-type: none"> ✓ Name of the business, government entity, property management company, non-profit, etc. where the EVCS(s) will physically be installed and operational.
<ul style="list-style-type: none"> ▪ Street Address, City, County, Zip Code 	<ul style="list-style-type: none"> ✓ Physical address where the EVCS(s) will be installed.
<ul style="list-style-type: none"> ▪ Project Business Type 	<ul style="list-style-type: none"> ✓ Indicate at which of the following locations the EVCS(s) will be installed: <ul style="list-style-type: none"> ➤ Small business (1,000 or fewer employees) ➤ Large Business (more than 1,000 employees) ➤ Government Entity ➤ Non-Profit
<ul style="list-style-type: none"> ▪ Type of Business/ Activities 	<ul style="list-style-type: none"> ✓ List the function of the business or entity where the EVCS(s) will be installed. “What does the business do?” (e.g. retail sales, carpet cleaning, burger restaurant, etc.)
<ul style="list-style-type: none"> ▪ Project NAICS Code 	<ul style="list-style-type: none"> ✓ Six digit number used by the North American Industry Classification System (NAICS) to categorize business types. Please provide the most current print-out of the applicable NAICS code for the borrower’s business. This NAICS Code must correspond with the EVCS project installation site. ☞ http://www.census.gov/eos/www/naics/
<ul style="list-style-type: none"> ▪ Project Census Tract # 	<ul style="list-style-type: none"> ✓ 11-digit number used to identify the specific location of a business to provide more reporting consistency and uniformity. This Census Tract # must correspond with the EVCS project installation site. ☞ https://geomap.ffiec.gov/FFIECGeocMap/GeocodeMap1.aspx
<ul style="list-style-type: none"> ▪ Is EVCS Installation in a MUD? 	<ul style="list-style-type: none"> ✓ Indicate whether the EVCS(s) will be installed in a Multi-Unit Dwelling (MUD) as described in CalCAP Regulations 8078.3: <i>“Multi-Unit Dwelling” or “MUD” means a classification of housing where multiple housing units are contained within one building or multiple buildings within a complex or community. Common types of MUDs include duplexes, townhomes, and apartments, mobile homes and manufactured-home parks.</i> ✓ The following must be provided if EVCS(s) will be installed in a MUD: <ul style="list-style-type: none"> ➤ The type of Multi-Unit Dwelling in which the EVCS(s) will be installed ➤ The name of the property (if applicable) ➤ The total number of units in the Multi-Unit Dwelling

<ul style="list-style-type: none"> ▪ Is EVCS Installation in a DAC? 	<ul style="list-style-type: none"> ✓ Indicate whether the EVCS(s) will be installed in a Disadvantaged Community (DAC) as described in CalCAP Regulations 8078.3: <i>“Disadvantaged Communities” means the top twenty five (25) percent of communities that are disproportionately affected by environmental pollution and socioeconomic characteristics as described by CalEnviroScreen 2.0 Tool.</i> ☞ Follow the instructions in Section III B.1 to determine whether the EVCS will be installed in a DAC. If “yes”, provide a print-out of the most recent “Qualified Disadvantaged Communities” list with the EVCS Financing Program Loan Enrollment Application and the applicable data highlighted.
<ul style="list-style-type: none"> ▪ Manufacturer 	<ul style="list-style-type: none"> ✓ Name of the EVCS manufacturer(s) at project location.
<ul style="list-style-type: none"> ▪ Model(s) 	<ul style="list-style-type: none"> ✓ Name of the EVCS model(s) at project location.
<ul style="list-style-type: none"> ▪ Total Units to be Purchased 	<ul style="list-style-type: none"> ✓ Number of individual EVCS to be purchased and installed at that project location using the proceeds from this loan.
<ul style="list-style-type: none"> ▪ Number of Networked Communication Units 	<ul style="list-style-type: none"> ✓ Number of charging stations that communicate with a network.
<ul style="list-style-type: none"> ▪ Total Number of Charging Ports 	<ul style="list-style-type: none"> ✓ Number of charging ports available for use by electric vehicles at project location.
<ul style="list-style-type: none"> ▪ Total EVCS Cost 	<ul style="list-style-type: none"> ✓ Total costs related to the acquisition of the hardware and software necessary and allocable for the charging station unit(s).
<ul style="list-style-type: none"> ▪ Estimated Installation Cost 	<ul style="list-style-type: none"> ✓ All other costs related to the design, development, operation, servicing, installation, maintenance, and other hardware costs necessary and allocable for fully operational charging station(s). . ☞ Do not include any operation, servicing, or maintenance costs if the borrower’s primary business is EVCS installation, operation, or manufacturing.
<ul style="list-style-type: none"> ▪ Page ____ of ____ 	<ul style="list-style-type: none"> ✓ Indicate the corresponding page number and the total quantity of pages of the CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects which will be submitted for this loan. ☞ If only one page will be submitted, write “Page 1 of 1”

Summary CalCAP EVCS Financing Program Loan Enrollment Flow



Required:

- EVCS Financing Program Loan Enrollment Application
- CalCAP/EVCS Lender Certification
- CalCAP/EVCS Borrower Eligibility Form
- NAICS Print-out

If applicable:

- Multi-Unit Dwelling Information
- “Qualified Disadvantaged Communities” Print-Out
- CalCAP EVCS Financing Program Supplemental Form for Multiple EVCS Projects

IV. SUBMITTING NOTIFICATION OF CHANGE IN LOAN TERMS

Lenders are required to notify CPCFA within 15 business days of any change in loan terms of a currently enrolled loan prior to maturity.

The Notification of Change in Loan Terms form must be filled out properly and indicate the change in material terms of the loan. Any type of change in terms, excluding interest rate, must be submitted with an amended Loan Enrollment application, updated Lender Certification and updated Borrower Certification.

Please note that the Authority may authorize an extension of the maturity date of an enrolled loan for up to eighteen (18) months, if the Participating Financial Institution has provided the Authority written certification to its credit policy that provides for such extensions of the maturity date.

Copies of CalCAP EVCS Loan Enrollment Application Package can be found in Chapter IX of this manual. However, lenders should always check CalCAP's website for the most current version of the application:

 <https://www.treasurer.ca.gov/cpcfa/calcap/evcs/index.asp>

A. Overview

Lenders must submit to CalCAP the following forms and documentation with each Change in Loan Terms Form request:

	Required
Interest Rate Change	
1. CalCAP Notification of Change in Loan Terms Form https://www.treasurer.ca.gov/cpcfaca/calcap/tools/notification-loan-change.pdf	√
Maturity Date Change or Other Change in Loan Terms	
1. CalCAP Notification of Change in Loan Terms Form http://www.treasurer.ca.gov/cpcfaca/calcap/tools/notification-loan-change.pdf	√
2. CalCAP EVCS Loan Enrollment Application https://www.treasurer.ca.gov/cpcfaca/calcap/evcs/enrollment.pdf	√
3. CalCAP EVCS Lender Certification https://www.treasurer.ca.gov/cpcfaca/calcap/evcs/lender_cert.pdf	√
4. CalCAP EVCS Borrower Eligibility Criteria and Self-Certification Form https://www.treasurer.ca.gov/cpcfaca/calcap/evcs/certification.pdf	√



Completed Change in Loan Terms form, amended Loan Enrollment application and updated Lender and Borrower Certifications must be **received** at CalCAP within **15 business days of the “Change Effective Date”** by email, fax, or regular mail:



CalCAP@Treasurer.ca.gov



(916) 589-2805



CPCFA/CalCAP EVCS Financing Program
 P.O. Box 942809
 Sacramento, CA 94209-0001

Loan Information Section

Loan Information

Borrower: _____ Change Effective Date: _____

CalCAP Loan Number: _____ Lender's Loan Number: _____

Type of Change:

Interest Rate Change

Effective Date: _____ New Interest Rate _____

Maturity Date Change
Please submit an amended loan enrollment application, new lender and borrower certifications and complete the following two fields.

Old Maturity Date _____

New Maturity Date _____

Other (please provide supporting documentation)
Please submit an amended loan enrollment application, new lender and borrower certifications and complete the following field.

Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Borrower 	<ul style="list-style-type: none"> ✓ Name of the primary borrower representing the business.
<ul style="list-style-type: none"> ▪ Change Effective Date 	<ul style="list-style-type: none"> ✓ Date of the change to the loan.
<ul style="list-style-type: none"> ▪ CalCAP Loan Number 	<ul style="list-style-type: none"> ✓ The number CalCAP assigned to the loan after it was approved. This number can be found on the approved CalCAP loan enrollment application form. A copy of this was returned to the lender.
<ul style="list-style-type: none"> ▪ Type of Change: <ul style="list-style-type: none"> <input type="checkbox"/> Interest Rate Change <input type="checkbox"/> Maturity Date Change <input type="checkbox"/> Other 	<ul style="list-style-type: none"> ✓ Check the box(es) which describe the change in the loan terms. <ul style="list-style-type: none"> ☞ If the change is interest rate, enter the fields below: Effective Date and New Interest Rate. ☞ If the change is maturity date, enter the fields below: Old Maturity Date and New Maturity Date. Submit the amended Loan Enrollment application package along with the completed form. ☞ If the change is checked for "Other" please describe the change in the field below. Submit the amended Loan Enrollment application package and provide documentation to substantiate the change along with the completed form.
<ul style="list-style-type: none"> ▪ Authorized Lender Signature 	<ul style="list-style-type: none"> ✓ To be signed by the Lender designated as an authorized signer.
<ul style="list-style-type: none"> ▪ Title 	<ul style="list-style-type: none"> ✓ Title of the Lender designated as an authorized signer.
<ul style="list-style-type: none"> ▪ Date 	<ul style="list-style-type: none"> ✓ Date the Change in Loan Terms form was signed.
<ul style="list-style-type: none"> ▪ Print Name of Authorized Signer 	<ul style="list-style-type: none"> ✓ Print the name of the authorized signer who signed the form.

V. SUBMITTING A CLAIM

Lenders are required to notify CPCFA within 120 days of when the lender has charged off all or part of a qualified loan as a result of default. If the form is filled out properly and the lender has complied with CalCAP requirements, CalCAP will authorize the Program trustee (if account is trustee-held) or the participating financial institution (if account is lender-held) to reimburse the lender for their losses from the lender's loss reserve account within 30 business days.

The lender must experience a net loss originating from the outstanding principal, accrued and unpaid interest, and/or out-of-pocket expenses in order for CPCFA to approve a claim.

In addition to the claim form, lenders should submit:

- (1) a complete transaction history of the account
- (2) a short written synopsis of the loan history, including the last payment date, when and why the loan charged off, any liquidation efforts (dates and amounts) and future collections efforts
- (3) receipts for any reasonable, claimed out-of-pocket expenses
- (4) Bill of Sale for liquidated collateral

When assessing whether an out-of-pocket expense is considered reasonable, financial institutions should consider the best lending practices and act in a prudent and judicious manner during their collection processes.

Lenders must abide by their standard collection practices both before and after a claim is filed with CPCFA. If a lender receives any recoveries after a claim is filed with CPCFA, the lender must reimburse the loan loss reserve account on a dollar for dollar basis and must report the recovery on the lender's Quarterly Report.

A copy of the form can be found in Chapter IX of this manual. However, lenders should always check the CalCAP/ EVCS website for the most current versions:

☞ Claim Application: <http://www.treasurer.ca.gov/cpcfca/calcap/forms/claim.pdf>

Form 6: CalCAP Financial Institution Claim Application

Lender and Borrower Information Section	
<p>CALIFORNIA CAPITAL ACCESS PROGRAM California Pollution Control Financing Authority Office Location: 801 Capitol Mall, 2nd Floor Sacramento, CA 95814 Telephone (916) 654-5610</p> <p style="text-align: right;">Mailing Address: P.O. Box 942809 Sacramento, CA 94209-0001 CalCAP@treasurer.ca.gov Fax (916) 589-2805</p> <p style="text-align: center;">CalCAP FINANCIAL INSTITUTION CLAIM APPLICATION</p> <p>NOTE: A lender is required to notify the Authority within 120 days of when the lender has charged off all or part of a qualified loan as a result of default by a borrower. If the form is filled out properly and the lender has faithfully complied with CalCAP requirements, CPCFA will authorize the Program trustee to reimburse the lender from the lender's loss reserve account within 30 business days.</p> <p><u>Lender and Borrower Information</u></p> <p>Participating Lender: _____ Lender's CalCAP ID #: _____ Lender Contact: Name: _____ CalCAP Loan Number: _____ Phone: _____ Borrower's Name: _____ Address: _____ Borrower DBA: _____ _____</p>	
Field:	Information Needed:
▪ Participating Lender	✓ Name of the financial institution.
▪ Lender Contact	✓ Name, phone number, and address of lender representative CalCAP can contact with questions about this claim.
▪ Lender's CalCAP ID#	✓ The financial institution's assigned CalCAP Lender ID. This number was issued and provided on the signed copy of the lender's "Financial Institution Application" agreement and the "Welcome Letter" that accompanied it. (This number never changes.)
▪ CalCAP Loan Number	✓ The number CalCAP assigned to the loan after it was approved. This number can be found on the approved CalCAP loan enrollment application form. A copy of this was returned to the lender.
▪ Borrower's Name	✓ Name of the primary borrower representing the business.
▪ Borrower DBA ("Doing Business As")	✓ Name of business, sole proprietor, partnership, corporation, etc.

Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Original Principal Amount of Loan 	<ul style="list-style-type: none"> ✓ Amount disbursed to borrower upon first funding of loan.
<ul style="list-style-type: none"> ▪ Date of Loan 	<ul style="list-style-type: none"> ✓ Date of initial disbursement.
<ul style="list-style-type: none"> ▪ Default Amount 	<ul style="list-style-type: none"> ✓ Delinquent amount of loan (outstanding principal prior to liquidation of collateral).
<ul style="list-style-type: none"> ▪ Date of Default 	<ul style="list-style-type: none"> ✓ Date of last delinquency (date Borrower ceased repayment).
<ul style="list-style-type: none"> ▪ Is this loan secured? <input type="checkbox"/> Yes <input type="checkbox"/> No ▪ If yes, what form of security 	<ul style="list-style-type: none"> ✓ Identify whether collateral was used to secure the loan. If answered “yes”, describe the type of collateral used.
<ul style="list-style-type: none"> ▪ Date of Charge-off 	<ul style="list-style-type: none"> ✓ Date the loan was deemed uncollectable by the lender and charged off the books from an asset to a liability.
<ul style="list-style-type: none"> ▪ Was the loan in the first \$1 million of CalCAP loans made by lender? <input type="checkbox"/> Yes <input type="checkbox"/> No 	<ul style="list-style-type: none"> ✓ Indicate whether this loan falls within the first \$1 million for a new lender (regardless of amount enrolled).
<ul style="list-style-type: none"> ▪ Have enforcement proceedings begun? <input type="checkbox"/> Yes <input type="checkbox"/> No 	<ul style="list-style-type: none"> ✓ Answer “yes” if lender has started collection efforts, otherwise answer “no”.
<ul style="list-style-type: none"> ▪ Lender’s priority of claim (If two or more claims filed by lender) 	<ul style="list-style-type: none"> ✓ Rank the priority of this claim in comparison to other pending claims already filed by lender (if any).

Claim Information Section

<u>Claim Information</u>	
Outstanding Principal	\$ _____
Liquidated Collateral	\$ _____
Accrued and Unpaid Interest	\$ _____
Out-of-pocket expenses (Attach detailed explanation)	\$ _____
Total	\$ _____

Please attach a complete transaction history report, a short narrative of the loan history, receipt(s), and Bill of Sale(s) (if applicable).

- The lender warrants this claim is being filed within 120 days of the loan being charged off and that charge-off was consistent with the lender's usual methods for taking action on loans not enrolled in the Program.
- Lender will, as CPCFA's agent, pursue additional recovery on this defaulted loan through legal proceedings, seizure and liquidation of collateral, guarantees, and/or other sources.
- Lender certifies it has given notice to the Authority of the initial enrollment of the loan in CalCAP, and either:
 - (1) has given notice to the Authority of any renewals or extensions of the loan; or
 - (2) the loan was continuously renewed or extended since the date of its initial enrollment in CalCAP.
- This claim is for a loan that the undersigned holds, or a loan that has been assigned, transferred, or pledged to another entity pursuant to prior authorization by CPCFA.

Field:	Information Needed:
<ul style="list-style-type: none"> Outstanding Principal 	<ul style="list-style-type: none"> ✓ List the amount of the outstanding principal calculated as: Original Principal Amount subtract Payments Applied to Principal (not including liquidated collateral) equals Outstanding Principal ✓ CPCFA does not authorize payment for lender-issued fees (NSF fees, late fees, etc.)
<ul style="list-style-type: none"> Liquidated Collateral 	<ul style="list-style-type: none"> ✓ List the amount received in liquidated collateral as of the date lender is filing claim. Attach a copy of the Bill of Sale for all liquidated collateral.
<ul style="list-style-type: none"> Accrued and Unpaid Interest 	<ul style="list-style-type: none"> ✓ List the amount of accumulated, unpaid interest calculated from the day after the last interest payment was made until the date of loan charge-off. The interest is calculated at the rate listed on the original application.
<ul style="list-style-type: none"> Out-of-Pocket expenses (Attach detailed explanation) 	<ul style="list-style-type: none"> ✓ List the amount of reasonable out-of-pocket expenses incurred related to delinquent loan recovery efforts (e.g. repairs, towing charges, legal fees), and include documentation of out-of-pocket expenses. The receipts must contain identifying information (e.g. Borrower Name, CalCAP #, Lender Loan #, VIN #).
<ul style="list-style-type: none"> Total 	<ul style="list-style-type: none"> ✓ This is the total sum of the outstanding principal, liquidated collateral, accrued and unpaid interest, and out-of-pocket expenses.
<ul style="list-style-type: none"> Authorized Signature 	<ul style="list-style-type: none"> ✓ Signature of Lender designated as an authorized signer.
<ul style="list-style-type: none"> Date 	<ul style="list-style-type: none"> ✓ Date the claim was signed.
<ul style="list-style-type: none"> Title 	<ul style="list-style-type: none"> ✓ Title of the Lender designated as an authorized signer.

☞ Claim Calculator is accessible via:

<http://www.treasurer.ca.gov/cpcf/calcap/tools/calculator.xlsx>

VI. SUBMITTING A BORROWER REBATE REQUEST

Lenders are required to submit the CalCAP EVCS Financing Program Borrower Rebate Request to CPCFA within 90 calendar days after the loan is paid off or 48 months after the date of first disbursement. A Borrower shall be eligible for a Borrower Rebate of fifty (50) percent of the Loan Loss Reserve contribution if the following conditions are met:

- (1) The Borrower provides the Participating Financial Institution with documentation that the EVCS financed is fully operational.
- (2) The Borrower has no more than one 30-day late payment on the Qualified Loan;
- (3) The Qualified Loan has been paid off or forty-eight months have elapsed from the date of first disbursement of the Qualified Loan, whichever is sooner; and
- (4) The Borrower certifies that any outstanding balance of the loan repaid at the time of application for the Borrower Rebate was not refinanced into another credit structure with any Participating Financial Institution.

Before submitting the CalCAP EVCS Financing Program Borrower Rebate Request to CPCFA, the Lender must notify the Borrower if the Borrower does **not** qualify for the rebate.

If the form is filled out properly, the lender has complied with the CalCAP EVCS Financing Program requirements, and the borrower meets all of the eligibility requirements, CalCAP will authorize the Program trustee or Lender to reimburse the borrower from the lender's loss reserve account within 30 calendar days.

A copy of the form can be found in Chapter IX of this manual. However, lenders should always check the CalCAP website for the most current version:

 <http://www.treasurer.ca.gov/cpcfca/calcap/evcs/rebate.pdf>

Loan Information Section	
<p><u>Loan Information</u> Original Principal Amount of Loan: _____ Date of Loan: _____ Contribution Amount: _____ Rebate Eligibility Date: _____ Rebate Amount: _____</p>	
Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Original Principal Amount of Loan 	<ul style="list-style-type: none"> ✓ Amount disbursed to borrower upon first funding of loan.
<ul style="list-style-type: none"> ▪ Contribution Amount 	<ul style="list-style-type: none"> ✓ The amount CPCFA contributed to the lender's Loan Loss Reserve Account.
<ul style="list-style-type: none"> ▪ Rebate Amount 	<ul style="list-style-type: none"> ✓ The amount that will be withdrawn from the lender's Loan Loss Reserve Account to pay the Borrower Rebate. ☞ If Borrower qualifies for Rebate, the Rebate Amount is equal to 50% of the Contribution Amount for the applicable enrollment. ☞ If Borrower does not qualify for Rebate, use \$0.00.
<ul style="list-style-type: none"> ▪ Date of Loan 	<ul style="list-style-type: none"> ✓ Date of initial disbursement as written on the EVCS Financing Program Loan Enrollment Application.
<ul style="list-style-type: none"> ▪ Rebate Eligibility Date 	<ul style="list-style-type: none"> ✓ Date loan was paid off or after 48 months have elapsed since the date of first disbursement of the Qualified Loan, whichever is sooner.
Borrower and Lender Certification Section	
<p><u>Borrower Certification</u></p> <p>1.) Borrower certifies that he/she has provided the Participating Financial Institution with a copy of an Electric Vehicle Charging Station Certificate of Commissioning relative to the EVCS financed.</p> <p>2.) Borrower certifies that any outstanding balance of the loan repaid at the time of application for the Borrower Rebate was not refinanced into another credit structure with any Participating Financial Institution.</p> <p>_____</p> <p>(Print Name of Responsible Person)</p> <p>_____ (Date)</p> <p>(Name of Responsible Person's Signature)</p>	
<p><u>Lender Certification</u></p> <p>1.) Lender certifies the Borrower had no more than one 30-day late payment on the Qualified Loan (evidence required).</p> <p>2.) Lender certifies the Qualified Loan has been paid off or forty-eight months have elapsed from the date of first disbursement of the Qualified Loan, whichever is sooner (evidence required).</p> <p>3.) Lender certifies that the Borrower has provided a copy of an Electric Vehicle Charging Station Certificate of Commissioning relative to the EVCS financed.</p> <p>_____ (Date)</p> <p>(Authorized Signature and Title)</p>	
Field:	Information Needed:
<ul style="list-style-type: none"> ▪ Print Name of Responsible Person 	<ul style="list-style-type: none"> ✓ Name of Responsible Person representing the Borrower's business who is certifying to the terms of the loan and rebate. ✓ ☞ If Borrower does not qualify, leave blank.

<ul style="list-style-type: none"> ▪ Name of Responsible Person's Signature 	<ul style="list-style-type: none"> ✓ To be signed by the Responsible Person representing the Borrower's business who is certifying to the terms of the loan and rebate. ☞ If Borrower does not qualify, leave blank.
<ul style="list-style-type: none"> ▪ Date 	<ul style="list-style-type: none"> ✓ Date the Responsible Person signed the Rebate Request. ☞ If Borrower does not qualify, leave blank.
<ul style="list-style-type: none"> ▪ Authorized Signature and Title 	<ul style="list-style-type: none"> ✓ To be signed by the lender-designated authorized signer. ☞ If Borrower does not qualify, leave blank.
<ul style="list-style-type: none"> ▪ Date 	<ul style="list-style-type: none"> ✓ Date the lender-designated authorized signer signed the Rebate Request. ☞ If Borrower does not qualify, leave blank.

Lender Certification Section (cont'd)

If the Borrower *does not* qualify for the Borrower Rebate, certify that the Borrower was notified of ineligibility by checking the box below and stating the reason for disqualification.

The borrower does not qualify for the Borrower Rebate. Reason: _____

(Authorized Signature and Title)

(Date)

California Pollution Control Financing Authority Use Only		
Authorized Signature	Date	Amount \$

Field:	Information Needed:
<input type="checkbox"/> The borrower does not qualify for the Borrower Rebate. Reason: _____	<ul style="list-style-type: none"> ✓ Box to be checked only if Borrower does not qualify for the Borrower Rebate. ☞ If Borrower qualifies, leave blank. ✓ Reasons include: <ul style="list-style-type: none"> ➤ Borrower did not provide documentation the EVCS was fully operational. ➤ Borrower had more than one 30-day late payment.
<ul style="list-style-type: none"> ▪ Authorized Signature and Title 	<ul style="list-style-type: none"> ✓ To be signed by the lender-designated authorized signer only if Borrower does not qualify for the Borrower Rebate. The title of the authorized signer must be included. ☞ If Borrower qualifies, leave blank.
<ul style="list-style-type: none"> ▪ Date 	<ul style="list-style-type: none"> ✓ Date the lender-designated authorized signer signed the Rebate Request. ☞ If Borrower qualifies, leave blank.
<ul style="list-style-type: none"> ▪ CPCFA Use only: Authorized Signature 	<ul style="list-style-type: none"> ✓ Do not write on this line (CalCAP use only)
<ul style="list-style-type: none"> ▪ CPCFA Use only: Date 	<ul style="list-style-type: none"> ✓ Do not write on this line (CalCAP use only)
<ul style="list-style-type: none"> ▪ CPCFA Use only: Amount 	<ul style="list-style-type: none"> ✓ Do not write on this line (CalCAP use only)

VII. REPORTING REQUIREMENTS

CalCAP Regulations require financial institutions to report to CPCFA on the status of loans enrolled and associated loan loss reserve accounts on a regular basis. In addition, financial institutions should communicate to CPCFA any changes to the lender's primary contact information to ensure important communications from CalCAP are received by the appropriate lender point of contact.

A. Monthly Reporting

CalCAP Regulation §8073 (f) states:

"The Participating Financial Institution shall provide information to the Authority regarding the status of accounts, enrolled loans, claims and recoveries upon request."

All participating lenders with internally held loan loss reserve accounts are required to submit a monthly bank statement to CalCAP. The bank statements should provide a detailed description of the account and a complete summary of all transactions for the period covered. Failure of the lenders to comply more than two times within a six month period or more than three times in a 12 month period with the reporting requirements will result in mandatory transfer of loss reserve accounts to the CalCAP Trustee Bank.



Submit Loan Loss Reserve account statement by the 15 of the following month (e.g. the statement for January must be submitted by February 15) either byemail at CalCAP@treasurer.ca.gov or by mail to:

CPCFA/ CalCAP EVCS
P.O. Box 942809
Sacramento, CA 94209-0001

B. Quarterly Reporting

Quarterly reports are due to CalCAP by the 15th of the month following the end of the quarter as follows:

Quarter Begins	Quarter Ends	Quarterly Report due to CalCAP
January 1	March 31	April 15
April 1	June 30	July 15
July 1	September 30	October 15
October 1	December 31	January 15

The quarterly report should clearly identify the CalCAP loan number, lender loan number, borrower's name and/or DBA, date of the loan (first disbursement), maturity date, total loan amount, total enrolled amount outstanding, and date the loan was paid off. If a loan previously enrolled in CalCAP by a Participating Financial Institution was assigned, transferred, or pledged to another entity pursuant to prior authorization by CPCFA, the lender which originally held the debt must record the date the loan was sold, the name of the entity to which the loan was assigned, transferred, or pledged, and the percentage of the loan which was assigned, transferred, or pledged on the Participating Financial Institution's quarterly report. For loans that received a claim approval, the report should also include the date of charge off, claim amount paid, recovery dates, recovery amounts, and comments. If the Participating Financial Institution received a copy of an EVCS Financing Program Borrower Rebate Request signed by CPCFA's designee during that quarter, the quarterly report should also indicate whether the borrower qualified for the rebate and should include the date of rebate eligibility if applicable, the date the Borrower Rebate Request was submitted to CPCFA for approval, the rebate amount withdrawn from the Loan Loss Reserve account, and comments. For an example of a quarterly report in the CalCAP preferred format, see the graphic below and refer to the CalCAP website at:

 <http://www.treasurer.ca.gov/cpcfa/calcap/evcs/index.asp>

LOAN INFORMATION										CLAIM INFORMATION					REBATE INFORMATION					
CalCAP Loan #	Bank Loan Number	Borrower	DBA	Date of Loan (First Disbursement)	Maturity Date	Total Loan Amount	Total Enrolled Amount Outstanding	Date Loan Paid Off or Sold	Name of entity the loan was assigned, transferred or pledged to pursuant to prior authorization by CPCFA	Percentage of loan assigned, transferred or pledged to another entity	Date of Charge Off	Claim Amount Paid	Recovery Date	Recovery Amount	Comments	Qualified for Rebate?	Date of Rebate Eligibility if applicable	Date Borrower Rebate Request Submitted to CPCFA	Rebate Amount Withdrawn from LLR	Comments
0000-0000	500-94863	John Doe	John Doe Hotel	6/20/2015	10/29/2020	\$120,000.00	\$185,000.00	N/A	N/A	N/A	12/6/2015	\$45,000.00	12/28/2015	\$ 30,000.00	Liquidated collateral	No	N/A	12/8/2015	N/A	More than 1 year payment, ineligible for rebate
0000-0000	500-94870	Jane Doe	Jane Doe Supermarket	6/30/2015	12/30/2018	\$50,000.00	\$0.00	12/7/2015	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Yes	12/7/2015	12/8/2015	\$5,000.00	CPCFA approved Rebate Request 12/23/15. Issued \$5,000.00 check to borrower 12/24/15.
Totals						\$170,000.00	\$185,000.00					\$45,000.00		\$ 30,000.00					\$5,000.00	

Failure to comply with the quarterly reporting requirement may result in suspension from the Program, mandatory transfer of loss reserve accounts to the CalCAP Trustee Bank, and/ or termination from Program. Once the quarterly report is submitted to and received by CalCAP, the suspension may be lifted. If the participating financial institution fails to comply a second time within a 12 month period, the participating financial institution may be suspended from the Program until the quarterly report is submitted to and received by CalCAP. At that time, that financial institution's ability to participate in CalCAP will be reassessed by the Executive Director.



Submit Quarterly Report electronically to the CalCAP email address at CalCAP@treasurer.ca.gov by the 15th of the month following the end of the quarter.

C. Change in Lender Points of Contact

To ensure the financial institution is aware of all current CalCAP rules and regulations as well as changes to program policies or practices, lenders should keep CalCAP informed about any changes to key lender contacts by sending a brief memo on the

participating financial institution's letterhead signed by an authorized representative of the institution to CalCAP with the new or updated name, address, phone or email contact information. Specifically, lenders should inform CalCAP of changes to:

☞ **Main Contact** – CalCAP's primary lender contact

☞ **Public Contact** – lender contact for public inquiries (name and address will be published on the CalCAP website)

☞ **Financial Contact** – lender contact authorized to discuss bank statements, quarterly reports, claim refunds, etc. with CalCAP

☞ **Mail Recipient** – lender contact authorized to receive completed loan, claim, and rebate documents from CalCAP (only list **one**)

☞ **General Emailing List** – on occasion, CalCAP sends out email announcements for new processes, new forms, lender roundtable meetings, etc. Lender should provide the email addresses for those wishing to receive such correspondence.

Updates can be submitted to the CalCAP email CalCAP@treasurer.ca.gov or by mail to:

CPCFA/CalCAP
Ref. Change in Lender Contact
P.O. Box 942809
Sacramento, CA 94209-0001



Please use "Change in Lender Contact" reference in the email subject line or in the regular mail address line.

VIII. LENDER TOOLS & TIPS

This section contains tools and tips to further assist lenders in enrolling loans. For the most recent versions, refer to the CalCAP website:

☞ CalCAP/EVCS Homepage:

<https://www.treasurer.ca.gov/cpcfca/calcap/evcs/index.asp>

1. How to Report the Number of Employees of a Small Business Concern & Related Affiliates

To report the number of employees of a borrower, the lender will request that the borrower count all individuals employed on a full-time, part-time, or other basis. If a borrower owns multiple businesses, has acquired an affiliate, or been acquired as an affiliate, the employees counted to determine size status include the employees of all affiliates. Employees obtained from a temporary employee agency, professional employment organization, or leasing concern that received payment directly from the borrower will be included.

The borrower should consider the totality of the circumstances, including criteria used by the IRS for Federal income tax purposes, to determine whether individuals are employees of their business. In general, an individual is considered an employee of a borrower if their compensation is issued by the borrower.



Volunteers (e.g. individuals who receive no compensation, including no in-kind compensation, for work performed) are **not** considered employees.



Employees cannot exceed 1,000 for CalCAP/ EVCS loans.

2. How to Calculate Full Time Equivalency

The number of an employer's Full Time Equivalent (FTEs) is determined by dividing the total hours for which the borrower pays wages to all employees during the year by the standard number of employee work hours per year. The standard calculation for employee work hours per year is 2080: calculated by multiplying 52 weeks by 40 hours per week.

Example: In a single year a borrower pays 5 employees wages for 2,080 hours each, 3 employees' wages for 1,040 hours each, and 1 employee wages for 2,300 hours. The borrower's FTEs would be calculated as follows:

1. Total hours not exceeding 2,080 per employee is the sum of:
 - a. 10,400 hours for the 5 employees paid for 2,080 hours each (5 x 2,080)
 - b. 3,120 hours for the 3 employees paid for 1,040 hours each (3 x 1,040)
 - c. 2,080 hours for the 1 employee paid for 2,300 hours (lesser of 2,300 and 2,080)

☛ **These add up to 15,600 hours**

FTEs: 8 (15,600 divided by 2,080 = 7.5, rounded to the nearest whole number)

IX. SAMPLE LOAN ENROLLMENT APPLICATIONS, CERTIFICATIONS & FORMS

Samples of forms required by CalCAP are provided in this Chapter for quick reference. Lenders should refer to the CalCAP website to download the most current forms:

 <https://www.treasurer.ca.gov/cpcfca/calcap/evcs/index.asp>

1. CalCAP EVCS Financing Program Loan Enrollment Application

CALIFORNIA CAPITAL ACCESS PROGRAM
 California Pollution Control Financing Authority
CalCAP@treasurer.ca.gov
 (916) 654-5610

CalCAP Use Only	CalCAP Loan #
	Date Received

CALCAP ELECTRIC VEHICLE CHARGING STATION (EVCS) FINANCING PROGRAM LOAN ENROLLMENT APPLICATION

Lender Information

Participating Lender _____ Lender ID # _____
 Lender Contact Name _____ Phone _____
 Lender Contact Email _____

Borrower Name _____ DBA _____
 Name of Responsible Person _____ Title _____
 Address _____ City _____ County _____ Zip _____
 Type of Business/Activities _____
 Average Annual Revenue Last 3 Years \$ _____
 Number of Employees _____ Jobs created _____ Jobs retained _____
 Will loan monies be used at above address? Yes No If No, location where loan monies will be used:
 Address _____ City _____ County _____ Zip _____
 NAICS Code _____ Census Tract # _____
<http://www.census.gov/eos/www/naics/> <http://www.fiec.gov/Geocode/default.aspx>
 Description of Eligible Project Costs (Purpose of Loan) _____
 Is EVCS installation in a Multi-Unit Dwelling? Yes No
 Is EVCS installation in a Disadvantaged Community? Yes No
 Is business minority owned? Yes No Decline to Answer
 Is business woman owned? Yes No Decline to Answer
 Is business veteran owned? Yes No Decline to Answer

Loan Information

Lender Loan Number _____
 Total Loan Amount \$ _____ Loan Amount Enrolled in CalCAP \$ _____
 Date of First Disbursement (Date of Loan) _____ Maturity Date _____
 Interest Rate _____ % APR Fixed Variable Is the loan secured? Yes No

When complete, please send to: CalCAP@treasurer.ca.gov or by fax (916) 589-2805

Revised August 15, 2017

2. CalCAP EVCS Lender Certification

CALIFORNIA CAPITAL ACCESS PROGRAM California Pollution Control Financing Authority CalCAP@treasurer.ca.gov		Mailing Address: P.O. Box 942809 Sacramento, CA 94209-0001 Fax (916) 589-2805	
_____ Borrower Name	_____ Lender Loan Number		
LENDER CERTIFICATION			
Enrolling a loan in the EVCS Financing Program requires the Participating Financial Institution to certify to each of the following Program Regulations.			
*All capitalized terms are defined in the 4 CCR §8070 & §8078.3 of the California Code of Regulations.			
<ol style="list-style-type: none"> 1) The loan is a Qualified Loan as defined in 4 CCR §8078.3 of the California Code of Regulations. 2) The business receiving the Qualified Loan is a Qualified Business, as defined in 4 CCR §8078.3 of the California Code of Regulations. 3) The Participating Financial Institution will provide information from financial records of the Borrower upon request of the Executive Director of the CPCFA, and the Participating Financial Institution has obtained the consent of the Borrower to such disclosure. 4) The Participating Financial Institution has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable, interest in the Fees or the CalCAP contribution. 5) The total amount of loans enrolled for the Borrower in the EVCS Financing Program does not exceed \$500,000. 6) The Participating Financial Institution has obtained a written representation from the Borrower that it has secured or made application for all applicable licenses or permits needed to conduct its business and carry out the purpose of the loan. 7) The Participating Financial Institution has not, and will not, enroll the same loan or portion thereof in any other government program substantially similar to the Program. 8) The Borrower has received CPCFA's CalCAP/EVCS Privacy Notice. 9) The Participating Financial Institution acknowledges that its lending activities are subject to safety and soundness standards as set forth in any applicable lending regulations. 			
By signing below and enrolling this loan the Participating Financial Institution certifies, based in part on information provided by the Borrower, that each of the above assurances is true and accurate.			
_____ Authorized Lender Signature	_____ Title	_____ Date	
_____ Authorized Lender Printed Name			
California Pollution Control Financing Authority Use Only			
CalCAP Loan Number: _____	Analyst's Initials: _____	Date: _____	Reviewer's Initials: _____
Premium Percentage: _____ %	FUND: _____	Notes:	
Premium Amount: \$ _____	Rebate Amount: \$ _____		
Authorized Signature: _____			Date: _____

When complete, please send to: CalCAP@treasurer.ca.gov or by fax (916) 589-2805

Revised August 15, 2017

3. CalCAP EVCS Borrower Certification

(1 of 3 pages)

<p>Borrower Name: _____ Lender: _____ Lender Loan #: _____</p>
<p>CALCAP ELECTRIC VEHICLE CHARGING STATION FINANCING PROGRAM BORROWER ELIGIBILITY CRITERIA AND SELF- CERTIFICATION</p>
<p>The undersigned Borrower hereby applies to the California Pollution Control Financing Authority (CPCFA) for participation in the CalCAP Electric Vehicle Charging Station Financing Program (EVCS Financing Program).</p>
<p>SECTION I CALCAP EVCS FINANCING PROGRAM ELIGIBILITY</p>
<p>By initialing on each line, Borrower certifies to eligibility under the CalCAP EVCS Financing Program.</p>
<p>(a) _____ Borrower will use the program only to purchase and install electric vehicle charging stations (EVCS) in compliance with the California Energy Commission's Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) (California Health and Safety Code Section 44272) and the EVCS Financing Program Regulations. Eligible acquisitions with loan proceeds include:</p> <ul style="list-style-type: none">• Design and development of EVCS in locations accessible to either the Borrower's employees, the Borrower's tenants if in an Multi-Unit Dwelling (MUD), or the public generally;• Acquisition of EVCS, supply equipment, electric panel or grid improvements, materials and supplies (including conduit and construction materials), signage, and hardware and software necessary for fully operational charging stations;• Labor to install fully operational charging station(s).
<p>(b) _____ Borrower certifies that the acquisition and installation of EVCS subject to the statute referenced in the above statement meets all other CalCAP EVCS Financing Program requirements.</p>
<p>(c) _____ Borrower understands they may be eligible for a Borrower Rebate at an amount of 50 percent of the Program premium contribution, contingent upon: repayment of the enrolled loan amount or 48 months from the date of first disbursement of the enrolled loan, whichever occurs first; loan payments were made in a timely manner with no more than one 30 day late payment over the term of the loan; submission of a EVCS Certificate of Commissioning; and a certification that any outstanding balance of the loan repaid at the time of application for the Borrower Rebate was not refinanced into another credit structure with any Participating Financial Institution.</p>
<p>Initial (d) and (e) only if applicable:</p>
<p>(d) _____ Borrower certifies that the location of the installed EVCS is in a multi-unit dwelling property as defined in the EVCS Financing Program Regulations.</p>
<p>(e) _____ Borrower certifies that the location of the installed EVCS is in a disadvantaged community as defined in the EVCS Financing Program Regulations.</p>
<p>When complete, please send to: CalCAP@treasurer.ca.gov or by fax (916) 589-2805</p>
<p>August 15, 2017</p>

CalCAP EVCS Borrower Certification

(2 of 3 pages)

	Borrower Name: _____
	Lender: _____
	Lender Loan #: _____

**SECTION II
CALCAP EVCS FINANCING PROGRAM BUSINESS ELIGIBILITY**

By initialing on each line, the Borrower certifies to eligibility under EVCS Financing Program.

(a) _____ Borrower is a qualified business defined as follows:

- "Qualified Business" means any entity eligible under section 8078.3(i) that together with its affiliates has 1,000 or fewer employees.

(b) _____ Borrower certifies the EVCS installation is located within the boundaries of the State of California.

(c) _____ Borrower certifies that it has legal control of the EVCS installation site for a term that is equal to or greater than the length of the enrolled loan, and will assume financial liability of the loan.

(d) _____ 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.

(e) _____ Borrower has no legal, beneficial, or equitable interest in the CalCAP contribution.

(f) _____ Borrower does not have a total principal amount in excess of \$500,000 enrolled in the CalCAP EVCS Financing Program at any participating financial institution.

(g) _____ Borrower has received the CPCFA CalCAP/EVCS Financing Program Privacy Notice dated August 1, 2015.

(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.

**SECTION III
CALCAP EVCS FINANCING PROGRAM PROJECT ELIGIBILITY**

By initialing on each line, the Borrower certifies that each statement below is true and correct. Please also provide the applicable information in the table below, including the EVCS manufacturer and model purchased with EVCS Financing Program loan proceeds.

(a) _____ If the EVCS installation 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 the portion of costs of the total project as reasonably allocated to the installation and operation of the EVCS, as documented by the master contractor and/or installer of the EVCS.

(b) _____ Borrower certifies that the facility at which the EVCS will be installed is not any of those prohibited by the CalCAP regulations, including: massage parlor, hot tub facility, racetrack, facility primarily used for gambling or to facilitate gambling, liquor store, bars, a store or other facility whose principal business is the sale of firearms, a store or other facility whose principal business is the manufacture or sale of tobacco or tobacco products, escort service, nudist camp, adult entertainment (including strip clubs, adult book stores, and businesses whose principal business is the sale of pornography), gun club, shooting range or gallery.

(c) _____ Borrower has secured or made application for all applicable licenses or permits needed to install and operate the EVCS to be procured with the Qualified Loan.

(d) _____ Borrower agrees to allow California Energy Commission staff or its designee to inspect the EVCS and EVCS installation site.

(e) _____ Borrower certifies that minimum technical requirements for direct current (DC) fast chargers include: 1) either the CHAdeMO standard, or the SAE combination standard (CCS), or a combination of both; and 2) EVCS' use an open standard protocol for purposes of network interoperability. Level 2 charging equipment must meet the SAE J1772 standard and use an open standard protocol. The open standard protocol is waived by CPCFA for medium-and heavy-duty EVCS.

(f) _____ Borrower acknowledges awareness of potential regulations from the California Department of Food and Agriculture, Division of Measurement Standards, governing the retail sale of electricity from EVCS. Once effective, installed EVCS may be required to adhere to adopted regulation requirements. Please see www.cdffa.ca.gov for more information.

When complete, please send to: CalCAP@treasurer.ca.gov or by fax (916) 589-2805 August 15, 2017

CalCAP EVCS Borrower Certification

(3 of 3 pages)

Borrower Name: _____ Lender: _____ Lender Loan #: _____	
Additional Information for Completion by the Borrower	
Manufacturer:	_____
Model(s):	_____
Total Units to be Purchased:	_____
Number of Networked Communication Units:	_____
Total number of charging ports:	_____
Total EVCS Cost:	_____

Estimated installation cost:	_____

_____ (Business Name)	
_____ (Print Borrower's Name)	
_____ (Borrower's Signature)	_____ (Date)
_____ (Business Address)	_____ (Phone Number)
_____ (CPCFA Review: Signature and Title)	_____ (Date)

When complete, please send to: CalCAP@treasurer.ca.gov or by fax (916) 589-2805

August 15, 2017

4. CalCAP EVCS Financing Program Privacy Notice



CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Office Location: 801 Capitol Mall, 2nd floor
Sacramento, CA 95814
Mailing Address: P.O. Box 942809
Sacramento, CA 94209-0001
p (916) 654-5610
f (916) 657-4821
cpcfa@treasurer.ca.gov



CALIFORNIA CAPITAL ACCESS PROGRAM

PRIVACY NOTICE

The California Information Practices Act of 1977 (Civil Code §1798.17) requires that this notice be provided when a governmental agency collects the personal information of individuals. Name, address, telephone number, gender, and race of the borrower, guarantor and/or business owner, and business and financial information related to this loan is requested by the California Capital Access Program (CalCAP) of the California Pollution Control Financing Authority (CPCFA) for the purposes of statistical reporting on loan activities and assessing compliance with CalCAP program requirements. It is mandatory for the lender to provide this information to CalCAP. Failure to provide the information may result in rejection of the application.

The information may be disclosed under the following circumstances: (1) to consultants, auditors or contractors retained by the California Pollution Control Financing Authority where disclosure is required to fulfill CalCAP program requirements; (2) to another governmental entity where required by state or federal law; or (3) as otherwise required by law.

The agency official responsible for the maintenance of the personal information is the CalCAP Program Manager, at 801 Capitol Mall, 2nd Floor, Sacramento, CA 95814, Tel: (916) 654-5610. California Code of Regulations §8072 authorizes the solicitation and maintenance of the personal information requested. Borrowers have the right to access their information upon request by contacting the CalCAP Program Manager.

Copy to Borrower/Do Not Submit to CalCAP

Revised December 5, 2018

5. CalCAP EVCS Financing Program Borrower Rebate Request

<p>CALCAP EVCS FINANCING PROGRAM California Pollution Control Financing Authority Office Location: 801 Capitol Mall, 2nd Floor Sacramento, CA 95814 Telephone (916) 654-5610</p>	<p>Mailing Address: P.O. Box 942809 Sacramento, CA 94209-0001 CalCAP@treasurer.ca.gov Fax (916) 589-2805</p>	
CalCAP EVCS FINANCING PROGRAM BORROWER REBATE REQUEST		
<p>NOTE: A lender is required to notify the Authority within 90 calendar days of when the borrower does or does not qualify for the Rebate under Section 8078.7 of the Regulations. If the form is filled out properly, and the lender and borrower have complied with the EVCS Financing Program Regulations, CPCFA will authorize the payment of a Borrower Rebate from the Participating Financial Institution's Loss Reserve Account within 30 calendar days unless CPCFA requires additional information in order to validate payment of a Borrower Rebate.</p>		
<p><u>Lender Information</u></p> <p>Lender's CalCAP ID #: _____</p> <p>Participating Lender: _____</p> <p>Lender Contact: Name: _____ Phone: _____ Email: _____ Address: _____</p>	<p><u>Borrower Information</u></p> <p>CalCAP Loan Number: _____</p> <p>Business Name: _____</p> <p>DBA: _____</p> <p>Name of Responsible Person: _____</p> <p>Title: _____</p> <p>Mailing Address: _____</p> <p>Phone Number: _____</p>	
<p><u>Loan Information</u></p> <p>Original Principal Amount of Loan: _____</p> <p>Contribution Amount: _____</p> <p>Rebate Amount: _____</p>	<p>Date of Loan: _____</p> <p>Rebate Eligibility Date: _____</p>	
<p><u>Borrower Certification</u></p> <p>1.) Borrower certifies that he/she has provided the Participating Financial Institution with a copy of an Electric Vehicle Charging Station Certificate of Commissioning relative to the EVCS financed.</p> <p>2.) Borrower certifies that any outstanding balance of the loan repaid at the time of application for the Borrower Rebate was not refinanced into another credit structure with any Participating Financial Institution.</p> <p>_____</p> <p>(Print Name of Responsible Person)</p> <p>_____</p> <p>(Name of Responsible Person's Signature)</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">(Date)</p>		
<p><u>Lender Certification</u></p> <p>1.) Lender certifies the Borrower had no more than one 30-day late payment on the Qualified Loan (evidence required).</p> <p>2.) Lender certifies the Qualified Loan has been paid off or forty-eight months have elapsed from the date of first disbursement of the Qualified Loan, whichever is sooner (evidence required).</p> <p>3.) Lender certifies that the Borrower has provided a copy of an Electric Vehicle Charging Station Certificate of Commissioning relative to the EVCS financed.</p> <p>_____</p> <p>(Authorized Signature and Title)</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">(Date)</p>		
<p>If the Borrower <u>does not</u> qualify for the Borrower Rebate, certify that the Borrower was notified of ineligibility by checking the box below and stating the reason for disqualification.</p> <p><input type="checkbox"/> The borrower does not qualify for the Borrower Rebate. Reason: _____</p> <p>_____</p> <p>(Authorized Signature and Title)</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">(Date)</p>		
<p>California Pollution Control Financing Authority Use Only</p>		
<p>Authorized Signature</p>	<p>Date</p>	<p>Amount \$</p>
<p>When complete, please send to: CalCAP@treasurer.ca.gov or by fax (916) 589-2805</p>		<p>Revised June 8, 2013</p>

7. CalCAP Financial Institution Claim Application

<p>CALIFORNIA CAPITAL ACCESS PROGRAM California Pollution Control Financing Authority Office Location: 801 Capitol Mall, 2nd Floor Sacramento, CA 95814 Telephone (916) 654-5610</p>	<p>Mailing Address: P.O. Box 942809 Sacramento, CA 94209-0001 CalCAP@treasurer.ca.gov Fax (916) 589-2805</p>	
CalCAP FINANCIAL INSTITUTION CLAIM APPLICATION		
<p>NOTE: A lender is required to notify the Authority within 120 days of when the lender has charged off all or part of a qualified loan as a result of default by a borrower. If the form is filled out properly and the lender has faithfully complied with CalCAP requirements, CPCFA will authorize the Program trustee to reimburse the lender from the lender's loss reserve account within 30 business days.</p>		
<u>Lender and Borrower Information</u>		
Participating Lender: _____	Lender's CalCAP ID #: _____	
Lender Contact Name: _____	CalCAP Loan Number: _____	
Phone: _____	Borrower's Name: _____	
Address: _____	Borrower DBA: _____	
<u>Loan Information</u>		
Original Principal Amount of Loan: _____	Date of Loan: _____	
Default Amount: _____	Date of Default: _____	
Is this loan secured? <input type="checkbox"/> Yes <input type="checkbox"/> No	Date of Charge-off: _____	
If yes, what form of security _____		
Was the loan in the first \$1 million of CalCAP loans made by lender? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Have enforcement proceedings begun? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Lender's priority of claim (If two or more claims filed by lender): _____		
<u>Claim Information</u>		
Outstanding Principal	\$ _____	
Liquidated Collateral	\$ _____	
Accrued and Unpaid Interest	\$ _____	
Out-of-pocket expenses (Attach detailed explanation)	\$ _____	
Total	\$ _____	
Please attach a complete transaction history report, a short narrative of the loan history, receipt(s), and Bill of Sale(s) (if applicable).		
<ul style="list-style-type: none"> • The lender warrants this claim is being filed within 120 days of the loan being charged off and that charge-off was consistent with the lender's usual methods for taking action on loans not enrolled in the Program. • Lender will, as CPCFA's agent, pursue additional recovery on this defaulted loan through legal proceedings, seizure and liquidation of collateral, guarantees, and/or other sources. • Lender certifies it has given notice to the Authority of the initial enrollment of the loan in CalCAP, and either: <ul style="list-style-type: none"> (1) has given notice to the Authority of any renewals or extensions of the loan; or (2) the loan was continuously renewed or extended since the date of its initial enrollment in CalCAP. • This claim is for a loan that the undersigned holds, or a loan that has been assigned, transferred, or pledged to another entity pursuant to prior authorization by CPCFA. 		
Authorized Signature _____	Date _____	
Title _____	_____	
California Pollution Control Financing Authority Use Only		
Authorized Signature _____	Date _____	Amount \$ _____
When complete, please send to: CalCAP@treasurer.ca.gov or by fax (916) 589-2805		Revised August 15, 2017

A. CalCAP Regulations

Title 4. Business Regulations

Division 11. California Pollution Control Financing Authority.

Article 7. Capital Access Program for Small Businesses

§ 8070. Definitions.

In addition to the definitions in Section 8020, the following terms shall have the following definitions, unless the context requires otherwise:

- (a) “Borrower” means a Qualified Business which obtains a Qualified Loan from a Participating Financial Institution.
- (b) “CalCAP” means California Capital Access Program.
- (c) “Change in Terms” means any change in material terms of an enrolled loan, including changes to the name(s) of the borrower or co-borrowers, the total loan amount, the maturity date, or the interest rate.
- (d) “Contribution” means any or all eligible funds deposited by the Authority or Independent Contributor to a Loss Reserve Account.
- (e) “Executive Director” means the Executive Director of the California Pollution Control Financing Authority, or his or her designee from time to time.
- (f) “Fees” or “Fee” means a non-refundable fees or fee as set forth in Health and Safety Code Section 44559.4(c).
- (g) “Financial Institution” means an institution as set forth in Health and Safety Code Section 44559.1(d). Financial Institution also includes microbusiness lenders, as defined in Section 13997.2 of the Government Code that make small business loans and require a minimum of four hours of preloan business technical and/or credit assistance to borrowers and a minimum of two hours of postloan assistance each year, and are subject to an audit requirement by its Federal or State regulated funding source.
- (h) “Independent Contributor” means any individual, company, corporation, institution, foundation, utility, government agency or other entity, including any consortium of these persons or entities, whether public or private (but excluding any Borrower), that, pursuant to the provisions of this Article, deposits Contributions to a Loss Reserve Account.
- (i) “Individual” means a natural person, together, if applicable, with any of his or her spouse, parents, siblings or children or the parents or spouse of any of them.
- (j) “Law” means Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the California Health and Safety Code, as amended from time to time.

(k) “Loss Reserve Account” means an account held by a Program Trustee or by any Participating Financial Institution that is established and maintained by the Authority for the benefit of a Participating Financial Institution for the purposes set forth in Sections 8073, 8078.6, 8078.11, 8078.18, and 8078.25.

(l) “Money Market Fund” means an open-ended management investment company regulated under the Investment Company Act of 1940, as amended, which values its securities pursuant to Section 270.2a-7 of Title 17 of the Code of Federal Regulations.

(m) “Participating Financial Institution” means a Financial Institution that has been approved by the Authority to enroll Qualified Loans in the Program and has agreed to all terms and conditions set forth in the Law and this Article and as may be required by any applicable federal law providing matching funding.

(n) “Passive Real Estate Ownership” means ownership of real estate for the purpose of deriving income from speculation, trade or rental, but does not include any of the following:

(1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate; or

(2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

For purposes of clause (1) above, the Borrower must be using or planning to use upon acquisition or construction of a building, at least 51 percent of the space in an existing building or at least 67 percent of the space in a newly constructed building. The requirements of clause (1) above will be deemed to be satisfied when a Participating Financial Institution makes a Qualified Loan to an Individual, or to a partnership or trust wholly owned or controlled by one or more Individuals, for the purpose of financing property that will be leased to a Qualified Business that is wholly owned by those same Individuals, and in such case the Qualified Loan will be deemed to be made also to such Qualified Business.

(o) “Primary business location in California” 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.

(p) “Outstanding Principal Balance” means the amount due and owing to satisfy the payoff of the underlying loan, less interest and other charges.

(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.

(r) "Program" means the Capital Access Loan Program for Small Businesses established pursuant to the Law.

(s) "Program Trustee" means a bank or trust company, or the State Treasurer, chosen by the Authority from time to time to hold or administer some or all of the Loss Reserve Accounts.

(t) "Qualified Business" and "Small Business Concern" means a business as set forth in Health and Safety Code Section 44559.1 subdivisions (i) and (m), that is not dominant in its field of operation, and that together with affiliates, has 500 or fewer employees.

(u) "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 the maximum commitment. "Qualified Loan" does not include any of the following:

(1) A loan for the construction or purchase of residential housing.

(2) A loan to finance Passive Real Estate Ownership.

(3) A loan for the Refinancing of an existing loan when and to the extent that the outstanding balance is not increased.

(4) A loan, the proceeds of which will be used

(A) For any of the following businesses, facilities, or purposes regardless of the source of funds used for the Authority's Contribution:

(i) massage parlor, sauna or hot tub facility, racetrack, facility primarily used for gambling or to facilitate gambling, liquor store, bar, a store or other facility whose principal business is the sale of firearms, a store or other facility whose principal business is the manufacture or sale of tobacco or tobacco products, a store or other facility whose principal business is religious, escort service, nudist camp, adult entertainment (including strip clubs, adult book stores, and businesses whose principal business is the sale of pornography), gun club, or shooting range or gallery.

(ii) a business engaged in speculative activities that develop profits from fluctuations in price rather than through the normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of legitimate risk management strategies to guard against price fluctuations related to the regular activities of the business;

(iii) a business that earns more than half of its annual net revenue from lending activities, unless the business is a non-bank or non-bank holding company certified as a Community Development Financial Institution;

(iv) a business engaged in pyramid sales plans, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants;

(v) a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that permits illegal prostitution on its premises;

(vi) businesses that may be restricted by federal law;

(vii) activities that relate to acquiring or holding passive investments such as commercial real estate ownership, the purchase of securities, and lobbying activities as defined in Section 3(7) of the Lobbying Disclosure Act of 1995. P.L. 104-65, as amended;

(viii) financing a non-business purpose;

(ix) covering the unguaranteed portions of an Small Business Administration loan unless the Authority receives prior written consent of the U.S. Treasury; or

(x) supporting existing extension of credit, including prior loans, lines of credit or other borrowings that were previously made available as part of a substantially similar governmental small business credit enhancement program.

(B) to provide any of the following facilities when the Authority's Contributions will be paid for with fees from the issuance of tax-exempt bond sales, all items listed in (A) and: a store whose principal business is the sale of alcoholic beverages for consumption off premises, private or commercial golf course, country club, spas that provide massage services, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including any handball or racquetball court), suntan facility, airplane, aircraft, skybox (or other private luxury box), health club facility.

(C) in any manner that could cause the interest on any bonds previously issued by the Authority to become subject to federal income tax, as specified in writing to all Participating Financial Institutions by the Executive Director.

(5) any loan or portion thereof to the extent the same loan or portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program.

(6) any loan that exceeds \$5,000,000.

(7) any loan or portion thereof to the extent that enrollment of the loan will cause the Borrower (including all related entities among which a common enterprise exists) to have a total enrolled principal amount in excess of \$2,500,000 at any Participating Financial Institution over a three-year period.

(v) "Quarterly Report" means the mandatory report on the status of loans enrolled submitted to the Authority by each Participating Financial Institution on a quarterly basis, no later than the 15th of the month following the end of each quarter.

(w) "Recapture" means the withdrawal of the Authority's Contributions pursuant to each program's rules set forth in Sections 8073, 8078.11, 8078.18, and 8078.25.

(x) "Refinance" means the revision or restructure of an existing debt obligation with or without a new debt obligation with different terms and conditions, including an increase to the outstanding principal balance, an extended maturity date or term, or permitting another borrower to assume the loan.

(y) "Severely Affected Community" means any area, as designated by the Executive Director, contiguous to the boundaries of a military base designated for closure pursuant to Public Law 101-150, as amended; and any other comparable economically distressed geographic area so designated by the Executive Director from time to time.

(z) "Small Business Assistance Fund" means a fund of that name created by the Authority.

(aa) "Standards" means the criteria to be used by an Independent Contributor in assisting businesses through the Program.

(bb) "TRAC Lease" means "Terminal Rental Adjustment Clause" as defined in Section 7701(h)(3) of Title 26 of the United States Code.

Note: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Sections 44559.1, 44559.2, 44559.3, 44559.4, 44559.5, 44559.7, 44559.9 and 44559.12, Division 27, Health and Safety Code.

§ 8071. Application by Financial Institution.

(a) A Financial Institution seeking to participate in the Program will complete a registration application provided by the Authority.

The application shall include the following information:

(1) name of applicant Financial Institution.

(2) name, address and telephone number of contact person.

(3) combined capital and surplus as of the end of the Financial Institution's most recent fiscal year.

(4) number of lending branches.

(5) certification that the applicant Financial Institution is not subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, which would impair its ability to participate in the Program, and the name of that body.

(6) a full description of the board of directors, including number, race, ethnicity and gender of its members.

(7) the Financial Institution's rating from a nationally recognized credit rating agency which assesses the financial soundness and stability of financial institutions.

(8) the Financial Institution's agreement to follow the Program's procedures as set forth in the Law and this Article.

(9) the Financial Institution's agreement to provide its annual audited financial statements, or in the case of a credit union, its annual audited financial statements or annual supervisory committee audit, as applicable under 12 CFR 715.5 or California Financial Code, Division 5, Article 4, Sections 14252 and 14253, upon the Authority's request, and permit an audit of any of its records relating to enrolled Qualified Loans, during normal business hours on its premises, by the Authority or its agents, and to

supply such other information concerning enrolled Qualified Loans as shall be requested by the Executive Director.

(10) acknowledgment by the Financial Institution that the Authority and the State will have no liability to the Participating Financial Institution under the Program except from funds deposited in the Loss Reserve Account for the Participating Financial Institution.

(b) Upon receipt of a completed application, the Executive Director will within 10 days review and determine whether additional information is required, or whether the application is sufficient to permit the applicant to be a Participating Financial Institution. The Executive Director's decision whether an application is sufficient, and whether to establish the Loss Reserve Account at the Program Trustee or at the Participating Financial Institution, shall be final.

Note: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

§ 8072. Loan Enrollment.

(a) The terms and conditions of Qualified Loans, including interest rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower.

(b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan:

(1) by notifying the Authority in writing, within 15 business days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Participating Financial Institution makes a Qualified Loan is the date on which the Participating Financial Institution first disburses proceeds of the Qualified Loan to the Borrower; and

(2) by transmitting to the Authority the Fees collected from the Participating Financial Institution and the Borrower, or the Contribution from an Independent Contributor on behalf of the Borrower and/or the Authority, in connection with the Qualified Loan, and by providing written evidence that the Fees or Contributions have been deposited in a Loss Reserve Account held by either the Participating Financial Institution or the Program Trustee.

(c) The notification to the Authority shall include at least the following information:

(1) Borrower name, which includes the Borrower's legal name and the name by which the Borrower does business, if any, and the business address.

(2) Brief description of the Borrower's business and regular activities, Census Tract Number associated to the Borrower's business address, and the location of the facilities being financed if different, either the SIC Code(s) or the NAICS Code(s) applicable to Borrower's business, and the amount of its annual revenues.

(3) Whether this business has been open for two years or more, and is owned by one of the following: a woman, minority, or veteran.

(4) Brief summary of the intended use of the proceeds of the Qualified Loan.

- (5) Amount of the Qualified Loan being enrolled (and indication if less than the full amount of the Qualified Loan is being enrolled) and the Participating Financial Institution loan number.
- (6) Type of the Qualified Loan (e.g., line of credit, term loan, TRAC Lease).
- (7) Date of the Qualified Loan, based on the first disbursement of proceeds to the Borrower.
- (8) Interest rate applicable to the Qualified Loan.
- (9) Term or maturity date of the Qualified Loan.
- (10) Geographic location of the Qualified Business and the location of the facilities being financed if different.
- (11) Whether the Qualified Business or the location of the facilities being financed is in a Severely Affected Community.
- (12) Whether the loan is secured.
- (13) Whether the loan is a Refinance, and if so, the name of the prior lender if different than the Participating Financial Institution, whether the prior loan was enrolled under the Program or any other government lending program, and whether the amount of the loan was increased as part of the Refinance.
- (14) Agreed amount of the Fees payable by each of the Borrower and the Participating Financial Institution.
- (15) Whether any portion of the Fees payable by the Borrower or the Contribution was or is to be paid by an Independent Contributor; the identity of such Independent Contributor; and a certification that the Independent Contributor has approved the use of its funds to pay such Fees or Contribution in connection with the Qualified Loan.
- (16) Number of persons currently employed by the Borrower, and number of jobs expected to be created, retained or affected by the Qualified Loan.
- (17) Certification by the Participating Financial Institution that:
 - (A) The loan is a Qualified Loan, and that the business receiving the Qualified Loan is a Qualified Business.
 - (B) The Qualified Loan is for a business activity that has its Primary economic effect in California.
 - (C) Upon request of the Executive Director, the Participating Financial Institution will provide information from the financial records of the Borrower, including documents validating the Borrower's establishment of a business entity, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.
 - (D) The Participating Financial Institution has obtained a written representation from the Borrower that it has no legal, beneficial or equitable interest in the Fees or the Contribution.
 - (E) The enrolled amount of the loan does not exceed \$2,500,000.

(F) The Participating Financial Institution has notified the Borrower if the Participating Financial Institution's share of the Fees for the Qualified Loan have been paid by the Borrower.

(G) The lending activities of the Participating Financial Institution are subject to any applicable safety and soundness standards as set forth in applicable federal banking regulations.

(H) The Participating Financial Institution has validated that the Borrower has secured or made application for all applicable licenses or permits needed to conduct business.

(I) The Participating Financial Institution has not, and will not, enroll any portion of the same loan in any other government program substantially similar to the Program.

(J) The Qualified Loan is not a Refinance of a loan previously made to the Borrower to the extent that the outstanding balance is not increased.

(K) The Participating Financial Institution has provided the Borrower the Authority's Privacy Notice for the CalCAP for Small Business Loan Program, which provides the notice required under the California Information Practices Act (Civil Code section 1798.17). The Privacy Notice informs the Borrower that personal information protected by the California Information Practices Act may be disclosed under the following circumstances:

(i) To consultants, auditors or contractors retained by the Authority where disclosure is required to fulfill Program requirements and subject to a nondisclosure agreement;

(ii) To another governmental entity where required by state or federal law; or

(iii) As otherwise required by law.

(L) The Participating Financial Institution will make available to the Authority all records related to the use of the funds in the Loss Reserve Account.

The Participating Financial Institution shall be authorized to rely on representations made to the Participating Financial Institution by the Borrower for the information requested in subdivisions (c)(4), (c)(16), (c)(17)(A), (c)(17)(B) and (c)(17)(D); provided that no such Borrower representation may be relied upon if it is known to be false by the lending officer(s) at the Participating Financial Institution who are directly involved in the negotiation of the Qualified Loan. All other certifications shall be based upon the Participating Financial Institution's established due diligence and underwriting standards applied in the regular course of business, and the Participating Financial Institution shall maintain substantiating documentation in the Borrower's loan file.

(18) The Participating Financial Institution must obtain written certification from the Borrower that:

(A) The loan will be used solely for a business purpose;

(B) The loan will not be used to repay delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority;

(C) The loan will not be used to repay taxes held in trust or escrow;

(D) The loan will not be used to refinance or reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance;

(E) The loan will not be used to purchase any portion of the ownership interest of any owner of the business;

(F) The loan will not be used to finance ineligible businesses or facilities identified in Section 8070;

(G) The Borrower is not:

(i) an executive officer, director, or principal shareholder of the Participating Financial Institution;

(ii) a member of the immediate family of an executive officer, director, or principal shareholder of the Participating Financial Institution; or

(iii) a related interest of such executive officer, director, principal shareholder, or member of the immediate family of the Participating Financial Institution.

(d) If a Borrower seeking a loan from a Participating Financial Institution has less than a majority of its employees in California, the Participating Financial Institution shall be authorized to submit information to, and seek a determination from, the Executive Director that such Borrower has its Primary business location in California. Such determination shall be made by the Executive Director within 10 days of receipt of a written request from a Participating Financial Institution containing information about the business activities of the proposed Borrower.

(e) If a Borrower seeking a Qualified Loan from a Participating Financial Institution is an employee, member, director, officer, principle shareholder, or affiliate of the Participating Financial Institution, the terms and the conditions of the Qualified Loan and the internal procedures used to approve the Qualified Loan must comply with the following requirements:

(1) If the Participating Financial Institution is a federal-chartered bank, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 371c, 371c-1, 375a, and 375b of the Title 12 of the United States Code, and Sections 215.4 of Title 12 of the Code of Federal Regulations.

(2) If the Participating Financial Institution is a state-chartered bank, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Section 3370 et seq. of the Financial Code, and Sections 10.19300 to 10.19302 of Title 10 of the California Code of Regulations.

(3) If the Participating Financial Institution is a federal-chartered savings association, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Section 1468 of Title 12 of the United States Code.

(4) If the Participating Financial Institution is a state-chartered savings association, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Sections 6503 and 6529 of the Financial Code.

(5) If the Participating Financial Institution is a federal-chartered credit union, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1757 and 1761c of Title 12 of the United States Code and Section 701.21(d) of Title 12 of the Code of Federal Regulations.

(6) If the Participating Financial Institution is a state-chartered credit union, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Section 15050 of the Financial Code.

(7) If the Participating Financial Institution is a not-for-profit certified community development financial institution (CDFI), the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1805.807 of Title 12 of the Code of Federal Regulations.

(8) If the Participating Financial Institution is a lending institution as described in Section 44559.1(d)(2) of the Health and Safety Code, the Qualified Loan must be made in accordance with any applicable federal laws that regulate conflicts of interests and insider transactions and Section 120.140 of Title 13 of the Code of Federal Regulations.

(f) The Participating Financial Institution may pre-qualify with the Authority any qualified loan. Pre-qualifications do not necessarily guarantee that funds for Contributions will be available at the time of final enrollment, unless the funding source requires it. Pre-qualifications shall be valid for six (6) months.

(g) The Authority shall, upon receipt of documentation and Fees from the Participating Financial Institution, enroll the Qualified Loan if the Executive Director determines that the Qualified Loan meets the requirements of the Law and this Article. The Executive Director shall notify the Participating Financial Institution of enrollment within 15 business days after receipt by the Authority of all documentation and Fees required by the Law and/or this Article. The Executive Director's determination whether a loan shall be enrolled in the Program shall be final. The Executive Director shall be authorized to review an application for enrollment submitted by a Participating Financial Institution in advance of the making of the loan, and notify the institution whether such loan meets the requirements of the Law and this Article.

(h) Upon enrollment of a Qualified Loan, the Contribution shall be transferred for deposit in the Loss Reserve Account (1) by the Authority or (2) by an Independent Contributor, and the Program Trustee shall notify the Participating Financial Institution of the transfer and of the source of funds from which the transfer was made.

(i) The Participating Financial Institution must notify the Authority whenever the material terms of an enrolled loan change prior to maturity, including TRAC Leases assumptions, by submitting a Change in Terms notification within fifteen (15) business days after such change.

(1) If any of the terms other than the interest rate have changed, then the Participating Financial Institution shall also submit an amended loan enrollment application including new lender and borrower certifications, for the loan.

(2) The Participating Financial Institution shall deposit Fees pursuant to Section 8072 for any increase to the total loan amount.

(3) If the Authority determines that the information contained in the Change in Terms constitutes an ineligible Refinance, or not a Qualified Loan as defined in Section 8070, neither the original nor the revised loan will continue to be enrolled in the Program.

(4) Notwithstanding the ineligibility of a Refinance when the outstanding balance is not increased under Section 8070(u)(3), the Authority may authorize an extension of the maturity date of an enrolled loan for up to eighteen (18) months, if the Participating Financial Institution has provided the Authority written certification to its credit policy that provides for such extensions of the maturity date. Such authorization is contingent upon the submittal of the Change in Terms notification, an amended loan enrollment application, and new lender and borrower certifications for the loan.

(j) Without regard to the terms of the loan, the term of enrollment in the Program shall not exceed ten years.

(k) Loan enrollments submitted on or after August 15, 2017 will be subject to Recapture as specified in Section 8073.

Note: Authority cited: Sections 44520 and 44559.5, Health and Safety Code. Reference: Sections 44559.2, 44559.4 and 44559.12, Health and Safety Code; and Section 1798.17, Civil Code.

§ 8073. Loss Reserve Accounts.

(a) Upon the Executive Director's acceptance of an application under Section 8071, the Authority shall establish a Loss Reserve Account for that Participating Financial Institution for the following purposes:

(1) to receive all Fees deposited by the Participating Financial Institution, Borrowers and/or Independent Contributors;

(2) to receive Contributions deposited by the Authority and/or Independent Contributors; and

(3) to pay claims in accordance with Section 8074.

(b) The Loss Reserve Account shall, in the Authority's sole determination, be held by the Participating Financial Institution or by the Program Trustee. For each Loss Reserve Account held by a Participating Financial Institution, the Participating Financial Institution shall submit to the Authority a monthly statement of the account activities and balance, no later than the 15th of the following month.

(c) Any Loss Reserve Account held in a Participating Financial Institution shall be an interest-bearing demand account or deposit account at a banking institution, or a Money Market Fund if approved in writing by the Executive Director, or a combination thereof, and earning a rate of interest that would be expected of accounts of similar type and size. The Loss Reserve Account shall be insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or the Securities Investor Protection Corporation, as appropriate, to the extent permitted by law. The Authority shall not deposit any Loss Reserve Account with a Participating Financial Institution if:

(1) there are any charges by the Participating Financial Institution for the establishment or maintenance of the Loss Reserve Account at such Financial Institution; or

(2) at the time the Loss Reserve Account is established with the Participating Financial Institution, it has a rating below "75" from IDC Financial Publishing Inc.'s Bank Financial Quarterly, S&L-Savings Bank Financial Quarterly, or Credit Union Financial Profiles; or it has a rating of "C" or below from LACE

Financial Corp; or it has a rating below “11” from Highline Inc.'s Bank Quarterly or S&L Quarterly or successor publication approved by the Executive Director.

(3) the Participating Financial Institution has not timely submitted its Quarterly Report described in Section 8073, and, for accounts held at the Participating Financial Institution, the monthly statements described in Section 8078.

(d) All moneys in a Loss Reserve Account are property of the Authority (subject to the Participating Financial Institution's right to receive a portion of the remaining balance in the Loss Reserve Account upon its withdrawal from the Program pursuant to Section 8076 and subject to subsection (e) below). Interest or income earned on moneys credited to the Loss Reserve Account shall be deemed to be part of the Loss Reserve Account. The Executive Director shall be authorized to withdraw from the loss reserve all interest and income that has been credited to the Loss Reserve Account as set forth in Health and Safety Code Section 44559.3(d), and any Contributions subject to Recapture as provided in Section 8073. The Executive Director shall be authorized to return to a Participating Financial Institution any Fees improperly deposited in a Loss Reserve Account. No Participating Financial Institution holding its Loss Reserve Account shall make any withdrawal from the account without written instruction from the Authority.

(e) Notwithstanding any other provision of this article, the Executive Director shall be authorized, with the approval of the applicable Participating Financial Institution, to assign, transfer, pledge or create security interests in all or a portion of any Loss Reserve Account to any other entity or entities (including a trustee of a securitization trust or trusts) in connection with the securitization of all or a portion of the Participating Financial Institution's loans enrolled in the Program. Any loan enrolled in the program or portion thereof which is subsequently assigned, transferred, pledged or securitized without the advance written approval of the Executive Director shall no longer be deemed a Qualified Loan or covered by the Loss Reserve Account. If a Participating Financial Institution desires to assign, transfer, pledge or securitize all or a portion of any enrolled loan or Loss Reserve Account, it shall submit a written request to the Authority no less than thirty (30) calendar days in advance of such action, together with the list of loans and the amount of the Loss Reserve Account subject to the request, and a draft of the legal document specifying the assignment, transfer, pledge or securitization.

(f) The Participating Financial Institution shall provide information to the Authority regarding the status of accounts, enrolled loans, claims and recoveries upon request, including timely Quarterly Reports of the data regarding: Outstanding Principal Balance of all enrolled loans; all loans in default and charged off, and claim amounts; and deposits made to replenish the Loss Reserve Account pursuant to Section 8074, in the form provided by the Authority. Failure to submit timely and complete Quarterly Reports will result in the suspension of any pending loan enrollments or claim applications from that Participating Financial Institution, and transfer of any Loss Reserve Accounts held by the Participating Financial Institution to the Program Trustee.

(g) The Executive Director is authorized to Recapture from each Loss Reserve Account the Authority's Contribution for each enrolled loan when the corresponding Qualified Loan matures or upon five years from the date of enrollment, whichever occurs first, and subject to each of the following conditions:

(1) Recapture shall be conducted on an annual basis following the end of each fiscal year based on the data reported in the Quarterly Reports submitted for the term ending June 30th.

(2) Recapture is not applicable for Contributions for Qualified Loans that are charged off as a result of a default, and have a pending or approved claim with the Authority, and are reported as such on the Quarterly Report.

(3) The Executive Director shall limit the amount of the annual Recapture of Contributions from each Loss Reserve Account if necessary to ensure that the balance remaining in that Loss Reserve Account immediately following Recapture is greater than a minimum threshold set as a percentage of the Outstanding Principal Balance of loans enrolled in the 60 months prior to each annual Recapture. Beginning in 2020, the minimum threshold shall be fifteen percent (15%).

(4) Recapture shall apply to each new Loss Reserve Account established on or after August 15, 2017.

(5) For Loss Reserve Accounts established before August 15, 2017, each Participating Financial Institution shall affirm in writing its election to continue enrolling loans in the Program subject to Recapture applicable to Contributions for all past and future Qualified Loans. This election may not later be withdrawn by the Participating Financial Institution. Loans enrolled on or after August 15, 2017 will be deemed ineligible if the Participating Financial Institution has not first submitted its election in writing. For any Participating Financial Institution that submits its election in writing after August 15, 2017, the Authority shall thereupon conduct Recapture for its Loss Reserve Account according to this subsection (g), and the Participating Financial Institution may thereupon submit new loan enrollments on or after the date of its written election. Nevertheless, Qualified Loans enrolled before August 15, 2017 will be supported by the Loss Reserve Account and the Participating Financial Institution will be eligible for claim reimbursement pursuant to Section 8074 for the previously enrolled Qualified Loans until maturity.

(6) The Authority shall deposit all Recaptured funds in the CalCAP for Small Business Loan Program Fund dedicated solely for future program and administrative expenditures of the CalCAP for Small Business Loan Program. The Authority may set aside up to 7 percent of all Recaptured funds for reasonable direct and indirect administrative costs of the Program.

(h) The Authority may suspend enrollment of Qualified Loans upon written notice to the Participating Financial Institution at least ten (10) business days prior to the effective date of the suspension. Causes for suspension shall be for violations of applicable statutes or regulations. If the violations are not corrected within thirty (30) business days from the effective date of the suspension the Executive Director is authorized to terminate participation of a Participating Financial Institution in the Program. In the event of such termination, the Participating Financial Institution shall not be authorized to enroll any further Qualified Loans.

Note: Authority cited: Sections 44520 and 44559.5, Health and Safety Code. Reference: Sections 44559.3 and 44559.8, Health and Safety Code.

§ 8074. Claim for Reimbursement.

(a) A Participating Financial Institution shall notify the Authority within 120 days after it has charged off all or part of a Qualified Loan as a result of a default.

(b) A Participating Financial Institution shall be authorized to make a claim for reimbursement of a loss from the enrolled portion of a Qualified Loan prior to the liquidation of collateral, or to realization on personal or other financial guarantees or from other sources. A Participating Financial Institution may also defer, for a period not to exceed 180 days from the date of the charge off, at its sole discretion, making a claim for reimbursement, but still must inform the Authority of charge off status within 120 days.

(c) The Authority shall pay claims within 30 days of receipt of a completed claim request; provided, however, that the Executive Director shall be authorized to reject a claim if it is determined that the certifications, representations and warranties provided by the Participating Financial Institution or Borrower pursuant to Section 8072 at the time of enrolling the Qualified Loan were false. The Authority shall be authorized, upon providing written notice to the Participating Financial Institution, to defer payment of claims up to an additional 30 days if the Authority requires more information in order to determine if the claim shall be paid. The Authority may request and the lender shall provide, any and all information from the Borrower's loan file to substantiate the eligibility of the Borrower's business and the enrolled loan, and the reasonableness of the costs claimed.

(d) Claim reimbursement shall not exceed the enrolled amount of the qualified loan or loans that form the basis for the claim, except when reasonable out-of-pocket expenses are claimed. In the event only a portion of the loan was enrolled, reimbursement of interest and out-of-pocket expenses will be limited to the ratio of the enrolled portion to the total loan amount.

(e) To make a claim, the Participating Financial Institution shall submit a claim form to the Authority which shall include the following information:

(1) Name and number of the Participating Financial Institution.

(2) Name, address and telephone number of contact person.

(3) Name of the business receiving the defaulted Qualified Loan.

(4) Amount and date of the Qualified Loan and the Authority's loan number.

(5) Date and amount of default.

(6) A description of the facts and circumstances of the default, efforts to settle or cure the default, efforts to liquidate collateral or collect from other sources, and any other narrative information and documentation necessary to demonstrate that the claim is eligible under Health and Safety Code Section 44559.5, and that any out-of-pocket expenses sought are reasonable.

(7) Amount of claim and breakdown of components of the claim between principal, interest, and reasonable out-of-pocket expenses of collection or preservation of collateral, accompanied by documentation of such expenses.

(8) Certification that notice was filed with the Authority as required by Section 8074(a) above within 120 days of the date the Participating Financial Institution charged the Qualified Loan off on its books, and certification that such charge off was made in a manner consistent with the Participating Financial Institution's usual methods for taking action on loans which are not enrolled as Qualified Loans under the Program.

(9) Statement whether the loan is secured, and whether the Participating Financial Institution has commenced enforcement proceedings.

(10) If two or more claims are filed simultaneously by one Participating Financial Institution, a statement of the priority of payment of the claim compared to the other claims in the event the Loss Reserve Account is not sufficient to pay all claims.

(11) Statement whether the Qualified Loan qualifies under Section 8074(g).

(f) Except as provided in Section 8074(g) below, if a Qualified Loan suffers a loss and at the time of the Participating Financial Institution's claim there are insufficient funds in the Loss Reserve Account to cover the total amount of the claim, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible, but it shall thereafter not be eligible to obtain any further reimbursement relating to that claim.

(g) If a Qualified Loan suffers a loss, and at the time of the claim there is not enough money in the Loss Reserve Account to fully cover the loss, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible. If the Participating Financial Institution then continues making Qualified Loans under the Program and the Loss Reserve Account is replenished, the Participating Financial Institution shall be authorized to withdraw funds from the Loss Reserve Account at a subsequent time in order to fully cover the earlier claim, provided that the amount subsequently withdrawn to cover the earlier claim cannot exceed 75 percent of the amount in the Loss Reserve Account immediately prior to such subsequent withdrawal.

(h) If subsequent to the payment of a claim by the Authority, the Participating Financial Institution recovers from the Borrower, from liquidation of collateral or from any other source, amounts for which the Participating Financial Institution was reimbursed by the Authority, the Participating Financial Institution shall promptly pay to the Authority for deposit in the Loss Reserve Account, the amount received, net of reasonable and customary costs of collection, that in aggregate exceeds the amount needed to fully cover the Participating Financial Institution's loss on the Qualified Loan (including the portion of a Qualified Loan which is not enrolled in the Program). Recoveries which exceed reimbursements to the Loss Reserve Account may be retained by the Participating Financial Institution.

Note: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.5, Division 27, Health and Safety Code.

§ 8075. Subrogation.

(a) The Authority will be subrogated to the rights of the Participating Financial Institution in collateral, personal guarantees and all other forms of security for the Qualified Loan that have not been realized upon by the Participating Financial Institution, when the Participating Financial Institution's loss has been fully covered by payment of a loss claim, or by a combination of payment of a loss claim and recovery from the Borrower, liquidation of collateral, or from other sources.

(b) At the time of subrogating its rights, the Participating Financial Institution shall provide the Authority with all original security agreements, any documents evidencing title to real property, certificates of title, guarantees, and any other documents representing security for the Qualified Loan, duly recorded and perfected, and accompanied by enforceable assignments and conveyances to the Authority, unless such security documents also secure indebtedness to the Participating Financial Institution which was not covered by the Qualified Loan. In such latter case, the Participating Financial Institution shall enter into an intercreditor agreement with the Authority, providing that the Participating Financial Institution shall be entitled to recover under such security documents, to the extent possible, the full amount of its loss on any indebtedness not covered by the Qualified Loan but secured by the same collateral as the Qualified Loan; the balance of any amounts recovered under such security documents shall be deposited in the Loss Reserve Account. The Participating Financial Institution shall provide regular reports, as requested by the Executive Director, concerning its activities in collecting moneys owed from a defaulted Borrower.

(c) The Executive Director shall be authorized to enter into agreements with any Participating Financial Institution to provide for such institution to act as the Authority's agent to secure recovery under any collateral or security documents to which the Authority has been subrogated.

Note: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

§ 8076. Termination and Withdrawal from Program.

(a) A Participating Financial Institution shall be authorized to withdraw from the Program after giving written notice to the Authority. Such notice shall specify either:

(1) that the Participating Financial Institution waives any further interest in the Loss Reserve Account (including for the reason that all Qualified Loans covered by the Loss Reserve Account have been repaid); or

(2) that the Participating Financial Institution will not enroll any further loans under the Program but that the Loss Reserve Account shall continue in existence to secure all Qualified Loans enrolled prior to such notice until such loans mature or are charged off.

(b) After receipt of a notice under subsection (a)(1) or receipt of a certificate from a Participating Financial Institution which has withdrawn from the Program pursuant to subsection (a)(2), certifying that all Qualified Loans secured by the Loss Reserve Account have been repaid and that there are no pending claims for reimbursement under Section 8074, the remaining balance in the Loss Reserve Account shall be distributed to the Authority; provided that such moneys shall be distributed to the

Authority and to the Participating Financial Institution in the amount of the Authority Share and the Participating Financial Institution Share, respectively. For purposes of this Section 8076, "Participating Financial Institution Share" means the ratio of the total amount of Participating Financial Institution Fees made to the Loss Reserve Account, to the total amount of Authority Contributions and Borrower and Participating Financial Institution Fees made to such Loss Reserve Account and "Authority Share" means 100 minus the Participating Financial Institution Share.

(c) For purposes of this Section 8076, for loans enrolled in the Program, and corresponding Contributions and Fees made, on or after August 15, 2017, "Participating Financial Institution Share" means the ratio of the total amount of corresponding Participating Financial Institution Fees made to the Loss Reserve Account, to the total amount of corresponding Authority Contributions and Borrower and Participating Financial Institution Fees made to such Loss Reserve Account; and "Authority Share" means 100 minus the Participating Financial Institution Share.

(d) For purposes of this Section 8076, for loans enrolled in the Program, and corresponding Contributions and Fees made, prior to August 15, 2017, the "Participating Financial Institution Share" means the ratio of the total amount of corresponding Borrower and Participating Financial Institution Fees made to the Loss Reserve Account, to the total amount of corresponding Contributions and Fees made to such Loss Reserve Account; and "Authority Share" means 100 minus the Participating Financial Institution Share.

(e) The Executive Director shall be authorized to terminate participation of a Participating Financial Institution in the Program, by notice in writing, upon the occurrence of any of the following:

(1) entry of a cease and desist order, regulatory sanction, or any other action against the Participating Financial Institution by a regulatory agency that may impair its ability to participate in the Program;

(2) failure of the Participating Financial Institution to abide by the Law or this Article; or

(3) failure of the Participating Financial Institution to enroll any Qualified Loans under the Program for a period of one year.

(4) Provision of false or misleading information regarding the Participating Financial Institution to the authority, or failure to provide the authority with notice of material changes in submitted information regarding the Participating Financial Institution.

In the event of such termination, the Participating Financial Institution shall not be authorized to enroll any further Qualified Loans, but all previously enrolled Qualified Loans shall continue to be covered by the Loss Reserve Account until they are paid, claims are filed, or the Participating Financial Institution withdraws from the Program pursuant to Section 8076(a)(1).

(f) If for a consecutive 12-month period the amount in the Loss Reserve Account continuously exceeds the Outstanding Principal Balance of all the Participating Financial Institution's Qualified Loans made since the beginning of the Program, the Executive Director shall be authorized to withdraw any such excess to bring the Loss Reserve Account down to an amount equal to 100 percent of the Outstanding Principal Balance. Distributions shall be made to the Authority and to the Participating Financial Institution based on the Authority Share and the Participating Financial Institution Share, respectively.

Note: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

§ 8077. Reports of Regulatory Agencies.

The Executive Director shall be authorized to seek information directly from any federal or state regulatory agency concerning any Participating Financial Institution participating in the Program.

Note: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

§ 8078. Participation in the Program by Certain Public or Private Entities.

(a) The Authority shall be authorized to permit any individual, company, corporation, institution, utility, government agency or other entity, including any consortium of these persons or entities, to become an Independent Contributor after such person or entity

(1) submits to the Authority its Standards; provided that the Authority shall not enforce compliance by the Independent Contributor with its Standards;

(2) represents to the Authority that it will not enter into an exclusive arrangement with a particular Participating Financial Institution, but that it is prepared to work with any Participating Financial Institution under the Program;

(3) agrees to indemnify the Authority against any loss, liability or claim arising from the use of the Independent Contributor's funds in the Program;

(4) represents to the Authority that it understands and intends to abide by the provisions of the Law and this Article with regard to its participation in the Program;

(5) deposits with the Program Trustee an initial amount of at least \$15,000 to be used to pay Fees payable by Borrowers and/or Contributions in connection with Qualified Loans, or receives a written waiver from the Executive Director of this requirement; and

(6) agrees to reimburse the Authority for any reasonable costs related to the Independent Contributor's participation in the program, unless waived by the Authority.

(b) An Independent Contributor shall advise the Authority at any time the Standards provided to the Authority pursuant to Section 8078(a)(1) above are changed.

(c) The Authority shall be authorized to terminate an Independent Contributor's participation in the Program at any time, upon written notice, for any cause, including, but not limited to, failure to maintain a minimum deposit of at least \$5,000 with the Program Trustee. An Independent Contributor shall be authorized to terminate its participation in the Program at any time, upon written notice.

(d) An Independent Contributor must pay all fees of the Program Trustee attributable to the funds that the Independent Contributor deposits with the Program Trustee.

(e) Fees and Contributions paid by Independent Contributors shall not be subject to the maximums set forth in Health and Safety Code Section 44559.4(c).

Note: Authority cited: Sections 44520 and 44559.5, Health and Safety Code. Reference: Sections 44525, 44526, 44559.3 and 44559.9, Health and Safety Code.

8078.3. Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the Electric Vehicle Charging Station Financing Program.

(a) "Borrower Rebate" means a payment made to a Borrower from the Participating Financial Institution's Loan Loss Reserve Account upon a valid claim made pursuant to Section 8078.7.

(b) "CEC" and "Energy Commission" means the California Energy Commission.

(c) "Disadvantaged Communities" means the top twenty five (25) percent of communities that are disproportionately affected by environmental pollution and socioeconomic characteristics as described by CalEnviroScreen 2.0 Tool.¹

(d) "Electric Vehicle Charging Station" or "EVCS" means an element in an infrastructure that supplies electric energy for the recharging of plug-in electric vehicles.

(e) "EVCS supply equipment" means equipment which meets the minimum technical requirements set by the Energy Commission as follows:

(1) Direct current fast chargers shall utilize:

(A) Either the CHAdeMO standard, or SAE combination standard, or a combination of both; and

(B) An open standard protocol for purposes of network interoperability.

(2) Level 2 charging equipment shall utilize:

(A) The SAE J1772 standard; and

(B) An open standard protocol for purposes of network interoperability.

(3) Open standard protocol is waived for medium- and heavy-duty EVCS supply equipment.

(f) "Eligible Project Costs" means the amount to pay for acquisitions and services necessary and allocable to the installation and operation of one or more EVCSs in the State of California as allowed by the Energy Commission, specifically:

(1) The design and development of EVCS in locations accessible to either the Borrower's employees, the Borrower's tenants if in an Multi-Unit Dwelling (MUD), or the public generally;

(2) The acquisition of EVCS supply equipment, electric panel or grid improvements, materials and supplies (including conduit and construction materials), signage, and hardware and software necessary and allocable for fully operational charging station(s);

(3) Labor necessary and allocable to install fully operational charging station(s); and

(4) The costs for operating, servicing and maintaining the EVCS during the term of the loan, if the Borrower's primary business is not EVCS installation, operation or manufacturing.

(g) "Multi-Unit Dwelling" or "MUD" means a classification of housing where multiple housing units are contained within one building or multiple buildings within a complex or community. Common types of MUDs include duplexes, townhomes, and apartments, mobile homes and manufactured-home parks.

(h) "Program" means the Electric Vehicle Charging Station Financing Program established pursuant to the Interagency Agreement between the Authority and the Energy Commission. Where the term "Program" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(r).

(i) "Qualified Business" means any entity eligible under section Health and Safety Code section 44559.1(i) and (m) that together with its affiliates has 1,000 or fewer employees, and that is not dominant in its field of operation. Where the term "Qualified Business" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(t).

(j) "Qualified Loan" means a loan or a portion of a loan made by a Participating Financial Institution to a Qualified Business where the loan proceeds are for Eligible Project Costs for the installation and operation of one or more EVCS. "Qualified Loan" does not include any of the following:

(1) A loan for the construction or purchase of residential housing;

(2) A loan to finance Passive Real Estate Ownership;

(3) A loan for the refinancing of debt already held by the Participating Financial Institution other than a prior Qualified Loan enrolled under the Program, except to the extent of any increase in the outstanding balance;

(4) Any loan, the proceeds of which will be used to install EVCS at any of the facilities described in Section 8070(u)(4)(A);

(5) Any loan or portion thereof to the extent the same loan or portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program; and

(6) Any loan where the total amount or value of loans enrolled in the Program by the Borrower exceeds \$500,000.

Where the term "Qualified Loan" is used in Sections 8078.3 to 8078.7, inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(u).

(k) "Trustee" means a bank or trust company, or the State Treasurer, chosen by CPCFA from time to time to hold or administer some or all of the Program Accounts.

¹ <http://www.oehha.ca.gov/ej/ces2.html>

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Sections 44559.1, 44559.3, 44559.5 and 44559.11, Health and Safety Code.

§ 8078.4. Application by Financial Institution.

Financial Institutions shall follow the procedures set forth in Section 8071 in making application to become Participating Financial Institutions in the Electric Vehicle Charging Station Financing Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

§ 8078.5. Loan Enrollment.

(a) A Participating Financial Institution may enroll all or any portion of a Qualified Loan by submitting an EVCS Loan Enrollment Application which shall include the following information:

- (1) The official business name of the Borrower, which includes the Borrower's legal name and the name by which the Borrower does business, if any, and the business address.
- (2) The name and title of the individual(s) responsible for signing for the Qualified Loan on behalf of the Borrower.
- (3) Brief description of the Borrower's business and regular activities, either the SIC Code(s) or the NAICS Code(s) applicable to such business, and the amount of its annual revenues over the last three years.
- (4) Brief summary of the intended use of the proceeds of the Qualified Loan consistent with uses permitted as Eligible Project Costs.
- (5) Location(s) of the project(s) to be installed.
- (6) Amount of the Qualified Loan being enrolled (and indication if less than the full amount of the Qualified Loan is being enrolled) and the Participating Financial Institution loan number.
- (7) Type of the Qualified Loan (e.g., secured, unsecured, term loan).
- (8) Date of the Qualified Loan.
- (9) Interest rate applicable to the Qualified Loan.
- (10) Term or maturity date of the Qualified Loan.
- (11) Whether the loan is for the installation of EVCS in a Disadvantaged Community.
- (12) Whether the loan is for the installation of EVCS at a Multi-Unit Dwelling.
- (13) Number of persons currently employed by the Borrower, and number of jobs expected to be created and retained by the Qualified Loan.
- (14) The Participating Financial Institution's certification that the loan is a Qualified Loan, and that the business receiving the Qualified Loan is a Qualified Business.

(15) The Participating Financial Institution's certification that, upon request of the Executive Director, the Participating Financial Institution will provide information from the financial records of the Borrower, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.

(16) The certification that the Participating Financial Institution has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable interest in the Contribution.

(17) The Participating Financial Institution's certification that the total amount of loans enrolled by the Borrower in the Program does not exceed \$500,000.

(18) The Participating Financial Institution's certification that the Borrower has secured or made application for all applicable licenses or permits needed to install and operate the EVCS.

(19) Acknowledgment that the lending activities of the Participating Financial Institution are subject to any applicable safety and soundness standards as set forth in applicable lending regulations.

(20) The Participating Financial Institution shall be authorized to base the information requested by subsections (14) and (18) above upon representations made to it by the Borrower; provided that no such Borrower representation may be relied upon if it is known to be false by the lending officer(s) at the Participating Financial Institution who are directly involved in the negotiation of the Qualified Loan.

(21) Certification from the Participating Financial Institution that it has not, and will not, enroll the same loan or portion thereof in any other government program substantially similar to the Program.

(22) The submittal of a completed Borrower's Eligibility Criteria and Self-Certification form in which the Borrower certifies to the following:

(A) That it satisfies the definitions in Sections 8078.3(e), 8078.3(f), 8078.3(i), and 8078.3(j) of the EVCS Financing Program Regulations;

(B) The EVCS installation is compliant with Section 8078.3(c) or 8078.3(g) of the EVCS Program Regulations, if applicable;

(C) The EVCS installation is located within the boundaries of the State of California;

(D) The Borrower has legal control of the EVCS installation site for a term that is equal to or greater than the length of the enrolled loan, and assumes financial liability of the loan;

(E) The 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;

(F) The Borrower has no legal, beneficial, or equitable interest in the Contribution;

(G) If the EVCS installation 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 the portion of costs of the total project as reasonably allocated to the installation and operation of the EVCS, as documented by the master contractor and/or installer of the EVCS;

(H) The Borrower has secured or made application for all applicable licenses or permits needed to install and operate the EVCS to be procured with the Qualified Loan;

(I) The Borrower agrees to allow California Energy Commission staff or its designee to inspect the EVCS and EVCS installation site;

(J) The Borrower acknowledges awareness of potential regulations from the California Department of Food and Agriculture, Division of Measurement Standards, governing the retail sale of electricity from EVCS. Once effective, installed EVCS may be required to adhere to adopted regulation requirements; and

(K) The Borrower is aware of the Borrower Rebate if it complies with Section 8078.7 of the EVCS Financing Regulations.

(23) Certification from the Participating Financial Institution that it has provided the Borrower CPCFA's Privacy Notice for the EVCS Financing Program, which provides the notice required under the California Information Practices Act (CIPA) (Civil Code section 1798.17). The Privacy Notice for the EVCS Financing Program informs the Borrower that personal information protected by the CIPA may be disclosed under the following circumstances:

(A) To consultants, auditors or contractors retained by the CPCFA where disclosure is required to fulfill CalCAP program requirements and subject to a nondisclosure agreement;

(B) To another governmental entity where required by state or federal law; or

(C) As otherwise required by law.

Information related to this loan not including personally identifying information may be disclosed to the California Energy Commission for statistical reporting.

(b) Upon enrollment of a Qualified Loan, CPCFA shall direct the Trustee to transfer a Contribution for deposit in the Participating Financial Institution's established Loan Loss Reserve Account, and the Trustee shall notify the Participating Financial Institution of the transfer.

(c) The Contribution for each Qualified Loan shall be calculated as follows:

(1) All Qualified Loans shall receive a Contribution in the amount of 20 percent of the enrolled loan amount.

(2) All Qualified Loans that support installation of Electric Vehicle Charging Stations in Disadvantaged Communities or in a Multi-Unit Dwelling shall receive an additional Contribution in the amount of 10 percent of the enrolled loan amount (total Contribution of 30 percent).

(d) Without regard to the terms of the loan, the term of enrollment in the Program shall not exceed forty-eight (48) months from the date of first disbursement of the Qualified Loan.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Sections 44559.2, 44559.4 and 44559.11, Health and Safety Code; and Section 1798.17, Civil Code.

§ 8078.6. Loan Loss Reserve Accounts.

(a) Upon the Executive Director's acceptance of an application by a Participating Financial Institution, CPCFA shall establish a Loan Loss Reserve Trust Account for that Participating Financial Institution for the following purposes:

- (1) To receive all Contributions deposited from the EVCS Financing Program;
- (2) To pay claims in accordance with the Claim for Reimbursement Section 8074; and
- (3) To pay Borrower Rebates in accordance with Section 8078.7.

(b) All moneys in a Loan Loss Reserve Account are property of the Authority held in trust to be used only for the valid and lawful purposes of the Program as provided in the Interagency Agreement with the Energy Commission and these regulations. Interest or income earned on moneys credited to the Loan Loss Reserve Account shall be deemed to be part of the Loan Loss Reserve Account. The Executive Director shall be authorized to withdraw from the Loan Loss Reserve Trust Account all interest and income that has been credited to the Loan Loss Reserve Account. The Executive Director shall be authorized to withdraw contributions improperly deposited in a Loan Loss Reserve Account. The Executive Director shall be authorized to direct that funds be withdrawn from Loan Loss Reserve Accounts to fund qualifying Borrower Rebates.

(c) Moneys in a Participating Financing Institution's Loan Loss Reserve Account shall not exceed the outstanding principal of its enrolled loans. From time to time, the Executive Director may withdraw from the Loan Loss Reserve Account all Loan Loss Reserve contributions that exceed the amount of outstanding principal.

(d) If any Loan Loss Reserve Account is held at a Participating Financial Institution, the Participating Financing Institution shall provide monthly statements to CPCFA no later than the 15th of each month reporting all Loan Loss Reserve Account activity, and beginning and ending balances. In addition, the Participating Financial Institution shall provide information to CPCFA regarding the status of enrolled loans, claims and recoveries upon request.

(e) The Participating Financial Institution shall provide reports on the quarterly basis to CPCFA no later than the 15 days after the end of the quarter, listing all enrolled loans which are in default whether or not the Participating Financial Institution has filed a claim with CPCFA. The quarters end on March 31, June 30, September 30, and December 31.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.3, Health and Safety Code.

§ 8078.7. Borrower Rebate.

(a) A Borrower shall be eligible for a Borrower Rebate of fifty (50) percent of the Contribution if the following conditions are met:

- (1) The Borrower provides the Participating Financial Institution with a copy of an Electric Vehicle Charging Station Certificate of Commissioning relative to the EVCS financed;

- (2) The Borrower has no more than one 30-day late payment on the Qualified Loan;
 - (3) The Qualified Loan has been paid off or forty-eight months have elapsed from the date of first disbursement of the Qualified Loan, whichever is sooner; and
 - (4) The Borrower certifies that any outstanding balance of the loan repaid at the time of application for the Borrower Rebate was not refinanced into another credit structure with any Participating Financial Institution.
- (b) A Participating Financial Institution shall make the request for a Borrower Rebate as specified in subdivision (c) of this section to CPCFA within 90 calendar days after the conditions in subdivision (a) of this section have been satisfied.
- (c) To make a request for a Borrower Rebate, the Participating Financial Institution shall submit a Request for Borrower Rebate form to CPCFA which shall include the following information:
- (1) Name of the Participating Financial Institution.
 - (2) Name, address and telephone number of contact person for the Participating Financial Institution.
 - (3) Name, telephone number and address of the Qualified Business requesting the Borrower Rebate.
 - (4) Amount, date of first disbursement of the Qualified Loan and loan number.
 - (5) Amount of Contribution.
 - (6) Amount of Borrower Rebate.
 - (7) Date Borrower qualified for Borrower Rebate.
 - (8) Participating Financial Institution certification of other evidence that the conditions in subdivision (a) of this section have been satisfied.
- (d) CPCFA shall authorize the payment of a Borrower Rebate within 30 calendar days of receipt of a completed request for Borrower Rebate; provided, however, that the Executive Director shall be authorized to reject a request for Borrower Rebate if he or she determines that the certifications provided by the Participating Financial Institution and Borrower at the time of enrolling the Qualified Loan were false or unsubstantiated. CPCFA shall be authorized, upon providing written notice to the Participating Financial Institution, to defer payment of a Borrower Rebate up to an additional 30 calendar days if CPCFA requires more information in order to validate the payment of the Borrower Rebate.
- (e) Upon approval of a claim for Borrower Rebate, CPCFA shall instruct the Trustee to withdraw the appropriate amount from the Loan Loss Reserve Account and disburse the Borrower Rebate to the Borrower.
- (f) CPCFA may, in its sole determination, authorize a Borrower Rebate upon independent verification that the Borrower has satisfied the requirements of subdivision (a) of this section in the event the Participating Financial Institution is unable or unwilling to supply the documentation needed for Borrower Rebate authorization.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Sections 44559.3 and 44559.11, Health and Safety Code.

§ 8078.8. Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the California Americans with Disabilities Act Small Business Capital Access Loan Program, Sections 8078.8 to 8078.14 inclusive. To the extent the definitions contained herein conflict with definitions contained in Section 8070, the definitions in this section shall control for purposes of the California Americans with Disabilities Act Small Business Capital Access Loan Program.

- (a) “Americans with Disabilities Act” or “ADA” means the federal Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.) and amendments thereto.
- (b) “Certified Access Specialist” or “CASp” means any person who has been certified pursuant to Section 4459.5 of the Government Code.
- (c) “CalCAP/ADA Contribution” means the Contribution(s) made by the Authority from the California Americans with Disabilities Act Small Business Capital Access Financing Program Fund established pursuant to Section 44559.13(b)(2) of the Health and Safety Code.
- (d) “CASp Report” and “CASp Inspection Report” means a written inspection report pursuant to Section 55.53 of the California Civil Code.
- (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.
- (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.
- (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.

(h) “Program”, and “CalCAP/ADA Financing Program” and “CalCAP/ADA Program” and “CalCAP/ADA” mean the California Americans with Disabilities Act Small Business Capital Access Loan Program, established pursuant to the Section 44559.13 of the Health and Safety Code. Where the term “Program” is used in Sections 8078.8 to 8078.14 inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(p) of the California Code of Regulations Title 4, Division 11, Article 7.

(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.

(j) “Recapture” means the withdrawal of CalCAP/ADA Contribution amounts on an annual basis when enrolled loans mature or after sixty (60) months from the date of enrollment, whichever occurs first. Recapture is not applicable for Contributions on charged off loans for which a claim has been approved.

(k) “Reimbursement” and “Reimbursement for CASp Report” mean the amount of all or part of the CASp Report cost reimbursed upon loan enrollment by the Authority to the Qualified Business. The Reimbursement shall not exceed 5% of the loan amount enrolled in the Program and is issued pursuant to Section 8078.10(h).

(l) “Small Business” or “Qualified Business” means a business referred to in Section 44559.1 (i) and (m) of the Health and Safety Code, that meets both of the following additional criteria:

(1) Has thirty or fewer full-time equivalent employees or has less than five million dollars (\$5,000,000) in total gross annual income from all sources; and

(2) Does not provide overnight accommodations.

(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.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code.

Reference: Sections 44559.1, 44559.3, 44559.5, 44559.11 and 44559.13, Health and Safety Code; and 42 U.S.C. Section 12101.

§ 8078.9. Application by Financial Institution.

Financial Institutions shall follow the procedures set forth in Section 8071 in making application to become Participating Financial Institutions in the Program.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code; and 42 U.S.C. Section 12101.

§ 8078.10. Loan Enrollment.

(a) The terms and conditions of the Qualified Loans, including rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower.

(b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan:

(1) by notifying the Authority in writing, within 15 business days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Participating Financial Institution makes a Qualified Loan is the date on which the Participating Financial Institution first disburses proceeds of the Qualified Loan to the Borrower; and

(2) by transmitting to the Authority the Fees collected from the Participating Financial Institution and the Borrower in connection with the Qualified Loan, and by providing written evidence that the Fees have been deposited in a Loss Reserve Account held either by the Participating Financial Institution or the Program Trustee.

(c) A Participating Financial Institution may enroll all or any portion of a Qualified Loan in the Program by submitting a CalCAP/ADA Loan Enrollment Application which shall include the following information:

(1) The official business name of the Borrower, including a "Doing Business As" if any, and the business address.

(2) Name and title of individual(s) responsible for signing for the Qualified Loan on behalf of the Borrower(s).

(3) Brief description of the Borrower's business and regular activities and either the SIC Code(s) or the NAICS Code(s) applicable to such business, and the amount of its annual revenues.

(4) Brief summary of the intended use of the proceeds of the Qualified Loan consistent with uses permitted as Eligible Costs.

(5) Location(s) of the Small Business Facility.

(6) Amount of the Qualified Loan being enrolled in the Program, and total loan amount if different, and the Participating Financial Institution loan number.

(7) Whether the Qualified Loan is secured, unsecured, or a term loan.

(8) Date of the Qualified Loan.

- (9) Interest rate applicable to the Qualified Loan.
- (10) Term or maturity date of the Qualified Loan.
- (11) Whether the loan is for alteration(s) or retrofit(s) of a Small Business Facility located in a Severely Affected Community.
- (12) The Participating Financial Institution's certification as to the number of full-time equivalent employees currently employed by the Borrower.
- (13) The Participating Financial Institution's certification that the loan is a Qualified Loan, and that the business receiving the Qualified Loan is a Qualified Business.
- (14) The Participating Financial Institution's certification upon enrollment of a Qualified Loan that the proceeds of the loan will be used for the Eligible Costs of an Eligible Project.
- (15) The Participating Financial Institution's certification that, upon request of the Executive Director, the Participating Financial Institution will provide information from the financial records of the Borrower, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.
- (16) The Participating Financial Institution's certification that the total amount of loans for the borrower enrolled in the CalCAP/ADA program does not exceed \$50,000.
- (17) The Participating Financial Institution's certification that it has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable interest in the CalCAP/ADA Contribution.
- (18) The Participating Financial Institution's certification that the Borrower has provided a CASp Report and a Cost Estimate and that the physical alterations or retrofits to be financed are included in the CASp Report.
- (19) The Participating Financial Institution's certification that the Borrower will provide all applicable licenses or permits needed for the construction related retrofit(s) or alteration(s).
- (20) Acknowledgment that the lending activities of the Participating Financial Institution are subject to any applicable safety and soundness standards as set forth in applicable lending regulations.
- (21) The Participating Financial Institution shall be authorized to certify to the information requested by subsections (12), (13), (14), (18) and (19) above based upon the Participating Financial Institution's established due diligence and underwriting standards, and shall maintain substantiating documentation in the Borrower's loan file.
- (22) Certification from the Participating Financial Institution that it has not, and will not, enroll the Qualified Loan, or any portion thereof, in any other Capital Access Loan Program for Small Business offered by the Authority as long as funds are available for this Program.
- (23) Certification from the Participating Financial Institution that it has provided the Borrower the CPCFA's Privacy Notice for the CalCAP/ADA Financing Program, which provides the notice required under the California Information Practices Act (CIPA) (Civil Code section 1798.17). The Privacy Notice for

the CalCAP/ADA Financing Program informs the Borrower that personal information protected by the CIPA may be disclosed under the following circumstances:

(A) To consultants, auditors or contractors retained by the CPCFA where disclosure is required to fulfill CalCAP program requirements and subject to a nondisclosure agreement;

(B) To another governmental entity where required by state or federal law; or

(C) As otherwise required by law.

(24) The submittal of a completed Borrower's Eligibility Criteria and Self-Certification form in which the Borrower certifies to the following:

(A) That, when applicable, it satisfies the definitions in Sections 8078.8(f), (g), (i), (k) and (l) of the California Americans with Disabilities Act Small Business Capital Access Financing Program Regulations;

(B) The facility is located within the boundaries of the State of California;

(C) 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;

(D) The 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;

(E) The Borrower has no legal, beneficial, or equitable interest in the CalCAP/ADA Contribution;

(F) 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;

(G) The Borrower will provide all applicable licenses and permits needed for construction related retrofit(s) or alteration(s) to the Participating Financial Institution;

(H) The Borrower has provided a CASp report and a Cost Estimate to the Participating Financial Institution and that the physical alterations or retrofits to be financed are included in the CASp Report;

(I) The Borrower's certification that the proceeds of the loan will be used for the Eligible Costs of an Eligible Project;

(J) The Borrower agrees to allow CPCFA staff or its designee to inspect the project site;

(d) Upon enrollment of a Qualified Loan, the Participating Financial Institution shall elect a Contribution between 2 and 3.5 percent of the Qualified Loan, and shall deposit the Participating Financial Institution's and Borrower's Contributions each in the elected amount into the Participating Financial Institution's Loss Reserve Account established for the CalCAP/ADA Program pursuant to Section 8078.11.

(e) Upon verification of the deposit of the Participating Financial Institution's and Borrower's Contributions, all Qualified Loans shall receive a CalCAP/ADA Contribution equal to four times the amount of the Participating Financial Institution's Contribution.

(f) All Qualified Loans that support Eligible Projects located in a Severely Affected Community shall receive an additional CalCAP/ADA Contribution in the amount equal to the Participating Financial Institution's Contribution.

(g) Without regard to the terms of the loan, the term of enrollment in the Program shall not exceed sixty (60) months from the date of first disbursement of the Qualified Loan.

(h) Upon enrollment in the CalCAP/ADA Program, the Borrower may request a Reimbursement by submitting a CASp Report Reimbursement request to the Authority, which shall include the following information:

(1) Borrower's name, address, phone number, and e-mail address.

(2) Loan amount enrolled in CalCAP/ADA Program, loan disbursement date, and invoice for the cost of the CASp Inspection Report.

(3) A copy of the notice of access inspection completed by the CASp pursuant to Civil Code Section 55.53.

(4) Statement that the Borrower agrees to provide any additional information regarding the use of proceeds under the loan to the Program Trustee, if requested prior to the issuance of the Reimbursement amount.

(i) Upon verification of the eligibility of the Borrower's Reimbursement request, the Authority shall instruct the Program Trustee to disburse the Reimbursement to the Borrower within thirty (30) business days.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code.
Reference: Sections 44559.2, 44559.4 and 44559.13, Health and Safety Code; and 42 U.S.C. Section 12101.

§ 8078.11. Loss Reserve Accounts.

(a) Upon the Executive Director's acceptance of an application by a Participating Financial Institution, CPCFA shall establish a Loss Reserve Account for that Participating Financial Institution for this Program for the following purposes:

(1) To receive deposits from the Participating Financial Institution Contributions, the Borrower Contributions and the CalCAP/ADA Contributions; and

(2) To pay claims in accordance with Section 8078.12.

(b) All moneys in a Loss Reserve Account are property of the Authority held in trust to be used only for the valid and lawful purposes of the Program as provided by these regulations. Interest or income earned on moneys credited to the Loss Reserve Account shall be deemed to be part of the Loss Reserve Account. The Executive Director shall be authorized to withdraw from the Loss Reserve Account all interest and income that has been credited to the Loss Reserve Account. The Executive Director shall be authorized to withdraw Contributions improperly deposited in a Loss Reserve Account.

(c) The Executive Director shall be authorized to Recapture the CalCAP/ADA Contribution from the Loss Reserve Account when the corresponding Qualified Loan matures or at five years from the date of enrollment, whichever occurs first.

(d) On an annual basis after March 31, CPCFA will send a notice to the Participating Financial Institution listing the CalCAP/ADA Contribution amounts that will be recaptured based on the status of the loan(s) at the end of the previous calendar year.

(e) If any Loss Reserve Account is held at a Participating Financial Institution, the Participating Financial Institution shall provide monthly statements to CPCFA no later than the 15th of each month reporting all Loss Reserve Account activity, and beginning and ending balances. In addition, the Participating Financial Institution shall provide information to CPCFA regarding the status of enrolled loans, claims and recoveries upon request.

(f) The Participating Financial Institution shall provide reports on a quarterly basis to CPCFA no later than 15 days after the end of each quarter, listing the status of all enrolled loans, claims and recoveries whether or not the Participating Financial Institution has filed a claim with CPCFA. The quarters end on March 31, June 30, September 30, and December 31.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code; and 42 U.S.C. Section 12101.

§ 8078.12. Claim for Reimbursement.

Participating Financial Institutions shall follow the procedures set forth in Section 8074 in making claims for reimbursement for loans enrolled in the California Americans with Disabilities Act Small Business Capital Access Financing Program. Any references to Section 8072 shall be replaced with Section 8078.10.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code; and 42 U.S.C. Section 12101.

§ 8078.13. Subrogation.

The procedures for subrogation set forth in Section 8075 shall be followed for loans enrolled in the California Americans with Disabilities Act Small Business Capital Access Financing Program.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code; and 42 U.S.C. Section 12101.

§ 8078.14. Termination and Withdrawal from Program.

The procedures for termination and withdrawal from the program set forth in Section 8076 shall be followed for loans enrolled in the California Americans with Disabilities Act Small Business Capital Access Financing Program.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code; and 42 U.S.C. Section 12101.

§ 8078.15. Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the California Seismic Safety Capital Access Loan Program, Sections 8078.15 to 8078.21 inclusive. To the extent the definitions contained herein conflict with definitions contained in Section 8070, the definitions in this section shall control for purposes of the Program.

(a) “CalCAP/Seismic Safety Contribution” means the Contribution(s) made by the Authority from the California Seismic Safety Capital Access Loan Program Fund established pursuant to Section 44559.14(c)(1) of the Health and Safety Code.

(b) “Cost Estimate” means a written proposal or estimate of the Eligible Costs of materials, services, and other expenses identified to complete the Seismic retrofit construction for each Eligible project as provided by an engineer, architect or a licensed contractor.

(c) “Earthquake-Resistant Bracing System” means a bracing system, certified by the Department of Housing and Community Development, designed and constructed for the purpose of protecting the health and safety of the occupants and reducing damage in the event of an earthquake.

(d) “Eligible Costs” means and includes all or any part, as defined in Section 44559.14(b)(2) of the Health and Safety Code, the costs paid or incurred on or after January 1, 2017, for an Eligible project, including any engineering or architectural design work necessary to permit or complete the Eligible project less the amount of any grant provided by a public entity for the Eligible project. “Eligible Costs” do not include costs paid or incurred for any of the following:

(1) Maintenance, including abatement of deferred or inadequate maintenance, and correction of violations unrelated to the seismic retrofit construction.

(2) Repair, including repair of earthquake damage.

(3) Seismic retrofit construction required by local building codes as a result of addition, repair, building relocation, or change of use or occupancy.

(4) Other work or improvement required by local building or planning codes as a result of the intended seismic retrofit construction.

(5) Rent reductions or other associated compensation, compliance actions, or other related coordination involving the qualified residential property owner or qualified small business and any other party, including a tenant, insurer, or lender.

(6) Replacement of existing building components, including equipment, except as needed to complete the seismic retrofit construction.

(7) Bracing or securing nonpermanent building contents.

(8) The offset of costs, reimbursements, or other costs transferred from the Qualified residential property owner or Qualified small business to others.

(e) “Eligible project” means Seismic retrofit construction that is necessary to ensure that the Qualified building is capable of substantially mitigating seismic damage, and the financing necessary to pay Eligible Costs of the project.

(f) “Program”, “CalCAP/Seismic Safety Financing Program” and “CalCAP/Seismic Safety Program” means the California Seismic Safety Capital Access Loan Program established pursuant to the Section 44559.14 of the Health and Safety Code. Where the term “Program” is used in Sections 8078.15 to 8078.21 inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(p).

(g) “Qualified building” means a residential or commercial building in California that is identified by the local building code official for the jurisdiction in which the building is located as a building in need of seismic retrofitting and is either a building of a type that is potentially vulnerable in the event of a catastrophic earthquake or a building constructed before 1981. A “Qualified building” may be a single-family residence, multiunit housing building, multiunit housing building with commercial space, or mobilehome, manufactured home, and multifamily manufactured home installed in accordance with Section 18613 of the Health and Safety Code.

(h) “Qualified Loan” means a loan or portion of a loan as defined in Section 44559.1(j) of the Health and Safety Code or a loan made to a Qualified residential property owner, where the proceeds of the loan or portion of the loan are limited to the Eligible Costs for an Eligible project under this Program, and where the loan or portion of the loan does not exceed two hundred fifty thousand dollars (\$250,000), and where the term of loss coverage for each qualified loan is no more than ten years. “Qualified Loan” does not include any of the following:

(1) Any loan or portion thereof to the extent the same loan or 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 \$250,000.

(i) “Qualified small business” means a business referred to in subdivisions (i) and (m) of Section 44559.1 of the Health and Safety Code that owns a Qualified building regardless of owner occupancy, notwithstanding the restriction on passive real estate ownership in subparagraph (B) of paragraph (2) of subdivision (j) of Section 44559.1.

(j) “Qualified residential property owner” means either an owner of a residential building that is a Qualified building or a Qualified small business that owns one or more residential buildings, including a multiunit housing building, that is a Qualified building, notwithstanding the restriction on passive real estate ownership in subparagraph (B) of paragraph (2) of subdivision (j) of Section 44559.1.

(k) “Qualified commercial property owner” means either an owner of a commercial building that is a Qualified building or a Qualified small business that owns one or more commercial buildings that is a Qualified building.

(l) "Recapture" means the withdrawal of CalCAP/Seismic Safety Contribution amounts on an annual basis when enrolled loans mature or after one-hundred twenty (120) months from the date of enrollment, whichever occurs first. Recapture is not applicable for Contributions on charged off loans for which a claim has been approved.

(m) "Registered mobilehome" means a mobilehome or manufactured home that is currently registered with the Department of Housing and Community Development and the Borrower's name is on the Department of Housing and Community Development registration for that mobilehome or manufactured home.

(n) "Seismic retrofit construction" means alteration performed on or after January 1, 2017, of a Qualified building or its components to substantially mitigate seismic damage. Seismic retrofit construction includes, but is not limited to, all of the following:

(1) Anchoring the structure to the foundation.

(2) Bracing cripple walls.

(3) Bracing water heaters.

(4) Installing automatic gas shutoff valves.

(5) Repairing or reinforcing the foundation to improve the integrity of the foundation against seismic damage.

(6) Anchoring fuel storage.

(7) Installing an Earthquake-Resistant Bracing System for mobilehomes or manufactured homes that are registered with the Department of Housing and Community Development.

(8) Strengthening a building's lateral load resisting system.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.14, Health and Safety Code.

Reference: Sections 18613, 18613.4, 18613.5, 18613.7, 44559.1, 44559.3, 44559.5 and 44559.11, Health and Safety Code; and Section 13340, Government Code.

§ 8078.16. Application by Financial Institution.

Financial Institutions shall follow the procedures set forth in Section 8071 in making application to become Participating Financial Institutions in the Program.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.14, Health and Safety Code.

Reference: Section 44559.2, Health and Safety Code.

§ 8078.17. Loan Enrollment.

(a) The terms and conditions of the Qualified Loans, including rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower, consistent

with the Participating Financial Institution's usual methods for making determinations on loans that are not enrolled in the Program and subject to the safety and soundness standards as set forth in applicable federal banking regulations or State law regulating the Participating Financial Institution.

(b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan:

(1) by notifying the Authority in writing, within 15 business days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Participating Financial Institution makes a Qualified Loan is the date on which the Participating Financial Institution first disburses proceeds of the Qualified Loan to the Borrower; and

(2) by transmitting to the Authority the Fees collected from the Participating Financial Institution and the Borrower in connection with the Qualified Loan, and by providing written evidence that the Fees have been deposited in a Loss Reserve Account held either by the Participating Financial Institution or the Program Trustee.

(c) A Participating Financial Institution may enroll all or any portion of a Qualified Loan in the Program by submitting a CalCAP/Seismic Safety Loan Enrollment Application which shall include the following information:

(1) The name of the Borrower, including an official business name or "Doing Business As", if any.

(2) Name and title of individual(s) responsible for signing for the Qualified Loan on behalf of the Borrower.

(3) If a small business owner, brief description of the Borrower's business and regular activities and either the SIC Code(s) or the NAICS Code(s) applicable to such business.

(4) Brief summary of the intended use of the proceeds of the Qualified Loan consistent with uses permitted as Eligible Costs for Seismic retrofit construction.

(5) Location(s) of the Qualified building, including physical address.

(6) Whether the Qualified building is a residential or commercial property, and the number of dwelling units.

(7) Amount of the Qualified Loan being enrolled in the Program, and total loan amount if different, and the Participating Financial Institution loan number.

(8) Type of the Qualified Loan (e.g., secured, unsecured, term loan).

(9) Date of the Qualified Loan.

(10) Interest rate applicable to the Qualified Loan.

(11) Term or maturity date of the Qualified Loan.

(12) Whether the loan is for alteration(s) or retrofit(s) of a Qualified building located in a Severely Affected Community.

- (13) If a Qualified small business, number of employees employed by the Borrower at the time of loan origination.
- (14) The Participating Financial Institution's certification that the loan is a Qualified Loan, and that the property owner receiving the Qualified Loan is a Qualified small business, Qualified residential property owner, or Qualified commercial property owner.
- (15) The Participating Financial Institution's certification upon enrollment of a Qualified Loan that the proceeds of the loan will be used for the Eligible Costs of Seismic retrofit construction.
- (16) The Participating Financial Institution's certification that, upon request of the Executive Director, the Participating Financial Institution will provide information from the financial records of the Borrower, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.
- (17) The Participating Financial Institution's certification that the total amount of loans for the Borrower enrolled in the CalCAP/Seismic Safety Program does not exceed \$250,000.
- (18) The Participating Financial Institution's certification that it has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable interest in the CalCAP/Seismic Safety Contribution.
- (19) The Participating Financial Institution's certification that the Borrower has provided a Cost Estimate prepared by an engineer, architect or a licensed contractor, and that the Cost Estimate for Seismic retrofit construction to be financed is limited to Eligible Costs.
- (20) The Participating Financial Institution's certification, when the Qualified building is a mobilehome or manufactured home, that the Borrower has provided a record of Borrower's name on a current registration from the Department of Housing and Community Development for the mobilehome or manufactured home.
- (21) The Participating Financial Institution's certification that its usual methods of securing collateral have been applied, including if applicable that a lien has been placed on the Borrower's Qualified building for the amount of the Qualified Loan.
- (22) The Participating Financial Institution's certification that the Borrower will provide all applicable licenses and permits needed for the Seismic retrofit construction and satisfy the local building enforcement agency and the Department of Housing and Community Development compliance and inspection requirements once Seismic retrofit construction is completed.
- (23) The Participating Financial Institution's certification that the Qualified Loan is not a restructured or refinanced loan and has not previously been enrolled in the Program.
- (24) Acknowledgment that the lending activities of the Participating Financial Institution are subject to any applicable safety and soundness standards as set forth in applicable lending regulations.
- (25) The Participating Financial Institution shall be authorized to certify to the information requested by subsections (13), (14), (15), (19) and (22) above based upon the Participating Financial Institution's established due diligence and underwriting standards, and shall maintain substantiating documentation in the Borrower's loan file.

(26) Certification from the Participating Financial Institution that it has not, and will not, enroll the Qualified Loan, or any portion thereof, in any other Capital Access Loan Program for Small Business offered by the Authority as long as funds are available for this Program.

(27) Certification from the Participating Financial Institution that it has provided the Borrower CPCFA's Privacy Notice for the CalCAP/Seismic Safety Financing Program, which provides the notice required under the California Information Practices Act (CIPA) (Civil Code section 1798.17). The Privacy Notice for the CalCAP/Seismic Safety Financing Program informs the Borrower that personal information protected by the CIPA may be disclosed under the following circumstances:

(A) To consultants, auditors or contractors retained by the CPCFA where disclosure is required to fulfill CalCAP program requirements and subject to a nondisclosure agreement;

(B) To another governmental entity where required by state or federal law; or

(C) As otherwise required by law.

(28) The submittal of a completed Borrower's Eligibility Criteria and Self-Certification form in which the Borrower certifies to the following:

(A) That, when applicable, it and the Eligible project satisfy the definitions in Sections 8078.15(d), (e), (g), (h), (i), (j) and (k) of the California Seismic Safety Capital Access Loan Program Regulations;

(B) The Qualified building is located within the boundaries of the State of California;

(C) 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;

(D) The 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;

(E) The Borrower has no legal, beneficial, or equitable interest in the CalCAP/Seismic Safety Contribution;

(F) If the Seismic retrofit construction financed through this Program is a part of a larger construction project carried out by the Borrower, the enrolled amount of the Qualified Loan in this Program is limited to Eligible Costs necessary and allocable to the Eligible project;

(G) The Borrower will provide all applicable licenses and permits needed for construction related to Eligible Costs for the Seismic retrofit construction to the Participating Financial Institution;

(H) The Borrower has provided verification of Eligible Costs less the amount of any grant provided by a public entity for the Eligible project to the Participating Financial Institution;

(I) The Borrower's certification that the proceeds of the loan will be used for the Seismic retrofit construction of an Eligible project;

(J) The Borrower's certification when the Qualified building is a mobilehome or manufactured home that it is currently registered with the Department of Housing and Community Development and the Borrower's name is on the Department of Housing and Community Development registration for that mobilehome or manufactured home;

(K) The Borrower agrees to allow CPCFA staff or its designee to inspect the project site.

(d) Upon enrollment of a Qualified Loan, the Participating Financial Institution shall elect a Contribution between 2 and 3.5 percent of the Qualified Loan, and shall deposit the Participating Financial Institution's and Borrower's Contributions each in the elected amount into the Participating Financial Institution's Loss Reserve Account established for the Program pursuant to Section 8078.18.

(e) Upon verification of the deposit of the Participating Financial Institution's and Borrower's Contributions, Qualified Loans with a term of sixty (60) months or less shall receive a CalCAP/Seismic Safety Contribution equal to four times the amount of the Participating Financial Institution's Contribution. All other Qualified Loans shall receive a CalCAP/Seismic Safety Contribution equal to three times the amount of the Participating Financial Institution's Contribution.

(f) All Qualified Loans with a term of sixty (60) months or less that support Eligible projects located in a Severely Affected Community shall receive an additional CalCAP/Seismic Safety Contribution in the amount of two times the Participating Financial Institution's Contribution. All other Qualified Loans that support Eligible projects located in a Severely Affected Community shall receive an additional CalCAP/Seismic Safety Contribution in the amount equal to the Participating Financial Institution's Contribution.

(g) Without regard to the terms of the loan, the term of enrollment in the Program shall not exceed one hundred twenty (120) months from the date of first disbursement of the Qualified Loan.

(h) Qualified Loans shall no longer be enrolled in the Program upon the sale, transfer or refinancing of the Qualified building or Qualified Loan, and shall be deemed to have matured within the meaning of 8078.18(c) upon the date of such sale, transfer or refinancing.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.14, Health and Safety Code.

Reference: Sections 18613, 44559.2 and 44559.4, Health and Safety Code.

§ 8078.18. Loss Reserve Accounts.

(a) Upon the Executive Director's acceptance of an application by a Participating Financial Institution, CPCFA shall establish a Loss Reserve Account for that Participating Financial Institution for this Program for the following purposes:

(1) To receive deposits from the Participating Financial Institution Contributions, the Borrower Contributions and the CalCAP/Seismic Safety Contributions; and

(2) To pay claims in accordance with Section 8078.19.

(b) All moneys in a Loss Reserve Account are property of the Authority held in trust to be used only for the valid and lawful purposes of the Program as provided by these regulations. Interest or income earned on moneys credited to the Loss Reserve Account shall be deemed to be part of the Loss Reserve Account. The Executive Director shall be authorized to withdraw from the Loss Reserve Account all interest and income that has been credited to the Loss Reserve Account. The Executive Director shall be authorized to withdraw Contributions improperly deposited in a Loss Reserve Account.

(c) The Executive Director shall be authorized to Recapture the CalCAP/Seismic Safety Contribution from the Loss Reserve Account when the corresponding Qualified Loan matures or at ten years from the date of enrollment, whichever occurs first.

(d) On an annual basis after March 31, CPCFA will send a notice to the Participating Financial Institution listing the CalCAP/Seismic Safety Contribution amounts that will be recaptured based on the status of the loan(s) at the end of the previous calendar year.

(e) If any Loss Reserve Account is held at a Participating Financial Institution, the Participating Financial Institution shall provide monthly statements to CPCFA no later than the 15th of each month reporting all Loss Reserve Account activity, and beginning and ending balances. In addition, the Participating Financial Institution shall provide information to CPCFA regarding the status of enrolled loans, claims and recoveries upon request.

(f) The Participating Financial Institution shall provide reports on a quarterly basis to CPCFA no later than 15 days after the end of each quarter, listing the status of all enrolled loans, claims and recoveries whether or not the Participating Financial Institution has filed a claim with CPCFA. The quarters end on March 31, June 30, September 30, and December 31.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.14, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code.

§ 8078.19. Claim for Reimbursement.

Participating Financial Institutions shall follow the procedures set forth in Section 8074 in making claims for reimbursement for Qualified Loans enrolled in the California Seismic Safety Capital Access Financing Program. Any references to Section 8072 shall be replaced with Section 8078.17.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.14, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code.

§ 8078.20. Subrogation.

The procedures for subrogation set forth in Section 8075 shall be followed for loans enrolled in the California Seismic Safety Capital Access Financing Program.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.14, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code.

§ 8078.21. Termination and Withdrawal from Program.

The procedures for termination and withdrawal from the CalCAP program set forth in Section 8076 shall be followed for loans enrolled in the California Seismic Safety Capital Access Loan Program.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.14, Health and Safety Code.
Reference: Section 44559.2, Health and Safety Code.

§ 8078.22. Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the California Capital Access Program Air Resources Board On-Road Heavy-Duty Vehicle Air Quality Loan Program, Sections 8078.22 to 8078.28 inclusive. To the extent the definitions contained herein conflict with definitions contained in Section 8070, the definitions in this section shall control for purposes of the California Capital Access Program Air Resources Board On-Road Heavy-Duty Vehicle Air Quality Loan Program.

- (a) "ARB" means the California Air Resources Board.
- (b) "Eligible Cost" or "Eligible Purchase" means the amount of loan proceeds used for the acquisition of heavy duty diesel vehicles or equipment necessary to become compliant with the ARB's Statewide In-Use Truck and Bus Regulations defined in section 2025, title 13, of the California Code of Regulations. In addition, heavy duty vehicles fueled by electric, natural gas, or hybrid engines in compliance with the emissions standards set by ARB may be considered an Eligible Purchase.
- (c) "Interagency Agreement" means the agreement between ARB and the Authority, as may be amended from time to time.
- (d) "On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation" means the Statewide In-Use Truck and Bus Regulations defined in section 2025, title 13, of the California Code of Regulations.
- (e) "Program" and "CalCAP ARB Financing Program" and "CalCAP ARB Program" and "CalCAP ARB" and "CalCAP ARB On-Road HDV Air Quality Loan Program" means the California Capital Access Program Air Resources Board On-Road Heavy-Duty Vehicle Air Quality Loan Program, established pursuant to an the Interagency Agreement between the Authority and the Air Resources Board.
- (f) "Qualified Business" means a either a Truck Owner Operator or a business referred to in subdivisions (i) and (m) of Section 44559.1 of the Health and Safety Code, that meets the following additional criteria:
 - (1) Less than one hundred (100) employees;
 - (2) Only fleets with ten (10) or fewer vehicles are eligible to participate in the Program. Determination of the fleet size must be based on the definitions and criteria in the Statewide Truck & Bus Regulation at California Code of Regulations, title 13, section 2025.
 - (3) Less than ten million dollars (\$10,000,000) in total gross annual income from all sources over the prior three (3) fiscal years; and
 - (4) The Primary economic effect of the Borrower's business activity must be in California.
- (g) "Qualified Loan" means a loan or portion of a loan as defined in Section 44559.1(j)(1) of the Health and Safety Code, and Section 8070 in this Article, where the loan or portion of the loan enrolled does not exceed two million five hundred thousand dollars (\$2,500,000). A Qualified Loan may be made in

the form of a TRAC Lease when the Loss Reserve Account is funded by an Independent Contributor. "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.

(2) Any loan or portion thereof to the extent that enrollment of the loan will cause the Borrower, including all related entities among which a common enterprise exists, to have a total enrolled principal amount in excess of \$2,500,000 at any Participating Financial Institution over a three-year period.

(3) Any loan that exceeds the maximum interest rate of twenty (20) percent annual percentage yield.

(4) Any loan or portion of a loan which is a Refinance of an existing loan, except for the assumption of a TRAC Lease for a loan already enrolled in the Program.

(5) Any loan for which the loan proceeds are used solely for a trailer purchase(s).

(6) Any loan where any portion of the loan proceeds are used for a purchase or expenditure not subject to ARB's Statewide In-Use Truck and Bus Regulation.

(h) "Truck Owner Operator" means a driver who owns and operates his or her own trucking business or who leases his or her own truck to a trucking company to transport freight or haul loads for various companies, such activities have a Primary economic effect of the business activity in California, and the vehicle is registered in California.

Note: Authority cited: Sections 39601(a), 39650, 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Sections 39650, 43013, 44274, 44559.1, 44559.3, 44559.5 and 44559.11, Health and Safety Code; and 42 U.S.C. Section 7401.

§ 8078.23. Application by Financial Institution.

Financial Institutions shall follow the procedures set forth in Section 8071 to apply to become Participating Financial Institutions in the Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

§ 8078.24. Loan Enrollment.

(a) The terms and conditions of the Qualified Loans, including rates, and fees, shall be determined solely by agreement between the Participating Financial Institution and the Borrower.

(b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan by notifying the Authority in writing, within 15 business days after the Qualified Loan is made, that the Participating Institution is enrolling a Qualified Loan. For purposes of this section, the date on which the Participating Financial Institution makes a Qualified Loan is the date on which the Participating Financial Institution first disburses proceeds of the Qualified Loan to the Borrower.

(c) The notification to the Authority shall include at least the following information:

(1) Borrower name, which includes the Borrower's legal name and the name by which the Borrower does business, if any, and the business address.

(2) Brief description of the Borrower's business and regular activities, Census Tract Number associated to the Borrower's business address, and the location of the facilities being financed if different, the NAICS Code(s) applicable to Borrower's business, and the amount of its average annual revenue for the past three (3) years.

(3) Whether this business has been open for two (2) years or more, and is owned by one of the following: a woman, minority, or veteran.

(4) Brief summary of the intended use of the proceeds of the Qualified Loan consistent with Eligible Purchases, including the tractor model, engine model and fuel type of each vehicle, the model of each trailer or diesel particulate filter, and the number of each Eligible Purchase.

(5) Amount of the Qualified Loan being enrolled in the Program, the total amount of loan, and the Participating Financial Institution loan number.

(6) Whether the Qualified Loan is secured or unsecured, and whether it is a term loan or TRAC lease.

(7) Date of the Qualified Loan, based on the first disbursement of proceeds to the Borrower.

(8) Interest rate applicable to the Qualified Loan.

(9) Term or maturity date of the Qualified Loan.

(10) Certification by the Participating Financial Institution of the following:

(A) The Borrower has validated the number of employees currently employed by the Borrower.

(B) The loan is a Qualified Loan for Eligible Costs, and that the business receiving the Qualified Loan is a Qualified Business.

(C) The Borrower's business activity has its Primary economic effect in California, and the vehicle is registered in California, substantiated by the California Department of Motor Vehicles.

(D) Upon request by the Executive Director, the Participating Financial Institution shall provide information from the financial records of the Borrower, including documents validating the Borrower's establishment of a business entity, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.

(E) The total amount of loans for the borrower enrolled in the CalCAP/ARB Program does not exceed \$2,500,000 over a three year period.

(F) The Participating Financial Institution has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable interest in the CalCAP/ARB Contribution.

(G) The Participating Financial Institution has validated that the Borrower has secured all applicable licenses and permits to conduct its business.

(H) The lending activities of the Participating Financial Institution are subject to any applicable safety and soundness standards as set forth in applicable lending regulations.

(I) The Participating Financial Institution has not, and will not, enroll the Qualified Loan, or any portion thereof, in any other government program substantially similar to the Program.

(J) No portion of the loan is a Refinance.

(K) The Participating Financial Institution has provided the Borrower the Authority's Privacy Notice for the CalCAP/ARB On-Road HDV Air Quality Loan Program, which provides the notice required under the California Information Practices Act (Civil Code section 1798.17). The Privacy Notice informs the Borrower that personal information protected by the CIPA may be disclosed under the following circumstances:

(i) To consultants, auditors or contractors retained by the Authority or ARB where disclosure is required to fulfill CalCAP/ARB Program requirements and subject to a nondisclosure agreement;

(ii) To another governmental entity where required by state or federal law; or

(iii) As otherwise required by law.

(L) The Participating Financial Institution will make available to the Authority all books and records related to the use of the funds in the Loss Reserve Account;

(M) The Participating Financial Institution shall be authorized to certify to the information requested under subdivisions (c)(10)(A), (B), (C), (D), (F), (G), and (H) based upon the Participating Financial Institution's established due diligence and underwriting standards applied in the regular course of business, and shall maintain substantiating documentation in the Borrower's loan file.

(11) The submittal of a completed Borrower's Eligibility Criteria and Self-Certification form in which the Borrower certifies that:

(A) The Borrower is using the proceeds to purchase on-road heavy duty diesel vehicle(s) or other Eligible Purchases to comply with ARB's Statewide In-Use Truck and Bus Regulation as defined in Section 2025, Title 13, of the California Code of Regulations;

(B) The Borrower's business activities have a Primary economic effect in California;

(C) The Borrower agrees to allow the Participating Financial Institution to provide information from financial records of the Borrower upon request of the Executive Director;

(D) The Borrower has no legal, beneficial, or equitable interest in the CalCAP/ARB Contribution;

(E) The Borrower meets state and federal requirements to operate in California and that the Borrower has secured all applicable licenses and permits needed to conduct business;

(F) The enrolled amount of the loan in this Program is limited to Eligible Purchases;

(G) The Borrower agrees to allow the Authority or its designee to review all information in the loan file maintained by the Participating Financial Institution;

(H) The Borrower either has or has not received any grants or vouchers through the ARB's Proposition 1B Goods Movement Emission Reduction program, the ARB's Carl Moyer On-Road Heavy Duty Vehicle Voucher Incentive program or the ARB's Hybrid and Zero-Emission Truck and Bus Voucher Incentive project for the financed vehicle(s);

(I) The Borrower agrees to allow ARB staff or its designee to inspect the affected vehicle(s);

(J) The 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;

(K) The Borrower has received CPCFA's CalCAP/ARB Privacy Notice and that the Borrower is not any of the following: an executive officer, director, or principal shareholder of the Participating Financial Institution; a member of the immediate family of any of those individuals; or a related interest of those individuals; and

(L) The accuracy of specific information regarding the fleet size, the vehicle, and equipment, including: truck(s) gross vehicle weight rating, engine manufacturer, model year, and horsepower, replacement truck(s), device(s) manufacturer, and model and technology type.

(d) The Participating Financial Institution must notify the Authority whenever the material terms of an enrolled loan change prior to maturity, including TRAC Lease assumptions, by submitting a Change in Terms notification within fifteen (15) business days after such change.

(1) If any of the terms other than the interest rate have changed, then the Participating Financial Institution shall also submit an amended loan enrollment application, including new lender and borrower certifications, for the loan.

(2) If the Authority determines that the changes in material terms constitutes an ineligible Refinance or not a Qualified Loan as defined in Section 8078.22, neither the original nor the revised loan will continue to be enrolled in the Program.

(3) Notwithstanding the ineligibility of a Refinance, the Authority may authorize an extension of the maturity date of an enrolled loan for up to eighteen (18) months, if the Participating Financial Institution has provided the Authority written certification to its credit policy that provides for such extensions of the maturity date. Such authorization is contingent upon the submittal of the Change in Terms, an amended loan enrollment application, and new lender and borrower certifications for the loan.

(e) Loan enrollments submitted after August 15, 2017 will be subject to Recapture as specified in Section 8078.25.

Note: Authority cited: Sections 44520, 44559.5 and 44559.11, Health and Safety Code. Reference: Section 44559.2, Health and Safety Code; and Section 1798.17, Civil Code.

§ 8078.25. Loss Reserve Accounts.

(a) Upon the Executive Director's acceptance of an application by a Participating Financial Institution, the Authority shall establish a Loss Reserve Account for that Participating Financial Institution under the CalCAP ARB Financing Program for the following purposes:

(1) To receive all Contributions deposited by the Authority from funds provided by ARB based on the Contribution rates authorized by ARB in the Interagency Agreement as follows:

(A) for each new and existing Participating Financial Institution whose total Contributions in the Loss Reserve Account has not yet reached \$500,000, the Contribution for each Qualified Loan is equal to 14 percent of the enrolled loan amount.

(B) for each Participating Financial Institution whose total Contributions in the Loss Reserve Account exceeds \$500,000, the Contribution for each Qualified Loan is equal to 10 percent of the enrolled amount;

(2) To pay claims in accordance with Section 8078.26.

(b) The Loss Reserve Account shall, in the Authority's sole determination, be held by the Participating Financial Institution or by the Program Trustee. For each Loss Reserve Account held by a Participating Financial Institution, the Participating Financial Institution shall submit to the Authority a monthly statement of the account activities and balance, no later than the 15th of the following month.

(c) Any Loss Reserve Account held in a Participating Financial Institution shall be an interest-bearing demand account or deposit account at a banking institution, or a Money Market Fund if approved in writing by the Executive Director, or a combination thereof, and earning a rate of interest that would be expected of accounts of similar type and size. The Loss Reserve Account shall be insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or the Securities Investor Protection Corporation, as appropriate, to the extent permitted by law. The Authority shall not deposit any Loss Reserve Account with a Participating Financial Institution if:

(1) there are any charges by the Participating Financial Institution for the establishment or maintenance of the Loss Reserve Account at such Financial Institution;

(2) at the time the Loss Reserve Account is established with the Participating Financial Institution, the Participating Financial Institution has a rating below "75" from IDC Financial Publishing Inc.'s Bank Financial Quarterly, S&L-Savings Bank Financial Quarterly, or Credit Union Financial Profiles; or the Participating Financial Institution has a rating of "C" or below from LACE Financial Corp; or the Participating Financial Institution has a rating below "11" from Highline Inc.'s Bank Quarterly or S&L Quarterly or successor publication approved by the Executive Director; or

(3) the Participating Financial Institution has not timely submitted a Quarterly Report described in Section 8078.25(f), and, for accounts held at the Participating Financial Institution, the monthly statements described in Section 8078.25(b).

(d) All moneys in a Loss Reserve Account are property of the ARB held in trust to be administered by the Authority and used only for the valid and lawful purposes of the Program as provided by these Regulations. Interest or income earned on moneys credited to the Loss Reserve Account shall be

deemed to be part of the Loss Reserve Account. Contributions to the Loss Reserve Account shall be subject to Recapture as provided in Section 8078.25(g). The Executive Director shall be authorized to withdraw from the Loss Reserve Account all interest and income that has been credited to the Loss Reserve Account. The Executive Director shall be authorized to withdraw Contributions improperly deposited in a Loss Reserve Account.

(e) Notwithstanding any other provision of this article, the Executive Director shall be authorized, with the approval of the applicable Participating Financial Institution, to assign, transfer, pledge, or create security interests in all or a portion of any Loss Reserve Account to any other entity or entities (including a trustee of a securitization trust or trusts) in connection with the securitization of all or a portion of the Participating Financial Institution's loans enrolled in the Program. Any loan enrolled in the program or portion thereof which is subsequently assigned, transferred, pledged, or securitized without the advance written approval of the Executive Director shall no longer be deemed a Qualified Loan or covered by the Loss Reserve Account. If a Participating Financial Institution desires to assign, transfer, pledge, or securitize all or a portion of any enrolled loan or Loss Reserve Account, the Participating Financial Institution shall submit a written request to the Authority no less than thirty (30) calendar days in advance of such action, together with the list of loans and the amount of the Loss Reserve Account subject to the request, and a draft of the legal document describing the assignment, transfer, pledge, or securitization.

(f) The Participating Financial Institution shall provide information to the Authority regarding the status of accounts, enrolled loans, claims, and recoveries upon request, including timely Quarterly Reports of the data regarding: Outstanding Principal Balance of all enrolled loans; all loans in default and charged off, and claim amounts; and deposits made to replenish the Loss Reserve Account pursuant to Section 8074(h), in the form provided by the Authority. Failure to submit timely and complete Quarterly Reports will result in the suspension of any pending loan enrollments or claim applications from that Participating Financial Institution, and transfer of any Loss Reserve Accounts held by the Participating Financial Institution to the Program Trustee.

(g) The Executive Director is authorized to Recapture from each Loss Reserve Account the Contribution for each enrolled loan when the corresponding Qualified Loan matures or upon five (5) years from the date of enrollment, whichever occurs first, and subject to each of the following conditions:

(1) Recapture shall be conducted on an annual basis following the end of each fiscal year based on the data reported in the Quarterly Reports submitted for the term ending June 30th.

(2) The Executive Director shall limit the amount of the annual Recapture of Contributions from each Loss Reserve Account, if necessary, to ensure that the balance remaining in that Loss Reserve Account immediately following Recapture is greater than a minimum threshold set as a percentage of the Outstanding Principal Balance of loans enrolled in the 60 months prior to each annual Recapture. Beginning in 2020, the minimum threshold will be fifteen percent (15%).

(3) Recapture shall apply to each new Loss Reserve Account established on or after August 15, 2017.

(4) For Loss Reserve Accounts existing before August 15, 2017, each corresponding Participating Financial Institution shall affirm in writing its election to continue enrolling loans in the Program subject to Recapture being applied to the Contributions for all past and future Qualified Loans. This election may

not later be withdrawn by the Participating Financial Institution. Loans enrolled on or after August 15, 2017 will be deemed ineligible if the Participating Financial Institution has not first submitted its election in writing. For any Participating Financial Institution that submits its election in writing after August 15, 2017, the Authority shall thereupon conduct Recapture for its Loss Reserve Account according to this subsection (g), and the Participating Financial Institution may thereupon submit new loan enrollments on or after the date of its written election. Nevertheless, Qualified Loans enrolled before August 15, 2017 will be supported by the Loss Reserve Account and the Participating Financial Institution will be eligible for claim reimbursement pursuant to Section 8074 for the previously enrolled Qualified Loans until maturity.

(5) The Authority shall deposit all Recaptured funds in the CalCAP ARB Financing Program Fund dedicated solely for future program and administrative expenditures of the CalCAP ARB Financing Program. The Authority may set aside up to 7 percent of all Recaptured funds for reasonable direct and indirect administrative costs of the Program.

(h) The Authority may suspend enrollment of Qualified Loans upon written notice to the Participating Financial Institution providing the specific reasons at least ten (10) business days prior to the effective date of the suspension. Reasons for suspension shall be for violations of applicable statutes, regulations or Authority policies and procedures. If the violations are not corrected within thirty (30) business days from the effective date of the suspension the Executive Director shall be authorized to terminate participation of a Participating Financial Institution in the Program. In the event of such termination, the Participating Financial Institution shall not be authorized to enroll any further Qualified Loans, but all previously enrolled Qualified Loans shall continue to be covered by the Loss Reserve Account until they are paid, claims are filed, or the Participating Financial Institution withdraws from the Program pursuant to Section 8076(a)(1).

Note: Authority cited: Sections 44520, 44559.5 and 44559.11, Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

§ 8078.26. Claim for Reimbursement.

(a) Participating Financial Institutions shall follow the procedures set forth in Section 8074 to submit claims for reimbursement for loans enrolled in the CalCAP ARB Financing Program. Any references to Section 8072 in Section 8074 shall be replaced with Section 8078.24.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

§ 8078.27. Subrogation.

The procedures for subrogation set forth in Section 8075 shall be followed for loans enrolled in the CalCAP ARB Financing Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

§ 8078.28. Termination and Withdrawal from Program.

The procedures for termination and withdrawal from the program set forth in Section 8076 shall be followed for loans enrolled in the CalCAP ARB Financing Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

§ 8078.29. Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the Collateral Support Program, Sections 8078.29 to 8078.35 inclusive. To the extent the definitions contained herein conflict with definitions contained in Section 8070, the definitions in this section shall control for purposes of the Collateral Support Program.

- (a) "Annual Fee" means the fee charged by the Authority for annual renewals of Collateral Support for lines of credit up to a total of 48 months.
- (b) "Annual Recapture" means the percentage of the original Collateral Support Contribution repaid to the Authority on an annual basis.
- (c) "Bridge Loan" means a loan needed prior to obtaining permanent financing or support, including Small Business Administration, 504 bridge loans, where the Participating Financial Institution is at increased risk pending future take-out financing or guarantee.
- (d) "Collateral Support" or "Collateral Support Contribution" means an amount of cash deposit offered and underwritten by the Authority covering a collateral shortfall of a Qualifying Loan of an otherwise credit-worthy Borrower.
- (e) "Collateral Support Program Approval" means the Authority's approval of Collateral Support for a Qualified Loan.
- (f) "Collateral Support Program Request" means the request that a Participating Financial Institution must submit to the Authority to apply for Collateral Support.
- (g) "Closing Fee" means the fee charged to the Borrower to participate in the Collateral Support Program when the Qualified Loan closes, based on the original amount and term of support, and type of Qualified Loan.
- (h) "Default Notification" means the written notice that a Participating Financial Institution must submit to the Authority upon the default of an enrolled loan.

(i) "Final Approval" means the discretionary approval of the Collateral Support offered and underwritten by the Authority after the submission of final loan documents and payment of the Closing Fee by the Participating Financial Institution.

(j) "Final Enrollment" means loan enrollment in the Program after the submission of final loan documents and payment of the Closing Fee by the Participating Financial Institution after receiving the Initial Approval.

(k) "Green & Manufacturing Loans" means (1) loans used primarily for supporting new or expanded business processes, products, services, and tenant improvements consistent with specific state policy goals or regulations furthering energy and water conservation, alternative energy, and environmental protection; (2) loans to provide working capital to contractors and other businesses providing specific services furthering energy and water conservation, alternative energy, and environmental protection; (3) loans to be used primarily for new or expanded production of materials and products for use or sale using labor and machines, tools, chemical and biological processing, assembly or formulation.

(l) "Initial Approval" means the discretionary, preliminary approval by the Authority of a Collateral Support Program Request submitted to the Authority, including any conditions, contingencies or additional parameters specified by the Authority necessary for Final Approval of the Collateral Support offered and underwritten by the Authority.

(m) "Program" means the Collateral Support Program.

(n) "Qualified Business" means the same as specified in Section 8070, except that, together with affiliates, the Qualified Business may have 750 or fewer employees.

(o) "Qualified Loan" means the same as specified in Section 8070, and any Small Business Loan, except that:

i. It may not be any loan that exceeds \$20,000,000;

ii. The proceeds of the loan may not be disbursed to the Borrower prior to the Authority's Initial Approval; and

iii. The Participating Financial Institution must certify that the loan is being made to an otherwise credit-worthy Borrower with a strong credit profile that meets all the Participating Financial Institution's regular underwriting policy, but for a collateral shortfall.

(p) "Principal Loan Amount" means the Qualified Loan disbursed to an eligible Borrower with a minimum amount of \$50,000 and a maximum amount of \$20,000,000.

(q) "Risk Assessment" means the valuation made by the Participating Financial Institution consistent with its usual credit policy, which must include: the value of the collateral based on the industry standard of measurement, such as through an appraisal; the Participating Financial institution's valuation of the collateral; the Borrower's risk rating; summary of the relationship and history of the business; the Borrower's cash flow; and financial analysis of the Borrower.

(r) "Small Business Loans" means a Qualified Loan.

(s) “Severely Affected Community (SAC) Contribution” means the additional support for which the Borrower may qualify when the Qualified Business is located in a Severely Affected Community.

(t) “Term of Support” means the amount of time a loan is enrolled in the Collateral Support Program, up to a maximum of 48 months from the date of the first disbursement of the loan.

Note: Authority cited: Sections 39601(a), 39650, 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Sections 44559.1, 44559.3, 44559.5 and 44559.11, Health and Safety Code.

§ 8078.30. Application by Financial Institution.

Financial Institutions shall follow the procedures set forth in Section 8071 to apply to become Participating Financial Institutions in the Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

§ 8078.31. Loan Enrollment.

In addition to the terms and conditions set forth in Section 8072, the following additional provisions shall apply to the Collateral Support Program:

(a) Participating Financial Institutions must submit to the Authority a Collateral Support Program Request and receive an Initial Approval prior to the funding of the loan. The Collateral Support Program Request shall include, all of the information required in Section 8072, in addition to the following:

(1) The type of the Qualified Loan, including whether the Qualified Loan is:

(A) A term loan, a bridge loan, or a line of credit; and

(B) A Green & Manufacturing Loan or a Small Business Loan.

(2) The term of support, which shall be up to a maximum of 48 months.

(3) The requested amount of Collateral Support, subject to the limits in this Section.

(4) The anticipated date of loan disbursement.

(5) Risk Assessment of the Borrower that shall include the following:

(A) Collateral Support Contribution, based on the Participating Financial Institution's usual credit policy;

(B) Any appraisals applicable to the use of the proceeds or collateral;

(C) An evaluation demonstrating the need for the Collateral Support, including an evaluation demonstrating a strong credit profile of the borrower and the loan except for the lack of collateral;

(D) Description of all other available collateral, including that of any co-guarantors; and

(E) Confirmation that all such other available collateral shall be pledged and liquidated first in the event of a default, work-out or charge-off; and the order in which it shall be liquidated prior to making a claim against the Collateral Support.

(b) The Authority shall, upon receipt of a Collateral Support Program Request from the Participating Financial Institution, provide an Initial Approval if the Executive Director determines that the Qualified Loan meets the requirements of the Collateral Support Program.

(1) The Authority shall review each Collateral Support Program Request for completeness, for consistency with the terms and conditions for a Qualified Business and a Qualified Loan, and to determine whether the Authority shall offer and underwrite the Collateral Support.

(2) The Executive Director shall notify the Participating Financial Institution of the Executive Director's determination within 15 business days after receipt by the Authority of all documentation required to make such determination. The Executive Director's determination shall be final.

(3) At the time of Initial Approval, the Executive Director shall also be authorized to require reasonable conditions, contingencies, or additional parameters necessary to support a prudent underwriting of the Collateral Support by the Authority, including but not limited to additional requirements to ensure the eligibility of the Borrower and the loan, the availability of cash flow, the value of the available collateral, and the liquidation plan in the event of a default.

(4) The Initial Approval will include confirmation of the following:

(A) The total anticipated amount of the Qualified Loan.

(B) The term of enrollment of the Qualified Loan.

(C) The total amount of the Collateral Support, including Severely Affected Community incentives if applicable.

(D) The applicable Closing Fee.

(E) Any conditions, contingencies, or additional parameters deemed reasonable by the Executive Director.

(5) Upon the Initial Approval of the Collateral Support Program Request, the Authority will issue notice of such approval with instructions for the Participating Financial Institution to open a Loss Reserve Account pursuant to Section 8078.32 and deposit the Borrower's Closing Fee prior to the disbursement of the loan.

(6) The Initial Approval of the Collateral Support Program Request is valid for ninety (90) days.

(c) Within fifteen (15) business days of the closing of a Qualified Loan that has received with Initial Approval, the Participating Financial Institution shall complete and submit to the Authority the following for Final Enrollment:

(1) Changes, if any, to the total amount of the Qualified Loan.

(2) Changes, if any, to the term of enrollment of the Qualified Loan.

- (3) Revisions, if any, to the Risk Assessment of the Borrower.
- (4) Documentation responsive to any conditions, contingencies, or additional parameters placed on the Collateral Support Program Request.
- (5) All certifications and representations required by the Participating Financial Institution and Borrower.
- (6) Proof of Closing Fee deposit and Loss Reserve Account opening.
- (7) The date of the disbursement of loan proceeds to the Borrower. The date of the disbursement must be after the date of the Initial Approval, and prior to the Final Enrollment.
- (d) Collateral Support shall be determined based on the type of loan, amount of loan, and term of loan enrollment as follows:
 - (1) Green & Manufacturing Loans are eligible to receive up to 40% of the loan value, up to a maximum Contribution of \$2,500,000.
 - (2) Small Business Loans are eligible to receive up to a maximum Contribution of \$500,000 as follows:
 - (A) Total loan values in the amount of \$50,000 to \$250,000 are eligible to receive Collateral Support up to 40% of the loan value.
 - (B) Total loan values in the amount of \$250,001 but no greater than \$20,000,000 are eligible to receive Collateral Support up to 30% of the loan value.
 - (3) All loans are eligible for a four (4) year term of support.
 - (4) All loans are eligible for an additional Severely Affected Community (SAC) Contribution if the Qualifying Business is located in a Severely Affected Community, in an amount not to exceed 25% of the Collateral Support, as long as the total amount of the Collateral Support in addition to the Severely Affected Community (SAC) Contribution does not exceed the maximum Contribution permitted for the type of loan.
- (e) Closing Fees shall be calculated based on the amount of Collateral Support (exclusive of the additional Severely Affected Community (SAC) Contribution), the type of loan, and the term of loan enrollment as follows:
 - (1) For all loan types, there shall be a minimum Closing Fee of 0.50% of the Collateral Support, or \$1000, whichever is greater.
 - (2) All loan types will be subject to Closing Fees based on the Term of Support as follows:
 - (A) If Term of Support is less than or equal to 12 months, the fee will be 0.5% of the Collateral Support.
 - (B) If Term of Support is greater than 12 months, but does not exceed 24 months, the fee will be 0.75% of the Collateral Support, unless the loan is for a Bridge Loan, in which case the fee will be 0.50% of the Collateral Support.
 - (C) If Term of Support is greater than 24 months, but does not exceed 36 months, the fee will be 2.00% of the Collateral Support.

(D) If Term of Support is greater than 36 months, but does not exceed 48 months, the fee will be 2.75% of the Collateral Support.

(3) For lines of credit, the fee will be calculated based on the Collateral Support amount as provided subdivision (e)(2). Prior to the expiration of the original Term of Enrollment, the Participating Financial Institution may request an extension, contingent upon current underwriting and subject to a 1.0% fee per year for each annual renewal up to a maximum of 48 months.

(4) For Bridge Loans, prior to the expiration of the original Term of Enrollment, the Participating Financial Institution may request an extension in writing. There is no fee associated with an approved extension as long as the total Term of Support as extended does not exceed 24 months. If the effect of any extension or series of extensions would increase the total Term of Support for the Bridge Loan into a tier associated with a higher Closing Fee, then any difference between the fees paid at closing and the newly calculated fees associated with the amended Term of Support would be charged to the Participating Financial Institution upon approval of the extension.

Note: Authority cited: Sections 44520 and 44559.5, Health and Safety Code. Reference: Sections 44559.2, 44559.4 and 44559.12, Health and Safety Code; and Section 1798.17, Civil Code.

§ 8078.32. Loss Reserve Accounts.

In addition to the requirements and procedures applicable to Loss Reserve Accounts provided in Section 8073, the following requirements and procedures shall apply only to the Collateral Support Program.

(a) A Loss Reserve Account shall be created for each Qualified Loan enrolled in the Collateral Support Program.

(b) Except for Bridge Loans and lines of credit, in conjunction with the loan anniversary for each Qualified Loan, the Authority shall recapture from each Loss Reserve Account a percentage of the Collateral Support according to an incremental recapture schedule, for use for future Collateral Support Program cash deposits, Contributions, and administrative expenditures. The percentage to be returned for each Annual Recapture will be based on the original Term of Support. The entire amount of Collateral Support for Bridge Loans and lines of credit will be recaptured at the expiration of the Term of Support.

(c) Annual Recapture is based on the Term of Support as follows:

(1) If Term of Support is less than or equal to 12 months, then 100% of the Collateral Support and Severely Affected Community (SAC) Contribution is recaptured at the expiration of the term of support.

(2) If Term of Support is greater than 12 months, but does not exceed 24 months, then 50% of the Collateral Support and Severely Affected Community (SAC) Contribution is recaptured upon the Annual Recapture date and at the expiration of the term of support.

(3) If Term of Support is greater than 24 months, but does not exceed 36 months, then 33.3% of the Collateral Support and Severely Affected Community (SAC) Contribution is recaptured upon each Annual Recapture date and at the expiration of the term of support.

(4) If Term of Support is greater than 36 months, but does not exceed 48 months, then 25% of the Collateral Support and Severely Affected Community (SAC) Contribution is recaptured upon each Annual Recapture date and at the expiration of the term of support.

(5) The Authority shall deposit all Recaptured funds in the CalCAP for Collateral Support Program Fund dedicated solely for future program and administrative expenditures of the CalCAP for Collateral Support Program. The Authority may set aside up to 7 percent of all Recaptured funds for reasonable direct and indirect administrative costs of the Program.

(d) Upon receipt of a Default Notification from the Participating Financial Institution, the Annual Recapture is suspended. Submittal of Default Notification does not suspend the Authority's withdrawal of interest and other income from the Loss Reserve Account. If the default or delinquency affecting the Qualifying Loan is subsequently resolved through a Change in Terms, settlement, or other workout which avoids charge-off of the loan, the Participating Financial Institution shall promptly withdraw the Default Notification, and the Annual Recapture will resume according to the original schedule and loan anniversary date.

Note: Authority cited: Sections 44520 and 44559.5(f), Health and Safety Code. Reference: Sections 44559.3 and 44559.8, Health and Safety Code.

§ 8078.33. Claim for Reimbursement.

(a) Upon the default of an enrolled loan, the Participating Financial Institution must submit a written Default Notification, or prior to the expiration of the Term of Support, in order to suspend further Annual Recapture.

(b) For a loan in default, the Participating Financial Institution shall provide in each Quarterly Report a short report of the status of the loan, including a short narrative of the loan collection history, and the status of the attempt to work out the default including the sale of proceeds or attempts to liquidate collateral.

(c) If the default or delinquency affecting the Qualifying Loan is subsequently resolved through a Change in Terms, settlement or other workout which avoids charge-off and collateral liquidation of the loan, the Participating Financial Institution shall promptly withdraw the Default Notification, and the Annual Recapture will resume according to the original schedule and loan anniversary date.

(d) Within thirty (30) calendar days following charge-off and collateral liquidation, whichever is later, the lender will submit a written claim for Collateral Support Payment, including: a history of the account payments, the date of charge-off, the complete loan collection history, any attempts to work out the default prior to charge off, the sale of proceeds, and the success of attempts to liquidate collateral and guarantees pledged at closing in advance of the Collateral Support.

(e) The Collateral Support shall not be claimed by a Participating Financial Institution in lieu of pursuing and liquidating pledged collateral. All pledged collateral must be liquidated consistent with the participating financial institution's usual method for loans not enrolled in the Collateral Support Program.

(f) After liquidation of all pledged collateral for a charged-off loan, a Participating Financial Institution may be reimbursed for: the amount of loan principal charged-off net liquidated collateral; reasonable out-of-pocket expenses incurred in pursuing its collection efforts, including the preservation of collateral, and other related costs; and accrued and unpaid interest. Proper documentation of any claimed expenses shall be presented at the time of the claim. The amount paid on a claim will never exceed the present amount in the Collateral Support Loss Reserve account.

(g) If, in the attempt to work out a default or charge-off, a Participating Financial Institution seeks to have an amended or new loan or debt structure with the Borrower covered by Collateral Support, the Participating Financial Institution shall submit a Collateral Support Program Request pursuant to Section 8078.31 and the Authority shall review it as a new loan or Refinance subject to all Program requirements, including fees if applicable.

Note: Authority cited: Sections 44520 and 44559.5(f), Health and Safety Code. Reference: Section 44559.5, Health and Safety Code.

§ 8078.34. Subrogation.

The procedures for subrogation set forth in Section 8075 shall be followed for loans enrolled in the Collateral Support Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

§ 8078.35. Termination and Withdrawal from the Program.

The procedures for termination and withdrawal from the program set forth in Section 8076 shall be followed for loans enrolled in the Collateral Support Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

XI. Statute (California Health & Safety Code)

Division 27. California Pollution Control Financing Authority Act. Article 2. Organization of Authority

44520. (a) The authority shall, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt all necessary rules and regulations to carry out its powers and duties under this division. The authority may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively control pollution.

(b) Notwithstanding subdivision (a), the authority, or any other agency implementing a small business or brownfield site financing assistance program pursuant to an interagency agreement with the authority, may adopt regulations relating to small business or brownfield site financing as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5.

(c) Notwithstanding subdivision (a), the authority, or any other agency implementing a loan program pursuant to an interagency agreement with the authority, may adopt regulations relating to the loans and grants authorized under subdivision (g) of Section 44526 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5.

(Amended by Stats. 2009, Ch. 643, Sec. 7. (SB 832) Effective November 2, 2009.)

Division 27. California Pollution Control Financing Authority Act. Article 8. Capital Access Loan Program for Small Businesses

44559. (a) The Legislature finds and declares that small businesses are responsible for a significant amount of environmental emissions in the state, but are less able than larger businesses to afford the investment in new equipment or process modifications needed to comply with environmental regulations, with regard to controlling emissions, preventing the creation of pollutants, contaminants, or waste products, and remediating contamination of properties with a reasonable potential for economically beneficial reuse. Additionally, small businesses faced with financial pressures will be likely to reduce expenditures to achieve environmental compliance. 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.

(b) The Legislature also finds and declares that it is in the best interest of the state to expand the Capital Access Loan Program for small business regardless of whether the operations of the small business affect the environment, and to permit business loans to be included in the program for small businesses whose operations do not, necessarily, affect the environment. Small businesses have difficulty gaining access to capital for startup and expansion purposes. Small businesses owned by minorities and women have special capital access difficulties. In addition, small businesses operating in areas affected by military base closures are disadvantaged by limited access to capital. The Legislature finds that improving access to capital for these small businesses will spur investment, create jobs, expand economic opportunities, assist in the recovery of communities affected by defense and aerospace losses, assist in the recovery of neighborhoods and communities affected by contaminated properties that are not being used for economically beneficial purposes but which could be so used if the contamination was remediated, and help sustain and strengthen economic recovery in California. (Amended by Stats. 2000, Ch. 915, Sec. 11. Effective January 1, 2001.)

44559.1. As used in this article, unless the context requires otherwise, all of the following terms have the following meanings:

(a) “Authority” means the California Pollution Control Financing Authority.

(b) “California Capital Access Fund” means a fund created within the authority to be used for purposes of the program.

(c) “Executive director” means the Executive Director of the California Pollution Control Financing Authority.

(d) (1) “Financial institution” means a federal- or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of these entities. A consortium of those entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent.

(2) (A) “Financial institution” also includes a lending institution that has executed a participation agreement with the Small Business Administration under the guaranteed loan program pursuant to Part 120 (commencing with Section 120.1) of Chapter I of Title 13 of the Code of Federal Regulations and meets the requirements of Section 120.410 of Chapter I of Title 13 of the Code of Federal Regulations, a small business investment company licensed pursuant to Part 107 (commencing with Section 107.20) of Chapter I of Title 13 of the Code of Federal Regulations, and a small business financial development corporation, as defined in Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, or microbusiness lender, as defined in Section 12100 of the Government Code, that meets standards that shall be established by the authority. For loans where all or part of the fees and matching contributions are paid by an entity participating in the program pursuant to subdivision (e) of Section 44559.2, “financial institution” also includes financial lenders, as defined in Section 22009 of the Financial Code, making commercial loans, as defined in Section 22502 of the

Financial Code.

(B) A financial institution described in this paragraph shall be domiciled or have its principal office in the State of California.

(3) "Financial institution" also includes an insured depository institution, insured credit union, or community development financial institution, as these terms are defined in Section 4702 of Title 12 of the United States Code.

(e) "Loss reserve account" means an account in the State Treasury or any financial institution that is established and maintained by the authority for the benefit of a financial institution participating in the Capital Access Loan Program established pursuant to this article for the purposes of the following:

(1) Depositing all required fees paid by the participating financial institution and the qualified business.

(2) Depositing contributions made by the state and, if applicable, the federal government or other sources.

(3) Covering losses on enrolled qualified loans sustained by the participating financial institution by disbursing funds accumulated in the loss reserve account.

(f) "Participating financial institution" means a financial institution that has been approved by the authority to enroll qualified loans in the program and has agreed to all terms and conditions set forth in this article and as may be required by any applicable federal law providing matching funding.

(g) "Passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, but does not include any of the following:

(1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

(h) "Program" means the Capital Access Loan Program created pursuant to this article.

(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.

(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.

(2) “Qualified loan” does not include any of the following:

(A) A loan for the construction or purchase of residential housing.

(B) A loan to finance passive real estate ownership.

(C) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased.

(D) A loan, the proceeds of which will be used in any manner that could cause the interest on any bonds previously issued by the authority to become subject to federal income tax.

(k) “Severely affected community” means any area classified as an enterprise zone pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), any area, as designated by the executive director, contiguous to the boundaries of a military base designated for closure pursuant to Section 2687 of Title 10 of the United States Code, as amended, and any other comparable economically distressed geographic area so designated by the executive director from time to time.

(l) “Small Business Assistance Fund” means a fund created within the authority pursuant to Section 44548.

(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.

(Amended by Stats. 2014, Ch. 132, Sec. 9. (AB 2749) Effective January 1, 2015.)

44559.2. (a) The authority may contract with any financial institution for the purpose of allowing the financial institution to participate in the Capital Access Loan Program established by this article.

(b) For purposes of this section, the authority may contract with participating financial institutions and shall utilize a standard form of contract that is reviewed and approved by the Department of General Services. The standard form of contract shall provide for all of the following:

(1) The creation of a loss reserve account by the authority for the benefit of the financial institution.

(2) The financial institution, qualified business, and the authority will deposit moneys to the credit of

the institution's loss reserve account when the financial institution makes a qualified loan to a qualified business.

(3) The liability of the state and the authority to the financial institution under the contract is limited to the amount of money credited to the loss reserve account of the institution.

(4) The financial institution shall provide the information that the authority may require, including financial information that is identifiable with, or identifiable from the financial records of a particular customer who is the recipient of a qualified loan. In addition to any other information that the authority may require, the financial institution shall provide the complete North American Industry Classification System (NAICS) for the qualified business, the number of jobs created, the number of jobs retained, and information that provides the precise geographic location of both the qualified business and the borrower, if different.

(5) The financial institution will file a report with the executive director setting out a full description of the board of directors, including size, race, ethnicity, and gender.

(6) The participating financial institution will require each borrower, prior to receiving a loan under the program, to sign a written representation to the participating financial institution that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the loss reserve account established by the authority for the participating financial institution.

(7) Other terms that the authority may require for purposes of this article.

(c) A financial institution is not subject to laws restricting the disclosure of financial information when the financial institution provides information to the authority as required by paragraph (4) of subdivision (b).

(d) A credit union operating pursuant to a certificate issued under the California Credit Union Law (Division 5 (commencing with Section 14000) of the Financial Code) may participate in the Capital Access Loan Program established pursuant to this article only to the extent participation is in compliance with the California Credit Union Law. Nothing in this article shall be construed to limit the authority of the Commissioner of Financial Institutions to regulate credit unions subject to the commissioner's jurisdiction under the California Credit Union Law.

(e) Any individual, company, corporation, institution, utility, government agency, or other entity, including any consortium of these persons or entities, whether public or private, may participate in the Capital Access Loan Program established pursuant to this article by depositing funds in the California Capital Access Fund under those terms and conditions as may be deemed appropriate by the authority. *(Amended by Stats. 2011, Ch. 483, Sec. 3. (AB 901) Effective January 1, 2012.)*

44559.3. (a) The authority shall establish a loss reserve account for each financial institution with which the authority makes a contract.

(b) The loss reserve account for a financial institution shall consist of moneys paid as fees by borrowers and the financial institution, moneys transferred to the account from a small business assistance fund, any matching federal moneys, and any other moneys provided by the authority or other source.

(c) Notwithstanding any other law, the authority may establish and maintain loss reserve accounts with any financial institution under any policies the authority may adopt.

(d) All moneys in a loss reserve account established pursuant to this article are the exclusive property of, and solely controlled by, the authority. Interest or income earned on moneys credited to the loss reserve account shall be deemed to be part of the loss reserve account. The authority may withdraw from the loss reserve account all, or a portion of, the interest or other income that has been credited to the loss reserve account. Any withdrawal made pursuant to this subdivision may be made prior to paying any claim and shall be used for the sole purpose of offsetting costs associated with carrying out the program, including administrative costs and loss reserve account contributions.

(e) The combined amount to be deposited by the participating financial institution into any individual loss reserve account over a three-year period, in connection with any single borrower or any group of borrowers among which a common enterprise exists, shall be not more than one hundred thousand dollars (\$100,000).

(Amended by Stats. 2011, Ch. 484, Sec. 2. (AB 981) Effective January 1, 2012.)

44559.4. (a) If a financial institution that is participating in the Capital Access Loan Program established pursuant to this article decides to enroll a qualified loan under the program in order to obtain the protection against loss provided by its loss reserve account, it shall notify the authority in writing on a form prescribed by the authority, within 15 days after the date on which the loan is made, of all of the following:

- (1) The disbursement of the loan.
- (2) The dollar amount of the loan enrolled.
- (3) The interest rate applicable to, and the term of, the loan.
- (4) The amount of the agreed upon premium.

(b) The executive director may authorize an additional five days for a financial institution to submit the written notification described in subdivision (a) to the authority on a loan-by-loan basis for a reason limited to conditions beyond the reasonable control of the financial institution.

(c) The financial institution may make a qualified loan to be enrolled under the program to an individual, or to a partnership or trust wholly owned or controlled by an individual, for the purpose of financing property that will be leased to a qualified business that is wholly owned by that individual. In that case, the property shall be treated as meeting the requirements of paragraph (1) of subdivision (i)

of Section 44559.1.

(d) When making a qualified loan that will be enrolled under the program, the participating financial institution shall require the qualified business to which the loan is made to pay a fee of not less than 2 percent of the principal amount of the loan, but not more than 3 1/2 percent of the principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subdivision to the authority for deposit in the loss reserve account for the institution. The financial institution may recover from the borrower the cost of its payments to the loss reserve account through the financing of the loan, upon the agreement of the financial institution and the borrower. The financial institution may cover the cost of borrower payments to the loan loss reserve account.

(e) When depositing fees collected under subdivision (d) to the credit of the loss reserve account for a participating financial institution, the authority shall do the following:

(1) If matching funds are not available under a federal capital access program or other source, the authority shall transfer to the loss reserve account an amount that is not less than the amount of the fees paid by the participating financial institution. However, if the qualified business is located within a severely affected community, the authority shall transfer to the loss reserve account an amount not less than 150 percent of the amount of the fees paid by the participating financial institution.

(2) If matching funds are available under a federal capital access program or other source, the authority shall transfer, on an immediate or deferred basis, to the loss reserve account the amount required by that federal program or other source. However, the total amount deposited into the loss reserve account shall not be less than the amount which would have been deposited in the absence of matching funds.

(f) This section shall become operative on April 1, 2017.

(Amended (as added by Stats. 2012, Ch. 274, Sec. 2) by Stats. 2016, Ch. 86, Sec. 192. (SB 1171) Effective January 1, 2017. Section operative April 1, 2017, by its own provisions.)

44559.5. (a) The authority shall establish procedures under which financial institutions participating in the program established pursuant to this article may submit claims for reimbursement for losses incurred as a result of qualified loan defaults. A participating financial institution that charges off all or part of an enrolled loan to the loss reserve account may file a claim for reimbursement with the authority if both of the following conditions are met:

(1) The claim occurs contemporaneously with the action of the participating financial institution to charge off all or part of the loan.

(2) The charge off on an enrolled loan is made in a manner that is consistent with the participating financial institution's usual method for making determinations on business loans that are not enrolled loans.

(b) Costs for which a financial institution may be reimbursed from its loss reserve account include the

amount of loan principal charged off, accrued interest on the principal, reasonable out-of-pocket expenses incurred in pursuing its collection efforts, including preservation of collateral, and any other related costs. Proper documentation of the expenses shall be presented at the time of the claim.

(c) If a participating financial institution files two or more claims contemporaneously, and there are insufficient funds in the reserve fund at that time to cover the entire amount of such claims, the institution may designate the order of priority in which the claims shall be paid.

(d) A financial institution may seek reimbursement of loan losses prior to the liquidation of collateral from defaulted loans. The financial institution shall repay its loss reserve account for any moneys received as reimbursement under this section if the financial institution recovers moneys from the borrower or from the liquidation of collateral for the defaulted loan, less any reasonable out-of-pocket expenses incurred in collection of such amount.

(e) In any case in which the payment of a claim under this section has fully covered a participating financial institution's loss on an enrolled loan, the participating financial institution shall assign to the authority, and to any applicable federal agency in the event federal matching funds are involved, any right, title, or interest to any collateral, security, or other right of recovery in connection with a loan made under the program.

(f) The executive director may adopt necessary rules for the authority to carry out its duties, functions, and powers relating to the program established pursuant to this article.

(Added by Stats. 1993, Ch. 1164, Sec. 4. Effective January 1, 1994.)

44559.6. The authority shall annually prepare a report to the Governor and the Legislature that describes the financial condition and programmatic results of the capital access loan program for small businesses authorized under this article. Programmatic results shall include, but not be limited to, the total number of businesses served, jobs created, jobs retained, the geographic distribution of the loans, and the breakdown of businesses served by industry sector for all new loans issued since the report for the prior year.

(Amended by Stats. 2011, Ch. 483, Sec. 4. (AB 901) Effective January 1, 2012.)

44559.7. The authority may enter into agreements with commercial banks or other financial institutions, or with other agencies of the state, to provide necessary assistance in carrying out the program authorized by this article, including origination and servicing of loans.

(Added by Stats. 1993, Ch. 1164, Sec. 4. Effective January 1, 1994.)

44559.8. Notwithstanding this article, the authority may facilitate the development of a secondary market for a loan enrolled in the capital access loan program by providing security for that loan, thereby increasing participation in the program by financial institutions and improving access to capital for small businesses. For purposes of this section, the actions that the authority may take include, but are not necessarily limited to, assigning all, or a portion of, any loss reserve account to any other entity in connection with providing security for a loan, including a trustee of a securitization trust, transferring an enrolled loan from a participating financial institution to a securitization trust, and assisting

underwriters in marketing a loan to the secondary market.
(Added by Stats. 1999, Ch. 756, Sec. 4. Effective October 10, 1999.)

44559.9. The authority shall expand the Capital Access Loan Program established by this article to include outreach to financial institutions that service agricultural interests in the state for the purpose of funding air pollution control measures.
(Added by Stats. 2003, Ch. 479, Sec. 13. Effective January 1, 2004.)

44559.11. (a) It is the intent of the Legislature to ensure that the state, through the authority, may make maximum, efficient use of capital access programs enacted by all federal and state agencies, as well as funding available from any governmental program whose goals may be advanced by providing funding to the Capital Access Loan Program.

(b) In furtherance of this intent, and notwithstanding any other provision of this article, when the contributions required pursuant to Section 44559.4 are entirely funded by a public or quasi-public entity other than the authority's fee revenue under Sections 44525 and 44548, the authority may, by regulation adopted pursuant to subdivision (b) of Section 44520 or subdivision (e) of Section 44559.14, establish alternate provisions as necessary to enable the authority to participate in the alternative funding source program, including implementing loan loss reserve programs to benefit any individual person engaged in qualifying activities in furtherance of the public or quasi-public entity's policy objectives in the state that require financing.
(Amended by Stats. 2016, Ch. 32, Sec. 69. (SB 837) Effective June 27, 2016.)

44559.12. (a) Consistent with subdivision (b) of Section 44559.11, the authority may establish loss reserve accounts for the purposes of financing terminal rental adjustment clause leasing, if funds are available for contribution into the loss reserve account from any source other than the authority. The authority shall not contribute any funds into a loss reserve account created pursuant to this section. Funds provided by the federal government for the purposes of providing a loan loss reserve program shall not be contributed to an account created pursuant to this section.

(b) The executive director may establish conditions for terminal rental adjustment clause leasing loss reserve accounts created pursuant to this section.

(c) As used in this section, "terminal rental adjustment clause" means "terminal rental adjustment clause" as defined in Section 7701(h)(3) of Title 26 of the United States Code.
(Added by Stats. 2011, Ch. 492, Sec. 2. (SB 225) Effective October 6, 2011.)

44559.13. (a) It is the intent of the Legislature in this act to create and fund the California Americans with Disabilities Act Small Business Capital Access Loan Program to assist small businesses in complying with the Americans with Disabilities Act. It is not the intent of the Legislature to assist the physical expansion of small businesses that includes modifications that comply with the Americans with Disabilities Act. The program shall be administered by the California Pollution Control Financing Authority and follow the terms and conditions for the Capital Access Loan Program for Small Businesses in this article with the additional program requirements specified under this section.

(b) For purposes of this section, unless the context requires otherwise, the following words and terms shall have the following meanings:

(1) “Americans with Disabilities Act” means the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and amendments thereto.

(2) “California Americans with Disabilities Act Small Business Capital Access Loan Program Fund” or “fund” means a fund established and administered by the authority pursuant to Sections 44548 and 44549 to be used for purposes of this program.

(3) (A) “Eligible cost” means and includes all or any part 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 before, 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.

(B) “Eligible cost” shall not include costs not directly related to physical alterations necessary for compliance with the Americans with Disabilities Act.

(4) “Eligible project” means the physical alterations or retrofits to an existing small business facility of less than 10,000 square feet necessary to ensure that facility is in compliance with the Americans with Disabilities Act, and the financing necessary to pay eligible costs of the project.

(5) “Qualified loan” means a loan or portion of a loan as defined in subdivision (j) of Section 44559.1, where the proceeds of the loan or portion of the loan are limited to the eligible costs for an eligible project under this program, and where the loan or portion of the loan does not exceed fifty thousand dollars (\$50,000).

(6) “Small business” or “qualified business” means a business that is independently owned and operated and not dominant in its field that meets both of the following additional criteria:

(A) It has 30 or fewer full-time equivalent employees, or it has less than five million dollars (\$5,000,000) in total gross annual income from all sources.

(B) It does not provide overnight accommodations.

(c) (1) The California Americans with Disabilities Act Small Business Capital Access Loan Program Fund is established in the State Treasury for, and shall be administered by the authority pursuant to Sections 44548 and 44549 for, this program. Notwithstanding Section 13340 of the Government Code, all money

in the fund is continuously appropriated to the authority for carrying out the purposes of this section. The authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this section from any source shall be deposited into the fund.

(2) All moneys in the fund derived from any source shall be held in trust for the life of this program, subject to the program expenditures and costs of administering this section, as follows:

(A) Program expenditures shall include all of the following:

(i) Contributions paid by the authority in support of qualified loans.

(ii) Payments made to borrowers enrolling loans to participate in the program, to the extent that moneys other than the initial appropriation are deposited into the fund by the authority and are authorized for that use pursuant to paragraph (3) of subdivision (d).

(iii) Reasonable costs to educate the small business community and participating lenders about the program, including travel within the state.

(B) Administrative expenditures shall be limited to 5 percent of the initial appropriation plus 5 percent of all moneys recaptured, and shall include all of the following:

(i) Personnel costs.

(ii) Service and vending contracts necessary to carry out the program.

(iii) Other reasonable direct and indirect administrative costs.

(3) The authority may direct the Treasurer to invest moneys in the fund that are not required for its current needs in the eligible securities specified in Section 16430 of the Government Code as the authority shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices located in the state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from an investment or deposit shall be deposited into the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(d) The authority shall adopt regulations pursuant to subdivision (c) of Section 44520 to implement the program, including provisions specific to this program as described in this section and further including provisions to:

(1) Establish a new loss reserve account for each participating lender enrolling loans in this program.

(2) Obtain a certification from each participating lender and small business upon enrollment of a qualified loan that the proceeds of the loan will be used for the eligible costs of an eligible project.

(3) Contribute an additional incentive from the fund for each loan enrolled for a qualified business located in a severely affected community, or make nonreimbursable payments from other moneys to participating borrowers to offset all or a portion of the reasonable costs of architectural inspections obtained from a person who is certified as an access specialist pursuant to the program described in Section 4459.5 of the Government Code.

(4) Restrict the enrollment of a qualified loan in any other Capital Access Loan Program for small business offered by the authority as long as funds are available for this program.

(5) Limit the term of loss coverage for each qualified loan to no more than five years.

(6) Recapture from the loss reserve account the authority's contribution for each enrolled loan upon the maturation of such loan or after five years from the date of enrollment, whichever happens first, to be deposited in the fund and applied to future program and administrative expenditures.

(Amended (as amended by Stats. 2017, Ch. 644, Sec. 2) by Stats. 2018, Ch. 645, Sec. 13. (AB 1547) Effective September 21, 2018.)

44559.14. (a) (1) It is the intent of the Legislature in enacting the act adding this section to create and fund a program to assist residential property owners and small business owners in seismically retrofitting residences and small businesses with a priority on soft-story buildings and unreinforced brick and concrete buildings. It is not the intent of the Legislature to assist the physical expansion of small businesses and residences.

(2) The Legislature hereby establishes the California Seismic Safety Capital Access Loan Program. The program shall cover losses on qualified loans by participating lenders to qualified residential property owners or qualified small businesses for eligible projects, as specified under this section. The program shall be administered by the California Pollution Control Financing Authority and follow the terms and conditions for the Capital Access Loan Program in this article with the additional program requirements specified under this section.

(b) For purposes of this section, unless the context requires otherwise, the following words and terms shall have the following meanings:

(1) "Seismic retrofit construction" means alteration performed on or after January 1, 2017, of a qualified building or its components to substantially mitigate seismic damage. "Seismic retrofit construction" includes, but is not limited to, all of the following:

(A) Anchoring the structure to the foundation.

(B) Bracing cripple walls.

(C) Bracing hot water heaters.

(D) Installing automatic gas shutoff valves.

(E) Repairing or reinforcing the foundation to improve the integrity of the foundation against seismic damage.

(F) Anchoring fuel storage.

(G) Installing an earthquake-resistant bracing system for mobilehomes that are registered with the Department of Housing and Community Development.

(H) Strengthening a building's lateral load resisting system.

(2) "Eligible costs" means the costs paid or incurred on or after January 1, 2017, for an eligible project, including any engineering or architectural design work necessary to permit or complete the eligible project less the amount of any grant provided by a public entity for the eligible project. "Eligible costs" do not include costs paid or incurred for any of the following:

(A) Maintenance, including abatement of deferred or inadequate maintenance, and correction of violations unrelated to the seismic retrofit construction.

(B) Repair, including repair of earthquake damage.

(C) Seismic retrofit construction required by local building codes as a result of addition, repair, building relocation, or change of use or occupancy.

(D) Other work or improvement required by local building or planning codes as a result of the intended seismic retrofit construction.

(E) Rent reductions or other associated compensation, compliance actions, or other related coordination involving the qualified residential property owner or qualified small business and any other party, including a tenant, insurer, or lender.

(F) Replacement of existing building components, including equipment, except as needed to complete the seismic retrofit construction.

(G) Bracing or securing nonpermanent building contents.

(H) The offset of costs, reimbursements, or other costs transferred from the qualified residential property owner or qualified small business to others.

(3) "Eligible project" means seismic retrofit construction that is necessary to ensure that the qualified building is capable of substantially mitigating seismic damage, and the financing necessary to pay

eligible costs of the project.

(4) “Qualified building” means a residential or commercial building that is identified by the local building code official for the jurisdiction in which the building is located as a building in need of seismic retrofitting and is either a building of a type that is potentially vulnerable in the event of a catastrophic earthquake or a building constructed before 1981.

(5) “Qualified loan” means a loan or portion of a loan as defined in subdivision (j) of Section 44559.1, where the proceeds of the loan or portion of the loan are limited to the eligible costs for an eligible project under this program, and where the loan or portion of the loan does not exceed two hundred fifty thousand dollars (\$250,000).

(6) “Qualified small business” means a business referred to in subdivisions (i) and (m) of Section 44559.1 that owns a qualified building regardless of owner occupancy, notwithstanding the restriction on passive real estate ownership in subparagraph (B) of paragraph (2) of subdivision (j) of Section 44559.1.

(7) “Qualified residential property owner” means either an owner of a residential building that is a qualified building or a qualified small business that owns one or more residential buildings, including a multiunit housing building, that is a qualified building, notwithstanding the restriction on passive real estate ownership in subparagraph (B) of paragraph (2) of subdivision (j) of Section 44559.1.

(c) (1) The California Seismic Safety Capital Access Loan Program Fund is established in the State Treasury and shall be administered by the authority pursuant to Sections 44548 and 44549 for this program. For purposes of this section, the references in Sections 44548 and 44549 to “small business” shall include “qualified residential property owner,” as defined in this section. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the authority for carrying out this section. The authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this section from any source shall be deposited into the fund.

(2) All moneys in the fund derived from any source shall be held in trust for the life of this program, for program expenditures and costs of administering this section, as follows:

(A) Program expenditures shall include both of the following:

(i) Contributions paid by the authority in support of qualified loans.

(ii) Costs for a qualified expert to validate that the proceeds of the loans are eligible costs, as defined under this section.

(iii) Reasonable costs to educate the small business community, residential property owners, and participating lenders about the program, including travel within the state.

(B) Administrative expenditures shall be limited to 5 percent of the initial appropriation plus 5 percent

of all moneys recaptured, and shall include all of the following:

(i) Personnel costs.

(ii) Service and vending contracts, other than program expenditures described in subparagraph (A), that are necessary to carry out the program.

(iii) Other reasonable direct and indirect administrative costs.

(3) The authority may direct the Treasurer to invest moneys in the fund that are not required for its current needs in the eligible securities specified in Section 16430 of the Government Code as the authority shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices located in the state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from an investment or deposit shall be deposited into the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(d) The authority shall adopt regulations pursuant to Section 44520 to implement the program, including, but not limited to, provisions to:

(1) Establish a new loss reserve account for each participating lender enrolling loans in this program.

(2) Obtain a certification from each participating lender and qualified small business or qualified residential property owner upon enrollment of a qualified loan that the proceeds of the loan will be used for the eligible costs of an eligible project.

(3) Contribute an additional incentive from the fund for each loan enrolled for a qualified small business or qualified residential property owner located in a severely affected community.

(4) Restrict the enrollment of a qualified loan in any other Capital Access Loan Program for a qualified small business or qualified residential property owner offered by the authority as long as funds are available for this program.

(5) Limit the term of loss coverage for each qualified loan to no more than 10 years.

(6) Recapture from the loss reserve account the authority's contribution for each enrolled loan upon the maturation of that loan or after 10 years from the date of enrollment, whichever happens first, to be deposited in the fund and applied to future program and administrative expenditures.

(e) The authority may adopt regulations relating to residential property owner or small business

financing as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5.
(Amended by Stats. 2018, Ch. 645, Sec. 14. (AB 1547) Effective September 21,