

RESOLUTION NO. 25-06

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK DELEGATING CERTAIN AUTHORITIES TO THE EXECUTIVE DIRECTOR TO ACT ON BEHALF OF IBANK IN ANY ACUTAL OR POTENTIAL LITIGATION RELATING TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S NATIONAL CLEAN INVESTMENT FUND SUBGRANT

WHEREAS, the California Infrastructure and Economic Development Bank (“IBank”) is established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (Cal. Gov. Code § 63000 et seq.) (the “IBank Act”), for the purpose of providing financial assistance to eligible projects in the State of California through a variety of financing mechanisms;

WHEREAS, effective June 29, 2020, Article 6.7 of the IBank Act (Cal. Gov. Code §§ 63048.91-63048.100) was added to the IBank Act establishing the Climate Catalyst Revolving Loan Fund and the Climate Catalyst Revolving Loan Fund Program (together, the “Climate Catalyst Fund”) for the purpose of providing financial assistance for eligible projects (a “Climate Catalyst Project”) intended to further California’s climate goals, activities that reduce climate risk, and the implementation of low-carbon technology and infrastructure;

WHEREAS, on August 8, 2024 the Coalition of Green Capital (the “CGC”) entered into a grant agreement (“Grant Agreement”) with the United States Environmental Protection Agency (the “EPA”) under the National Clean Investment Fund (“NCIF”) of the Greenhouse Gas Reduction Fund (“GGRF”) for the establishment and operation of a national green bank for the purposes of (i) providing financial assistance to qualified projects, (ii) conducting market-building activities, (iii) conducting predevelopment activities, and (iv) conducting program administration activities (the “CGC Program”);

WHEREAS, on September 25, 2024, the Board of Directors (the “Board”) adopted a Federal Greenhouse Gas Reduction Fund – National Clean Investment Fund Financing Plan (the “NCIF Financing Plan”) for the purpose of financing eligible projects under the Climate Catalyst Fund;

WHEREAS, on January 8, 2025, IBank and CGC entered into a NCIF subgrant agreement and its related transaction documents (together, the “Subgrant Agreement”) for the purpose of receiving \$446,257,500 under the subgrant (the “Subgrant”), subject to the Board’s approval, ratification, and authorization to use the proceeds of the Subgrant in accordance with the Climate Catalyst Criteria, the NCIF Financing Plan, and the Subgrant implementation plan.

WHEREAS, on January 22, 2025, the Board adopted Resolution No. 25-02 approving, ratifying and authorizing IBank’s entry into the Subgrant Agreement;

WHEREAS, on January 22, 2025, IBank, CGC, and Citibank, N.A. (“Citibank”) entered into an account control agreement (“ACA”) as required by the Subgrant Agreement in order to open accounts at Citibank (“Accounts”) for the purpose of depositing the proceeds of the Subgrant;

WHEREAS, in the ACA, Citibank agreed to abide by IBank’s instruction directing the disposition of funds and financial assets in IBank’s Accounts unless CGC issues a notice of exclusive control (“Notice of Exclusive Control”) with a written determination and finding that IBank is in substantial noncompliance with the terms and conditions of the Subgrant Agreement; there is adequate evidence of fraud, waste, or abuse; or a default has occurred under the Subgrant Agreement;

WHEREAS, on February 18, 2025, Citibank failed to abide by the terms of ACA by freezing the Accounts and restricting IBank’s access to the proceeds of the Subgrant without having received a Notice of Exclusive Control from CGC;

WHEREAS, on March 10, 2025, CGC filed a complaint in the United States District Court in the Southern District of New York against Citibank seeking declaratory and injunctive relief (the “SDNY Complaint”);

WHEREAS, on March 11, 2025, the EPA issued a Notice of Termination to CGC purporting to terminate the Grant Agreement;

WHEREAS, on March 12, 2025, CGC voluntarily dismissed the SDNY Complaint and filed a complaint in the United States District Court for the District of Columbia against Citibank, the EPA, Lee Zeldin as administrator of the EPA, and W.C. McIntosh as acting deputy administrator of the EPA to seek injunctive relief against Citibank and to challenge EPA’s termination of the Grant Agreement;

WHEREAS, on March 13, 2025, IBank provided to each Board member a notice of special meeting to take place on March 17, 2025, concerning potential litigation;

WHEREAS, on March 14, 2025, CGC filed a motion for a temporary restraining order to prevent EPA from ordering, and Citibank from carrying out, any action to claw back funds held in the accounts of CGC and its subgrantees;

WHEREAS, in the opinions of IBank’s General Counsel and the California Attorney General’s Office, in its capacity as IBank’s counsel in matters relating to the Subgrant and the Subgrant Agreement, due to the immediate actions required by any potential litigation, a special meeting is warranted pursuant to Cal. Gov. Code, § 11125.4, subd. (c) to protect the public interest as any delay may cause the State of California to lose over \$446 million in federal grant funds dedicated to activities with substantial public impacts, such as job creation in and economics benefits to local communities, and greater and faster reductions in emissions of greenhouse gases;

WHEREAS, the Act provides that the Board may assign to the executive director (the “Executive Director”), by resolution, those duties generally necessary or convenient to carry out its powers and purposes of the IBank Act and subject to any conditions that the Board may from time to time prescribe; the Executive Director may exercise any power, function, or duty conferred by law on IBank in connection with the administration, management, and conduct of the business and affairs of IBank;

WHEREAS, on June 23, 2021, the Board adopted Resolution No. 21-11 delegating certain authorities to the Executive Director to act on behalf of IBank (“Existing Delegations”);

WHEREAS, the Act provides that the Board may delegate to the Executive Director the authority to sue or be sued on behalf of IBank in IBank’s own name (“Litigation Authority”), but such authority was not delegated to the Executive Director in the Existing Delegations;

WHEREAS, the Board has determined that it is in the best interest of IBank to delegate to the Executive Director, and his or her designees, the Litigation Authority, subject to certain limitations as set forth herein

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

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

Section 2. All actions heretofore taken by the Executive Director and the officers and employees of IBank in response to EPA or Citibank’s actions or threats to freeze or clawback funds are hereby approved, confirmed and ratified.

Section 3. The Board hereby delegates the Litigation Authority in connection with the Subgrant and Subgrant Agreement to the Executive Director and his or her designees; such authority includes, with the assistance of counsel, deciding whether litigation is in the best interest of IBank, entering into or defending any litigation, managing any litigation, executing and delivering any related documents or agreements, and taking such other actions that the Executive Director deems appropriate and in the best interest of IBank.

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

PASSED, APPROVED, AND ADOPTED at a meeting of the California Infrastructure and Economic Development Bank on March 17, 2025, by the following vote:

AYES: Myers, Perrault, Quant

NOES: Steinorth

ABSENT: STO

ABSTAIN:

By **scott wu** Digitally signed by scott wu
Date: 2025.03.17 14:05:56
-07'00'

Scott Wu, Executive Director

Attest: **Angel** Digitally signed by Angel
Date: 2025.03.19
14:28:46 -07'00'
By _____
Angel Lau
Secretary of the Board of Directors