

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

*Request to Approve Resolution Amendment for Sales and Use Tax Exclusion Award to
Change the Participating Party*

**Silevo, LLC.
Application No. 15-SM003**

Tuesday, May 19, 2015

Prepared By: *James Shimp*

SUMMARY

Applicant – Silevo, LLC (previously applied as Silevo, Inc.)

Location – Fremont, Alameda County

Industry – Solar Photovoltaic Manufacturing

Project – Construction of a 100 MW solar photovoltaic module production line

Value of Qualified Property – \$106,551,184

Estimated Sales and Use Tax Exclusion Amount¹ – \$8,971,610

Estimated Net Benefits – \$3,606,500

Application Score –

Fiscal Benefits Points:	1,023
<u>Environmental Benefits Points:</u>	<u>379</u>
Net Benefits Score:	1,402
<u>Additional Benefits Points:</u>	<u>55</u>
Total Score:	1,457

Staff Recommendation – Amend STE Resolution No. 15-SM003 to change all references of Silevo, Inc. to Silevo, LLC to reflect the merger and assumption of rights and responsibilities for the project approved by the CAEATFA Board on February 17, 2015.

¹ This amount is calculated based on the average statewide sales tax rate of 8.42%.

REQUEST

On April 21, 2015, Silevo Inc. submitted a request to transfer the STE financial assistance from Silevo, Inc. to Silevo, LLC (“Silevo” or the “Applicant”). This change reflects the consolidation of existing legal entities, planned in June of 2014 as part of the acquisition of Silevo, Inc by its parent company, SolarCity Corporation.

THE APPLICANT

On March 31, 2015, Silevo, Inc. merged with Sunflower Acquisition, LLC, a Delaware Limited Liability Company wholly owned by SolarCity Corporation. The terms of the merger recognized Sunflower Acquisition, LLC as the surviving entity, and amended its name to Silevo, LLC.

The major shareholders (10.0% or greater) of Silevo, LLC are:

SolarCity Corporation

The corporate officers of Silevo, LLC are:

CEO – Zheng Xu

President – Lyndon Rive

Treasurer – Brad Buss

Vice President – Tanguy Serra

Secretary – Seth Weissman

PROJECT DESCRIPTION

On February 17, 2015, the CAEATFA Board approved a project for the expansion of an existing photovoltaic manufacturing facility into a 100 MW pilot line, with attached research and development laboratory.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant’s responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

STAFF EVALUATION

Silevo has indicated that the proposed project will remain the same as what was approved on February 17, 2015. Amending the resolution will allow them to transfer the award to the merged legal entity. Staff believes that the existing resolution should be amended, as this will allow the proposed project to continue and the state to receive the estimated benefits.

RECOMMENDATION

Staff recommends approval of the amended Resolution No. 15-SM003 for Silevo, LLC’s purchase of Qualified Property in an amount not to exceed \$106,551,184 anticipated to result in an approximate sales and use tax exclusion value of \$8,971,610.

Attachments

- Attachment A: SolarCity Corporation’s Letter Requesting Transfer of Award (April 21, 2015)
- Attachment B: Silevo, Inc. Certificate of Merger
- Attachment C: Silevo, Inc. Staff Summary at Board Approval

**RESOLUTION AMENDING RESOLUTION NO. 15-SM003 TO APPROVE AND
AUTHORIZE TRANSFER OF SALES AND USE TAX EXCLUSION FROM SILEVO,
INC. TO SILEVO, LLC.**

May 19, 2015

WHEREAS, on February 17, 2015 the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) approved a Sales and Use Tax Exclusion (“STE”) in the amount of \$106,551,184 of Qualified Property for Silevo, Inc. (the “Applicant”); and

WHEREAS, the Project has not been modified since the Authority approved Financial Assistance for Silevo, Inc. on February 17, 2015; and

WHEREAS, the Applicant has merged with Sunflower Acquisition, LLC and amended its name to Silevo, LLC; and

WHEREAS, Silevo, LLC has the authority and responsibility to complete the Project as described in the Application; and

WHEREAS, approval for amending the resolution is sought.

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The February 17, 2015 Silevo, Inc. Resolution No. 15-SM003 is amended to replace all occurrences of Silevo, Inc. with Silevo, LLC.

Section 2. Except as specifically amended in Section 1 hereof, all provisions and conditions of the February 17, 2015 Silevo, Inc. Resolution No. 15-SM003 shall remain unchanged and in full force and effect. This resolution shall take effect immediately upon its passage.

Attachment A: SolarCity Corporation’s Letter Requesting Transfer of Award



April 21, 2015

Deana Carrillo, Executive Director
California Alternative Energy and Advanced
Transportation Financing Authority
Post Office Box 942809
Sacramento, CA 94209-0001

Re: Silevo, Inc. Merger

Dear Ms. Carrillo:

I am writing to inform you that, as of March 31, 2015, Silevo, Inc. has merged with and into a wholly-owned subsidiary of SolarCity Corporation which shall continue the operations of Silevo, Inc. under the name "Silevo, LLC". Please see the attached Certificate of Merger for evidence of this transaction. Under the terms of this merger, Silevo, LLC has assumed all assets, liabilities, rights, obligations and agreements of Silevo, Inc.

We hereby request that you transfer Silevo, Inc.’s recent Sales Tax Exemption (STE) award to Silevo, LLC. The scope and nature of the project eligible for the STE has not changed.

Please contact Matt Tolland, Senior Counsel, at (650) 963-3869 or corporatellegal@solarcity.com if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lyndon Rive", enclosed within a blue oval scribble.

Lyndon Rive
CEO and Co-Founder

Attachment B: Silevo, Inc. Certificate of Merger

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"SILEVO, INC.", A DELAWARE CORPORATION,


WITH AND INTO "SUNFLOWER ACQUISITION LLC" UNDER THE NAME OF "SILEVO, LLC", A LIMITED LIABILITY COMPANY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRTY-FIRST DAY OF MARCH, A.D. 2015, AT 1:05 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



5540319 8100M
150442766

You may verify this certificate online at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 2253329
DATE: 03-31-15

*State of Delaware
Secretary of State
Division of Corporations
Delivered 01:13 PM 03/31/2015
FILED 01:05 PM 03/31/2015
SRV 150442766 - 5540319 FILE*

CERTIFICATE OF MERGER

MERGING

SILEVO, INC.
A DELAWARE CORPORATION

WITH AND INTO

SUNFLOWER ACQUISITION LLC
A DELAWARE LIMITED LIABILITY COMPANY

Pursuant to Section 264 of the General Corporation Law of the State of Delaware and
Section 18-209 of the Delaware Limited Liability Company Act

Sunflower Acquisition LLC, a Delaware limited liability company (the "LLC"), does hereby certify as follows:

FIRST: The LLC is a Delaware limited liability company duly formed and existing under the laws of the State of Delaware and Silevo, Inc., a Delaware corporation (the "Company"), is a corporation duly organized and existing under the laws of the State of Delaware.

SECOND: The Agreement and Plan of Merger, dated as of June 16, 2014, as amended as of September 5, 2014, by and among the Company, SolarCity Corporation, a Delaware corporation, Sunflower Acquisition Corporation, the LLC and certain other parties set forth therein (the "Merger Agreement"), setting forth the terms and conditions of the merger of the Company with and into the LLC (the "Merger"), has been approved, adopted, certified, executed and acknowledged by the LLC and the Company in accordance with Section 264(c) (and with respect to the Company, by written consent of its sole stockholder in accordance with Section 228) of the General Corporation Law of the State of Delaware and Section 18-209 of the Delaware Limited Liability Company Act.

THIRD: The name of the surviving limited liability company in the Merger (the "Surviving LLC") is Sunflower Acquisition LLC, which name shall be amended as set forth in Article Fourth below.

FOURTH: The Certificate of Formation of the LLC as in effect immediately prior to the Merger shall be amended by deleting Section 1 thereto and replacing it in its entirety with the following:

"1. The name of the limited liability company formed is "Silevo, LLC."

FIFTH: The executed Merger Agreement is on file at the principal place of business and office of the Surviving LLC at the following address:

c/o SolarCity Corporation
3055 Clearview Way
San Mateo, CA 94402

SIXTH: A copy of the Merger Agreement will be furnished by the Surviving LLC, on request and without cost, to any stockholder of the Company or any member of the LLC.

SEVENTH: The Merger shall be effective upon the filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

* * *

Agenda Item – 4.B
Application No. 15-SM003

IN WITNESS WHEREOF, Sunflower Acquisition LLC has caused this Certificate of Merger to be executed by an authorized person on March 31, 2015.

SUNFLOWER ACQUISITION LLC

By: /s/ Lyndon R. Rive

Name: Lyndon R. Rive

Title: President

[Signature Page to Certificate of Merger (Second Step)]

Attachment C: Silevo, Inc. Staff Summary at Board Approval

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

Request to Approve Project for Sales and Use Tax Exclusion (STE)²

**Silevo, Inc.
Application No. 15-SM003**

Tuesday, February 17, 2015

Prepared By: *James Shimp*

SUMMARY

Applicant – Silevo, Inc.

Location – Fremont, Alameda County

Industry – Solar Photovoltaic Manufacturing

Project – Construction of a 100 MW solar photovoltaic module production line

Value of Qualified Property – \$106,551,184

Estimated Sales and Use Tax Exclusion Amount³ – \$8,971,610

Estimated Net Benefits – \$3,606,500

Application Score –

Fiscal Benefits Points:	1,023
<u>Environmental Benefits Points:</u>	<u>379</u>
Net Benefits Score:	1,402
<u>Additional Benefits Points:</u>	<u>55</u>
Total Score:	1,457

Staff Recommendation – Approval

² All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

³ This amount is calculated based on the average statewide sales tax rate of 8.42%.

THE APPLICANT

Silevo Inc. (“Silevo” or “Applicant”) is a manufacturer of photovoltaic solar modules, incorporated in 2006 in Delaware, and headquartered in Fremont, California. In June of 2014 Silevo entered into an agreement to be acquired by SolarCity Corporation.

The major shareholders (10.0% or greater) of Silevo Inc. are:

SolarCity Corporation

The corporate officers of Silevo Inc are:

CEO – Zheng Xu

President – Lyndon Rive

Treasurer – Brad Buss

Vice President – Tanguy Serra

Secretary – Seth Weissman

THE PROJECT

Silevo currently operates a photovoltaic manufacturing facility at its headquarters in Fremont. This facility has, until now, been a pilot line used to validate proof of concept for the Applicant’s innovations in solar photovoltaic technology. Specifically, the Applicant has brought the concept of tunneling oxide layers as seen in the semi-conductor industry, and combined them with thin film passivation layers more traditionally associated with solar photovoltaics. The applicant asserts that the result is a product with comparable manufacturing costs, but with 22% greater overall efficiency, and an additional 12% energy harvest in arid climates. The Applicant now wishes to expand the small scale pilot line into a 100 MW production line, with an attached research and development laboratory (the “Project”).

The Applicant represents that the Project facility, which it is calling its “United States Technology Center” or “USTC,” will remain the headquarters of Silevo’s domestic and international operations. The USTC would, therefore, complement the company’s production lines in China and New York, while remaining committed to investing in California’s green tech industry. The Applicant further represents that, by capitalizing on the distribution and installation capabilities of its new parent company, SolarCity, its proposed facility is an attempt to “enable rapid acceleration of grid parity and widespread solar adoption.”

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Automation Equipment	\$17,391,000
Solar Cell Manufacture Equipment	41,466,700
Cell Test and Measurement Equipment	1,327,000
Module Manufacture Materials	9,003,484
Module Test and Measurement Equipment	740,000
Chemical Handling Materials	1,570,000
Manufacturing Software	800,000
Building and Construction Materials	11,319,000
Infrastructure Materials	<u>22,934,000</u>
Total	<u>\$106,551,184</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the master regulatory agreement a finalized project equipment list will be prepared detailing the value of the Project equipment acquired and detailing the actual tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components (of the Project) over original estimates, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation, or for other reasons.

TIMELINE

The Applicant has already completed site assessments, as well as building code, seismic, and structural reviews. Construction has commenced, with the facility ready for tool installation by the end of March. Initial production is estimated to take place in July, and full production as early as November.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$106,551,184 and the total net benefits are valued at \$3,606,500 for the Project. The Project received a Total Score of 1,457 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 379 points, which exceeds the 100 point threshold.

- A. Fiscal Benefits (1,023 points).** The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant's sales taxes, personal income taxes paid by the firm's employees, firm taxes on profits, property

taxes and other indirect fiscal benefits of the Applicant which amounts to \$9,175,513 resulting in a Fiscal Benefits score of 1,023 points for the Project.

- B. Environmental Benefits (379 points).** The Project will result in \$3,402,597 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 379 points for the Project. These benefits derive from the capacity of solar PV modules to generate electricity from alternative sources, thereby reducing the need for traditionally generated electricity.
- C. Additional Benefits (55 points).** Applicants may earn additional points for their Total Score. The applicant submitted information and received 55 additional points.
- 1. Permanent Jobs (35 of 75 points).** The Applicant's Project will support a total of 236 permanent jobs at its Facility. CAEATFA estimates that approximately 24 of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Permanent Jobs Score of 35 points for the Project.
 - 2. Construction Jobs (20 of 75 points).** The Applicant's Project will support a total of 83 construction jobs at its Facility. CAEATFA estimates that approximately nine of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Construction Jobs Score of 20 points for the Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Fremont facility will require demolition, conditional use, construction, and tool installation permits. To date, all permits, with the exception of the conditional use and tool installation permits, have been obtained. The anticipated date for obtaining these permits is March of 2015.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant's responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

CAEATFA FEES

In accordance with CAEATFA Regulations,⁴ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee up to \$350,000.

RECOMMENDATION

Staff recommends approval of Resolution No. 15-SM003 for Silevo Inc's purchase of Qualified Property in an amount not to exceed \$106,551,184 anticipated to result in an approximate sales and use tax exclusion value of \$8,971,610

⁴ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER
REGULATORY AGREEMENT WITH SILEVO INC.**

February 17, 2015

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **Silevo Inc** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized in an Advanced Manufacturing process or for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems (“Qualified Property”) as more particularly described in the staff summary and in the Applicant’s Application to the Authority (collectively, the “Project”); and

WHEREAS, the Applicant has requested the Authority to enter into the Agreement to acquire Project equipment with an estimated cost not to exceed \$106,551,184 over a period of three years; and

WHEREAS, the Applicant believes that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Qualified Property pursuant to California Revenue and Taxation Code Section 6010.8; and

WHEREAS, approval of the terms of the Agreement and authority for the Executive Director, Deputy Executive Director, or Chair of the Authority to execute the necessary documents to effectuate the Agreement is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Project constitutes a “project” within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The requested master regulatory agreement constitutes “financial assistance” within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a “participating party” within the meaning of Public Resources Code Section 26003(a)(7).

Section 4. The Executive Director, Deputy Executive Director, or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Executive Director shall deem appropriate, provided that the amount of the Qualified Property to be purchased may not be increased above the amount approved by the Authority.

Agenda Item – 4.A.1
Resolution No. 15-SM003
Application No. 15-SM003

Section 5. The proposed form of the Agreement between the Applicant and the Authority, as filed with the Authority prior to this meeting, is hereby approved. The Authorized Signatories are hereby authorized and directed, for and on behalf and in the name of the Authority, to execute, acknowledge and deliver to the Applicant the Agreement in substantially the form filed with or approved by the Authority, with such insertions, deletions or changes therein as the Authorized Signatory executing the same may require or approve, and with particular information inserted therein in substantial conformance with the staff summary and in the Applicant's Application to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Agreement, the obligations of the Applicant may, under some circumstances, be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including (without limitation) the execution and delivery of any and all documents and certificates they may deem necessary or advisable in order to consummate the Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall assure CAEATFA that all Qualified Property listed in the semi-annual reports pursuant to the Agreement shall be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Agreement shall only apply to Qualified Property that the Applicant certifies will be installed, maintained and operated at facilities within the State of California.

Section 9. The adoption by the Authority of this Resolution for the Applicant shall not be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project or in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement, as defined in CAEATFA Regulations Section 10035(a), is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty days if necessary.