

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

Request to Approve Project for Sales and Use Tax Exclusion (STE)¹

**MSB Investors, LLC
Application No. 18-SM029**

Tuesday, November 13, 2018

Prepared By: *Matthew Parsons, Program Analyst*

SUMMARY

Applicant – MSB Investors, LLC

Location – Santa Barbara, Santa Barbara County

Industry – Mixed Recycling (Recycled Resource Extraction)

Project – Construction of a New Material Recovery Facility

Value of Qualified Property – \$44,661,209

Estimated Sales and Use Tax Exclusion Amount² – \$3,733,677

Estimated Quantifiable Net Benefits – \$11,484

Application Score –

Fiscal Benefits Points:	972
<u>Environmental Benefits Points:</u>	<u>31</u>
Net Benefits Score:	1,003

<u>Additional Benefits Points:</u>	<u>50</u>
Total Score:	1,053

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

² This amount is calculated based on the average statewide sales tax rate of 8.36%.

THE APPLICANT

MSB Investors, LLC (“MSB” or the “Applicant”), headquartered in Newport Beach, is a California Limited Liability Company formed in 2012 by Mustang Renewable Power Ventures, LLC (“Mustang”). Mustang was founded in 2008 and specializes in developing waste resource recovery projects, oftentimes structured as public-private partnerships. Mustang focuses on processing municipal solid waste that is currently landfilled into valuable renewable energy, recyclable commodities and compost. Mustang’s projects utilize environmentally sustainable, commercially proven waste diversion and resource recovery technologies.

In 2010, Mustang was selected to be the project developer for the Santa Barbara Tajiguas Resource Recovery Project, which includes an anaerobic digester that will convert organic fraction produced by a materials recovery facility (“MRF”) into biogas. MSB received a CAEATFA STE award for the anaerobic digester on May 20, 2014 for the purchase of up to \$17,696,003 in Qualified Property with an anticipated STE value of \$1,490,003, and on May 15, 2017, the CAEATFA Board approved a resolution extending the three-year initial term for the STE award from October May 20, 2017 to October 18, 2019. To date, MSB has reported purchases of \$1,151,747 in Qualified Property (6.5% of the total Qualified Property amount approved).

MSB also received an STE award on October 18, 2016 in the amount of \$32,403,272 in Qualified Property for an estimated STE of \$2,728,356³ for the MRF. However, as further described below, due to unexpected zoning and permitting issues, the Applicant was unable to meet the 15% purchase requirement, and is therefore reapplying for the MRF project at this time.

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

- Mustang Renewables Power Ventures, LLC (45%)
- Blue Sand Holdings (18.94%)
- Aztec Group (9.91%)

The corporate officers of MSB Investors, LLC are:

John Dewey, CEO

THE PROJECT

MSB plans to construct a new MRF to recover recyclables from municipal solid waste and commingled source-separated recyclables collected from residential, commercial, and institutional customers in Santa Barbara County (the “Project”). The Project will use advanced sorting technology to produce valuable recovered recyclable commodities, such as mixed paper, mixed plastics, mixed metals, glass, wood, and compost. The Applicant represents that it will divert approximately 137,710 tons annually from the Tajiguas landfill. MSB believes that the Project will double the expected remaining lifespan of the landfill, which is now anticipated to reach capacity in 2038 instead of 2026.

³ This amount is calculated based on the average statewide sales tax rate of 8.42% that was in effect at the time of approval.

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The MRF will also produce an organic fraction that will be processed by an on-site anaerobic digestion facility (“ADF”). The ADF will produce renewable natural gas to fuel fleet trucks and energy to be consumed on-site and sold to Southern California Edison. The ADF equipment and MRF equipment used to produce the organic fraction was the subject of MSB’s previous application to CAEATFA as an alternative source project approved on May 20, 2014 for \$1,490,003 in STE. Approximately 30% of the total MRF equipment was included in the previous application. The remaining 70% of the MRF equipment constitutes the current application under consideration.

As mentioned above, the Project was initially approved for an STE award on October 18, 2016 in the amount of \$32,403,272 in Qualified Property for an estimated STE of \$2,728,356⁴ (the staff report from October 18, 2016 is included as Attachment A). However, MSB states that in February 2017, the County of Santa Barbara identified a conflict between the County’s Coastal Zone boundary line and the State’s approved Coastal Zone boundary line, causing the County to put the Project’s financing on hold until MSB could redesign the Santa Barbara Tajiguas Resource Recovery Project such that the anaerobic digestion facility would be relocated upland of the State Coastal Zone boundary line.

According to the Applicant, the Santa Barbara Tajiguas Resource Recovery Project design was completed in June 2017, and an Addendum to the Supplemental Environmental Impact Report (“SEIR”) was approved by the Santa Barbara County Planning Commission on August 30, 2017. The Applicant states the revised Santa Barbara Tajiguas Resource Recovery Project was approved by the Santa Barbara County Board of Supervisors on November 14, 2017. However, a local non-governmental organization subsequently filed an appeal alleging the revised SEIR was inadequate in its environmental impact analysis. This appeal was dismissed by the organization on June 5, 2018, following the execution of a settlement agreement between the County and the organization.

Because of these delays, MSB’s October 18, 2016 STE award was terminated for failure to meet the requirement that the Applicant purchase at least 15% of the approved Qualified Property amount within one year.⁵ With the redesign complete and financing anticipated to close in November 2018, the Applicant is now requesting a new STE award for the Project.

⁴ This amount is calculated based on the average statewide sales tax rate of 8.42% that was in effect at the time of approval.

⁵ California Code of Regulations Title 4, Division 13, Section 10035(b)(1)



Figure 1: Tajiguas Resource Recovery Project MRF

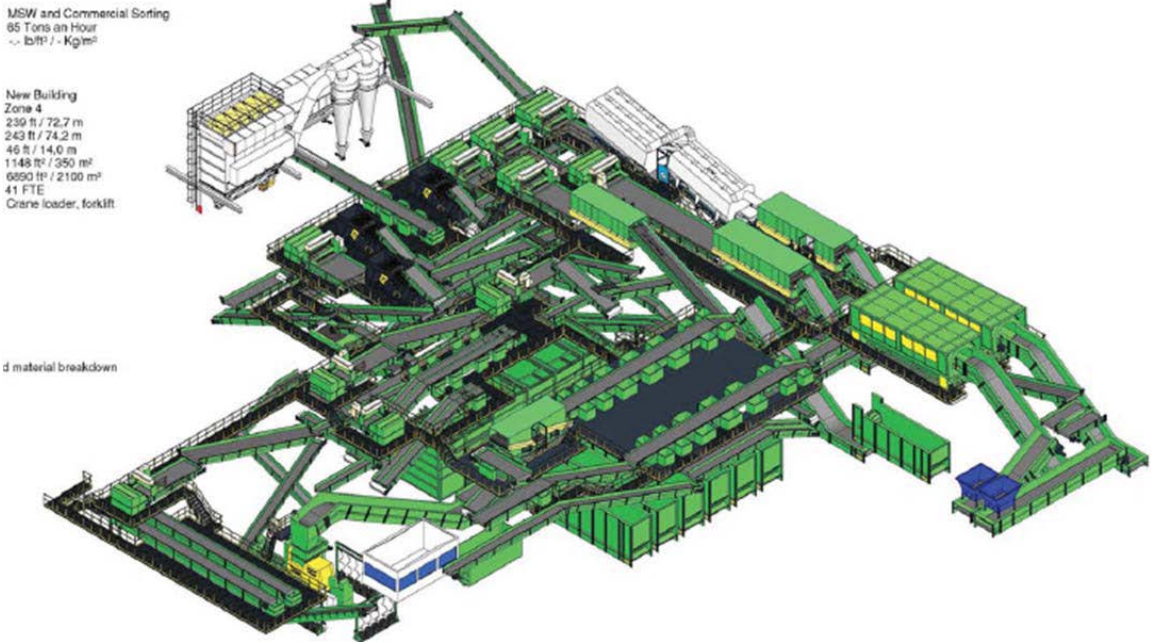


Figure 2. Tajiguas Resource Recovery Project MRF equipment layout

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

MRF Sorting and Recovery Equipment	\$17,492,770
MRF Building Materials	14,663,283

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Composting Area Equipment and Materials	2,056,522
Material Handlers and Loaders	2,850,600
Air Monitoring Equipment	257,500
MRF Maintenance Equipment	402,730
Compost Management Equipment	1,430,650
MRF Heat & Power Plant	<u>5,507,154</u>
Total	<u>\$44,661,209</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

According to MBS, Project financing is anticipated to close in November 2018 with construction to start in December 2018. Construction is estimated to take 18 months to complete with a commercial operation date estimated by year-end 2020.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$44,661,209 and the total quantifiable net benefits are valued at \$11,484 for the Project. The Project received a Total Score of 1,053 points, which exceeds the required 1,000 point threshold, and a total Environmental Benefits Score of 31 points, which exceeds the 20 point threshold.

- A. Fiscal Benefits (972 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 \$3,630,121 resulting in a Fiscal Benefits score of 972 points for the Project.

- B. Environmental Benefits (31 points).** The Project will result in \$115,040 of total pollution benefits over the life of the Project resulting in an Environmental Benefits Score of 31 points for the Project. These benefits derive from the processing of mixed recyclables for use in another product, which thereby diverts approximately 137,710 tons from landfills annually, according to the Applicant.

C. **Additional Benefits (50 points)**. Applicants may earn additional points for their Total Score. The Applicant submitted information and received 50 additional points.

1. **Production Jobs (30 of 75 points)**. The Applicant represents that the Project will support a total of 50 production-related jobs at its Facility. CAEATFA estimates that approximately seven 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 30 points for the Project.
2. **Construction Jobs (20 of 75 points)**. The Applicant represents that the Project will support a total of 24 construction jobs at its Facility. CAEATFA estimates that approximately three 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 Applicant represents the Project has received preliminary approval for its fire and hazardous waste materials permit and renewable energy certifications, and anticipates final approvals by the end of 2020. An amended Authority to Construct permit from the Santa Barbara County Air Pollution Control District and a site grading permit were issued in October 2018, and the MRF building permit was approved in September 2018. The Applicant states it has received all other necessary permits.

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,⁶ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee up to \$178,644.84.

⁶ California Code of Regulations Title 4, Division 13, Section 10036

RECOMMENDATION

Staff recommends approval of Resolution No. 18-SM029 for MSB Investors, LLC’s purchase of Qualified Property in an amount not to exceed \$44,661,209 anticipated to result in an approximate sales and use tax exclusion value of \$3,733,677.

Attachments

Attachment A: MSB Investors, LLC’s October 18, 2016 staff summary

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER
REGULATORY AGREEMENT WITH MSB INVESTORS, LLC**

November 13, 2018

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **MSB Investors, LLC** (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 \$44,661,209 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.

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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.

Attachment A: MSB Investors, LLC’s Staff Summary at October 18, 2016 Board Meeting

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

Request to Approve Project for Sales and Use Tax Exclusion (STE)⁷

**MSB Investors, LLC
Application No. 16-SM019**

Tuesday, October 18, 2016

Prepared By: *Alejandro Ruiz, Manager*

SUMMARY

Applicant – MSB Investors, LLC

Location – Santa Barbara, Santa Barbara County

Industry – Mixed Recycling (Recycled Resource Extraction)

Project – Construction of a New Material Recovery Facility

Value of Qualified Property – \$32,403,272

Estimated Sales and Use Tax Exclusion Amount⁸ – \$2,728,356

Estimated Net Benefits – \$336,680

Application Score⁹ –

Fiscal Benefits Points:	1,094
<u>Environmental Benefits Points:</u>	<u>29</u>
Net Benefits Score:	1,124

<u>Additional Benefits Points:</u>	<u>55</u>
Total Score:	1,179

Staff Recommendation – Approval

⁷ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

⁸ This amount is calculated based on the average statewide sales tax rate of 8.42%.

⁹ Point values in the staff summary may not add up correctly due to rounding in the Application worksheet.

THE APPLICANT

MSB Investors, LLC (“MSB” or the “Applicant”) is a California Limited Liability Company formed in 2012 by Mustang Renewable Power Ventures, LLC (“Mustang”). Mustang was founded in 2008 and specializes in developing waste resource recovery projects, oftentimes structured as public-private partnerships.

In 2010, Mustang was selected to be the project developer for the Santa Barbara Tajiguas Resource Recovery Project. MSB received a CAEATFA STE award for an aerobic digester project on May 20, 2014 for approximately \$1,490,003 in STE. The anaerobic digester will convert organic fraction produced by the material recovery facility (“MRF”), which is the subject of this current application under consideration, into biogas.

The major shareholders (10.0% or greater) of MSB Investors, LLC are:
Mustang Renewable Power Ventures, LLC
Blue Sand Holdings
Aztec Group

The corporate officers of MSB Investors, LLC are:
John Dewey, CEO

THE PROJECT

MSB plans to construct a new materials recovery facility (“MRF”) to recover recyclables from municipal solid waste and commingled source-separated recyclables collected from residential, commercial, and institutional customers in Santa Barbara County (the “Project”). The Project will use advanced sorting technology to produce valuable recovered recyclable commodities, such as mixed paper, mixed plastics, mixed metals, glass, wood, and compost. The Applicant represents that it will divert approximately 123,585 tons annually from the Tajiguas landfill. MSB believes that the Project will double the expected remaining lifespan of the landfill, which is now anticipated to reach capacity in 2038 instead of 2026.

The MRF will also produce an organic fraction that will be processed by an on-site anaerobic digestion facility (“ADF”). The ADF will produce renewable natural gas to fuel fleet trucks and energy to be consumed on-site and sell to Southern California Edison. The ADF equipment and MRF equipment used to produce the organic fraction was the subject of MSB’s previous application to CAEATFA as an alternative source project approved on May 20, 2014 for \$1,490,003 in STE. Approximately 30% of the total MRF equipment was included in the previous application. The remaining 70% of the MRF equipment constitutes the current application under consideration.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

MRF Sorting and Recovery Equipment	\$15,416,124
MRF Building Materials	10,829,878
Composting Area Equipment and Materials	2,001,270
Material Handlers and Loaders	2,760,000
MRF Maintenance Equipment	391,000
Compost Management Equipment	755,000
Air Monitoring Equipment	250,000
Total	<u>\$32,403,272</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 anticipates that construction will commence in February 2017 and will take approximately 16 months. The Applicant represents that the Project will begin commercial operations prior to the end of 2018.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$32,403,272 and the total net benefits are valued at \$336,980 for the Project. The Project received a Total Score of 1,179 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 29 points, which exceeds the 20 point threshold.

- D. Fiscal Benefits (1,094 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 \$2,985,127 resulting in a Fiscal Benefits score of 1,094 points for the Project.

- E. Environmental Benefits (29 points).** The Project will result in \$80,208 of total pollution benefits over the life of the Project resulting in an Environmental Benefits Score of 29 points for the Project. These benefits derive from the processing of mixed recyclables for use in another product, which thereby diverts approximately 123,585 tons from landfills annually, according to the Applicant.
- F. Additional Benefits (55 points).** Applicants may earn additional points for their Total Score. The applicant submitted information and received 55 additional points.
- 3. Permanent Jobs (35 of 75 points).** The Applicant represents that the Project will support a total of 53 permanent jobs at its Facility. CAEATFA estimates that approximately eight 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.
 - 4. Construction Jobs (20 of 75 points).** The Applicant represents that the Project will support a total of 22 construction jobs at its Facility. CAEATFA estimates that approximately three 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 Project has received preliminary approval for its storm water and industrial discharge permit, operating permit, and renewable energy certification. The Applicant anticipates receiving final approval for these permits in 2017 and 2018. The Applicant represents that it will receive site grading and construction permits prior to May 2017. MSB has stated that it has received all other required permits.

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,¹⁰ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee of up to \$129,613.09.

RECOMMENDATION

Staff recommends approval of Resolution No. 16-SM019 for MSB Investor LLC's purchase of Qualified Property in an amount not to exceed \$32,403,272 anticipated to result in an approximate sales and use tax exclusion value of \$2,728,356.

¹⁰ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER
REGULATORY AGREEMENT WITH MSB INVESTORS, LLC**

October 18, 2016

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **MSB Investors, LLC** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized to process Recycled Feedstock, 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 \$32,403,272 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.C.1
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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.