

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

***Request to Amend the Sales and Use Tax Exclusion Award
Resolution to Add Participating Parties ¹***

**MP Materials Corp. and its Subsidiaries, MP Mine Operations LLC
and MP Separations Company LLC
Application No. 21-SM018**

Tuesday, April 20, 2021

Prepared By: *Xee Moua, Program Analyst*

SUMMARY

Applicant – MP Materials Corp. and its subsidiaries, MP Mine Operations LLC and MP Separations Company LLC

Location – San Bernardino, San Bernardino County

Industry – Rare Earth Materials Production

Project – New Rare Earth Materials Production Facility (Advanced Manufacturing)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$23,527,500	\$1,999,838

Estimated Net Benefit ³	Dollar Value	Points Earned
Estimated Fiscal Benefits	\$4,996,721	2,499
Estimated Environmental Benefits	N/A	175
Additional Benefits	N/A	115
Total	\$4,996,721	2,789
Estimated Quantifiable Net Benefit	\$2,996,883	

Staff Recommendation – Approval of an amendment to Resolution No. 21-SM018 to add MP Mine Operations LLC and MP Separations Company LLC as participating parties to the Regulatory Agreement, and extend the 30-day timeline for entering into the Regulatory Agreement to April 21, 2021.

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

² This amount is calculated based on the average statewide sales tax rate of 8.5% at the time of approval.

³ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

REQUEST

On March 16, 2021, the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA”) Board approved a sales and use tax exclusion (“STE”) for MP Materials Corp. (the “Applicant”) for the purchase of up to \$23,527,500 in Qualified Property to build its new Mountain Pass facility located in San Bernardino to process rare earth materials into Neodymium-Praseodymium (“NdPr”) (the “Project”).

In the process of preparing and executing the Applicant’s Regulatory Agreement, Staff was informed that the Applicant’s two legal entities had been delegated responsibilities tied to the Project. According to the Applicant, MP Mine Operations LLC (“MPMO”) is the operating company that contains the production operations of the Project, and MP Separations Company LLC (“MPSC”) is a disregarded entity responsible for the engineering, procurement, and construction activities of the Project. As such, the Applicant submitted a formal request dated April 5, 2021, to (1) add MPMO and MPSC as participating parties to the Regulatory Agreement, and (2) extend the date on which the Regulatory Agreement is required to be entered into between CAEATFA and the Applicant⁴.

THE APPLICANT

MPMO is a Delaware limited liability company that formed in March 2017 and is wholly owned by the Applicant. MPSC is a Delaware limited liability company that formed in January 2021 and is wholly owned by MPMO. The Applicant is a Delaware corporation that formed in January 2020 and is publicly traded under the ticker symbol “MP” on the New York Stock Exchange. The Applicant states it is one of the largest global producers of rare earth materials and produces approximately 15% of the world’s rare earth supply.

The major shareholders (10.0% or greater) of the Applicant are:
JHL Capital Group
QVT Financial

The corporate officers of the Applicant are:
James Litinsky, Chairman & Chief Executive Officer
Michael Rosenthal, Chief Operating Officer
Ryan Corbett, Chief Financial Officer
Sheila Bangalore, General Counsel & Chief Security Officer

⁴ The Regulatory Agreement must be signed by a representative of the Applicant’s company authorized to enter into contracts on behalf of the company and returned to CAEATFA within 30 calendar days from the date of approval. (California Code of Regulations Title 4, Division 13, Section 10035(a)(1).)

<p>The major shareholders (10.0% or greater) of MPMO are: Applicant (100%)</p>	<p>The corporate officers of MPMO are: James Litinsky, Chairman & Chief Executive Officer Michael Rosenthal, Chief Operating Officer Ryan Corbett, Chief Financial Officer Sheila Bangalore, General Counsel & Chief Security Officer</p>
<p>The major shareholders (10.0% or greater) of MPSC are: MPMO (100%)</p>	<p>The corporate officers of MPSC are: James Litinsky, Chairman & Chief Executive Officer Michael Rosenthal, Chief Operating Officer Ryan Corbett, Chief Financial Officer Sheila Bangalore, General Counsel & Chief Security Officer</p>

THE PROJECT

The Applicant received an STE award to build its new Mountain Pass facility located in San Bernardino to process rare earth materials into NdPr. According to the Applicant, China currently supplies more than 80% of the world's rare earth products, and the Project will be the first rare earth production facility in the western hemisphere. The Applicant states that NdPr is used to produce high-strength magnets that power the traction motors of electric vehicles, robotics, wind turbines, drones, and other high-growth, advanced motion technologies. In addition to NdPr, a smaller portion of the Applicant's business will be other rare earth products, such as heavy rare earth concentrate, lanthanum carbonate/oxide, and cerium chloride. These products can be used for electric vehicle motors, medical devices, rechargeable batteries, and water treatment products.

According to the Applicant, the Project will utilize a highly precise workflow to process NdPr more reliably, at significantly lower cost, and with a significantly smaller environmental footprint than other producers. The Applicant explains that the Project includes an improved drying and roasting process that will maximize product recovery and minimize manufacturing wastes and the use of resources. For example, the Applicant states its proprietary roasting process allows the lowest value element from rare earth materials to be removed at early stages, resulting in a cheaper and more refined production process. Additionally, the Applicant states its new dry tailings process will eliminate the need to use high-risk wet tailing ponds and allow reclaimed water from its paste tailings facility to be reused. The Applicant also explains that the processing of rare earth materials must be managed by a high performance workforce of specialized engineers as each ore body is unique and requires each production stage to use exact feedstock products.

STAFF EVALUATION

Statutes limit the use of CAEATFA’s STE to any “participating party” (Section 6010.8 of the Revenue and Taxation Code). A “participating party” is defined as an entity that seeks financial assistance (Section 26003(a)(7)(B) of the Public Resources Code) as part of the Sales and Use Tax Exclusion Program (Section 26011.8 of the Public Resources Code). Section 3 of the Applicant’s Resolution No. 21-SM018 provides that the Applicant is a “participating party” within the meaning of the Sales and Use Tax Exclusion Program.

The Applicant has requested to add MPMO and MPSC as participating parties in order to continue with the Project as originally intended. As previously stated, MPMO and MPSC are responsible for housing the Project’s production operations and the related engineering, construction, and procurement activities.

Amending Resolution No. 21-SM018 to add MPMO and MPSC as participating parties to the Regulatory Agreement will allow the proposed Project to continue and the state to receive the estimated benefits of the original Project.

Additionally, pursuant to the Program’s regulation Section 10035(a)(1), an Applicant has 30 days from the date of the CAEATFA’s Board approval to enter into the Regulatory Agreement with CAEATFA. Since the Applicant was initially approved on March 16, 2021, the last day the Applicant may enter into the Regulatory Agreement with CAEATFA would be April 15, 2021. Because the consideration of adding MPMO and MPSC as participating parties to Resolution No. 21-SM018 is occurring after April 15, 2021, the Applicant is also requesting to extend the Regulatory Agreement execution date to April 21, 2021.

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 STE Program regulations,⁵ the Applicant has paid an additional fee of \$500 because adding MPMO and MPSC as participating parties qualifies as a modification to the Regulatory Agreement or authorizing resolution.

RECOMMENDATION

Staff recommends that the Board approve MP Material Corp.’s request to amend Resolution No. 21-SM018 to (1) add MP Mine Operations LLC and MP Separations Company LLC as

⁵ California Code of Regulations Title 4, Division 13, Section 10036(c)(1).

participating parties to the authorizing resolution and Regulatory Agreement, and (2) extend the 30-day timeline for entering into the Regulatory Agreement to April 21, 2021.

ATTACHMENTS

Attachment A: MP Material Corp.'s letter requesting an amendment to the resolution

Attachment B: MP Material Corp.'s staff summary at the time of approval

**RESOLUTION AMENDING RESOLUTION NO. 21-SM018 TO ADD
MP MINE OPERATIONS LLC AND MP SEPARATIONS COMPANY LLC,
AS PARTICIPATING PARTIES**

March 16, 2021

WHEREAS, on March 16, 2021, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”), a public instrumentality of the State of California, approved Resolution No. 21-SM018 granting a sales and use tax exclusion award for **MP Materials Corp.** (the “Applicant”) for the purchase of up to \$23,527,500 of Qualified Property to build a facility that processes rare earth materials into Neodymium-Praseodymium in San Bernardino (the “Project”); and

WHEREAS, MP Mine Operations LLC and MP Separations Company LLC have the authority and responsibility to complete a portion of the Project as described in the Application; and

WHEREAS, the Applicant requests the Authority amend the Regulatory Agreement by amending Resolution No. 21-SM018 to include MP Mine Operations LLC and MP Separations Company LLC as participating parties, and extend the 30-day timeline for entering into the Regulatory Agreement.

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

Section 1. Resolution No. 21-SM018 is amended to (1) add MP Mine Operations LLC and MP Separations Company LLC as participating parties to the Regulatory Agreement, and (2) extend the 30-day timeline for entering into the Regulatory Agreement to April 21, 2021.

Section 2. This resolution shall take effect immediately upon its passage.

**Attachment A: MP Materials Corp.'s Letter
Requesting an Amendment to the Resolution**



April 5, 2021

Xee Moua
California Alternative Energy & Advanced Transportation Financing Authority ("CAEATFA")
Via Email

Dear Xee:

MP Materials Corp. (NYSE: MP) would like to add two disregarded entities to its application for its recently approved Sales and Use Tax Exclusion ("STE") Award (the "Award"). MP Materials Corp. is a holding company that owns 100% of MP Mine Operations LLC, which houses all of the operations of the Corporation. As such, MP Mine Operations LLC is the entity that houses the production operations that are subject to the Award. Accordingly, we would like to add this operating entity to the Award. Additionally, MP Mine Operations LLC wholly owns one disregarded entity, MP Separations Company LLC. MP Separations Company LLC negotiates contracts and procures materials and equipment necessary to build out the MP Mine Operations LLC production facilities that are subject to the Award. As such, we would also like MP Separations Company LLC added to the Award.

With these additions, we request a new execution date of the agreement of April 21, 2021.

Thank you in advance for your attention to this matter. Please let us know if you need additional information to process this request.

Yours truly,

A handwritten signature in black ink, appearing to read "Ryan S. Corbett".

Ryan S. Corbett
Chief Financial Officer
MP Materials Corp.

**Attachment B: MP Materials Corp.’s Staff Summary
at the Time of Approval**

Request to Approve Project for a Sales and Use Tax Exclusion⁶

**MP Materials Corp.
Application No. 21-SM018**

Tuesday, March 16, 2021

Prepared By: *Xee Moua, Program Analyst*

SUMMARY

Applicant – MP Materials Corp.

Location – San Bernardino, San Bernardino County

Industry – Rare Earth Materials Production

Project – New Rare Earth Materials Production Facility (Advanced Manufacturing)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ⁷
\$23,527,500	\$1,999,838

Estimated Net Benefit ⁸	Dollar Value	Points Earned
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Additional Benefits	N/A	115
Total	\$4,996,721	2,789
Estimated Quantifiable Net Benefit	\$2,996,883	

Competitive Criteria Score – 35

Staff Recommendation – Approval

⁶ All capitalized terms not defined in this document are defined in the STE Program’s statutes and regulations.

⁷ This amount is calculated based on the average statewide sales tax rate of 8.5%.

⁸ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

THE APPLICANT

MP Materials Corp. (the “Applicant”) is a Delaware corporation that formed in January 2020, and is publicly traded under the ticker symbol “MP” on the New York Stock Exchange. The Applicant states it is one of the largest global producers of rare earth materials and produces approximately 15% of the world’s rare earth supply.

The major shareholders (10.0% or greater) of the Applicant are:

JHL Capital Group
QVT Financial

The corporate officers of the Applicant are:

James Litinsky, Chairman & Chief Executive Officer
Michael Rosenthal, Chief Operating Officer
Ryan Corbett, Chief Financial Officer
Sheila Bangalore, General Counsel & Chief Security Officer

THE PROJECT

MP Materials Corp. is requesting an STE award to build its new Mountain Pass facility located in San Bernardino to process rare earth materials into Neodymium-Praseodymium (“NdPr”) (the “Project”). According to the Applicant, China currently supplies more than 80% of the world’s rare earth products, and the Project will be the first rare earth production facility in the western hemisphere. The Applicant states that NdPr is used to produce high-strength magnets that power the traction motors of electric vehicles, robotics, wind turbines, drones, and other high-growth, advanced motion technologies. In addition to NdPr, a smaller portion of the Applicant’s business will be other rare earth products, such as heavy rare earth concentrate, lanthanum carbonate/oxide, and cerium chloride. These products can be used for electric vehicle motors, medical devices, rechargeable batteries, and water treatment products.

According to the Applicant, the Project will utilize a highly precise workflow to process NdPr more reliably, at significantly lower cost, and with a significantly smaller environmental footprint than other producers. The Applicant explains that the Project includes an improved drying and roasting process that will maximize product recovery and minimize manufacturing wastes and the use of resources. For example, the Applicant states its proprietary roasting process allows the lowest value element from rare earth materials to be removed at early stages, resulting in a cheaper and more refined production process. Additionally, the Applicant states its new dry tailings process will eliminate the need to use high-risk wet tailing ponds and allow reclaimed water from its paste tailings facility to be reused. The Applicant also explains that the processing of rare earth materials must be managed by a high performance workforce of specialized engineers as each ore body is unique and requires each production stage to use exact feedstock products.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Slurry Handling Equipment	\$7,000
Solid and Liquid Processing Equipment	\$60,000
Material Handling and Processing Machinery	\$19,260,500
Structural Steel	\$4,200,000
Total	<u>\$23,527,500</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 Regulatory Agreement, a finalized Project equipment list will be prepared detailing the value of the Project equipment actually acquired, and the estimated 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, those costs may vary after closing due to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in statute or regulation, or for other reasons.

TIMELINE

The Applicant states that the conceptual engineering phase for the Mountain Pass facility occurred from July 2019 through February 2020 and the front-end engineering and design finished in October 2020. According to the Applicant, major Qualified Property purchases were ordered in November 2020, with an expected arrival date of July 2021, while Qualified Property with shorter lead times will be purchased throughout the detailed engineering and construction phases of the Project. The Project is anticipated to be completed and placed in service by Quarter 1 of 2022.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant states all permits needed for the Project, such as air permits with the Mojave Desert Air Quality Management District, and construction and occupancy permits with San Bernardino County, will be received by mid-2021.

COMPETITIVE CRITERIA SCORE

In the event that the Applications received by CAEATFA requesting \$2 million or less in STE by the deadline for a particular Board meeting represent STE in excess of the \$20 million set-aside for that calendar year, the Applications submitted for that particular Board meeting will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria.

The Applicant received 35 Competitive Criteria points as follows:

1. **Environmental Benefits (0 of 100 points).** The Applicant's Project did not earn any environmental benefits points, as calculated pursuant to the method for calculating points for environmental benefits for Advanced Transportation, Alternative Source, and Recycled Resource Extraction Applications in Section 10033(c)(4). Therefore, no points are awarded.
2. **Unemployment (0 of 50 points).** The Applicant's Project is located in San Bernardino County, which has an average annual unemployment rate of 8.2%.⁹ When compared to the statewide average annual unemployment rate of 9.1%, the Project location earned the Applicant zero points.
3. **Job Creation (35 of 75 points).** The Applicant anticipates the Project will support a total of 420 production-related jobs at its Facility. CAEATFA estimates that approximately 5.22 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 35 points.
4. **California Headquarters (0 of 15 points).** The Applicant does not have a California Corporate Headquarters, and, therefore, zero points are awarded.
5. **Natural Disaster Relief (0 of 50 points).** The Project is not to rebuild or relocate the Applicant's Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application, and, therefore, zero points are awarded.
6. **Eligibility for Manufacturing and Research and Development Equipment Exemption (0 of 50 points).** The Applicant is eligible to use one or more of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, zero points are awarded.

PROJECT EVALUATION

PROJECT BENEFITS

The Project received a Total Score of 2,789 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 175 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (2,499 points).** The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant's sales and use

⁹ Unemployment rates are based on data available in October 2020.

taxes, personal income taxes paid by the firm's employees, firm taxes on profits, property taxes, and other indirect fiscal benefits of the Applicant. The total fiscal benefits amount to \$4,996,721, resulting in a Fiscal Benefits score of 2,499.

B. Environmental Benefits (175 points). The Project earned an Environmental Benefits Score of 175. The Applicant received points in the following categories:

1. **Energy Consumption (30 of 30 points).** The Applicant anticipates the Project will result in a 50% reduction in energy consumption compared to the Applicant's previous manufacturing process by converting to machines that are less energy intensive and operate at lower temperatures, eliminating and/or reducing previous manufacturing processes, and using excess steam produced by its power plant to operate its crystallizer.
2. **Water Use (30 of 30 points).** The Applicant anticipates the Project will result in a 38% reduction in water use relative to the Applicant's previous manufacturing process by reducing its fresh water consumption, increasing mineral recovery, and improving its water quality process.
3. **Solid Waste (30 of 30 points).** The Applicant anticipates the Project will result in a 50% reduction in the solid waste produced relative to the Applicant's previous manufacturing process by increasing the size and number of storage vessels and other material handling equipment, which the Applicant states will reduce the need to empty equipment and manually package and store work-in-progress when unexpected interruptions happen, and thereby reduce product losses that would otherwise result in solid waste.
4. **Hazardous Waste (30 of 30 points).** The Applicant anticipates the Project will result in a 100% reduction in the hazardous waste produced relative to the Applicant's previous manufacturing process by eliminating its multi-step cracking and dissolution process and improving the mineral recovery process through a single-state dissolution that eliminates an intermediate product that the Applicant states had the potential for a hazardous waste classification.
5. **Air Pollutants (30 of 30 points).** The Applicant anticipates the Project will result in a 40% reduction in the emissions of air pollutants produced relative to the Applicant's previous manufacturing process by converting to a higher mineral recovery process and revised process flow that decreases the emissions of the production process.
6. **Other Pollutants (25 of 30 points).** The Applicant anticipates the Project will result in a 25% reduction in other pollutants produced relative to the Applicant's previous manufacturing process by converting to a higher mineral recovery process and revised process flow, resulting in lower dust amounts and other emissions.

C. **Additional Benefits (115 points)**. Applicants may earn additional points for their Total Score. The Applicant received 115 additional points.

1. **Production Jobs (35 of 75 points)**. The Applicant anticipates the Project will support a total of 420 production-related jobs at its Facility. CAEATFA estimates that approximately 5.22 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 35 points.
2. **Construction Jobs (30 of 75 points)**. The Applicant anticipates the Project will support a total of 250 construction jobs at its Facility. CAEATFA estimates that approximately 3.11 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 30 points.
3. **Unemployment (0 of 50 points)**. The Applicant's Project is located in San Bernardino County, which has an average annual unemployment rate of 8.2%.¹⁰ When compared to the statewide average annual unemployment rate of 9.1%, the Project location earned the Applicant zero points.
4. **Research and Development Facilities (25 of 25 points)**. The Applicant has verified that it has a facility located in California that performs research and development functions related to producing rare earth materials.
5. **Benefits and Fringe Benefits (25 of 25 Points)**. The Applicant states it provides medical, health, dental, vision, bonuses, retirement contributions, gym subsidies, and paid leave to its employees, earning the Applicant 25 points.

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,¹¹ the Applicant has paid CAEATFA an Application Fee of \$10,000, and will pay CAEATFA an Administrative Fee of up to \$94,110.

¹⁰ Unemployment rates are based on data available in October 2020.

¹¹ California Code of Regulations Title 4, Division 13, Section 10036

RECOMMENDATION

Staff recommends the approval of Resolution No. 21-SM018 for MP Materials Corp.’s purchase of qualifying tangible personal property in an amount not to exceed \$23,527,500, anticipated to result in an approximate STE value of \$1,999,838.

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH MP MATERIALS CORP.**

March 16, 2021

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **MP Materials Corp.** and its wholly owned subsidiaries (the “Applicant”) for financial assistance under the Sales and Use Tax Exclusion Program, as established in Public Resources Code Section 26011.8; and

WHEREAS, the Applicant qualifies as a Participating Party under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8; and

WHEREAS, the Applicant’s qualifying tangible personal property meets the requirements of a Project under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8 (the “Project”); and

WHEREAS, after the Authority approves an Application, the Authority enters into a Regulatory Agreement, as described in Authority Regulations Section 10030(a), with the Applicant for the Project; and

WHEREAS, the Applicant has estimated the covered portion of the Project has an estimated cost not to exceed \$23,527,500 over a period of three years; and

WHEREAS, the Applicant asserts 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 Project pursuant to Revenue and Taxation Code Section 6010.8; and

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

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

Section 1. The Regulatory Agreement includes a Project within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The 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 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 Authorized Signatories deem appropriate, provided that the amount of the qualifying tangible personal property to be purchased for the Project may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Regulatory Agreement between the Applicant and the Authority, as filed with the Authority prior to this public meeting, is hereby approved. For, on behalf and in the name of the Authority, the Authorized Signatories are hereby authorized and directed to execute, acknowledge, and deliver to the Applicant the Regulatory Agreement in substantially the form filed with or approved by the Authority.

The Regulatory Agreement may contain insertions, deletions or changes as the Authorized Signatories executing the Regulatory Agreement may require or approve, including particular information inserted in substantial conformance with the staff summary and in the Application to the Authority. The approval of the Regulatory Agreement will be conclusively evidenced by the execution and delivery of the final Regulatory Agreement.

The Authority understands and agrees that, pursuant to the terms of the Regulatory Agreement, the obligations of the Applicant, under some circumstances, may 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 to consummate the Regulatory Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall ensure that all of the qualifying tangible personal property acquired as part of the Project that is listed in the semi-annual reports provided to the Authority pursuant to the Regulatory Agreement will be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Regulatory Agreement shall only apply to qualifying tangible personal property acquired as part of the Project that the Applicant certifies will be installed, maintained and operated at facilities physically located within the State of California.

Section 9. Neither the adoption by the Authority of this Resolution for the Applicant nor the Regulatory Agreement may be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project and may not be referred to 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 is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty (30) days if necessary.