

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

***Request to Approve a Time Extension for the
Initial Term of the Regulatory Agreement¹***

**East Valley Water District
Application No. 20-SM003**

Tuesday, January 17, 2023

Prepared By: *David Palsha, Program Analyst*

SUMMARY

Applicant – East Valley Water District

Location – Highland, San Bernardino County

Industry – Biogas Capture and Production

Project – New Wastewater and Food Waste Biogas Production Facility (Alternative Source)

Total Amount Qualified Property Approved– \$60,328,000

Estimated Sales and Use Tax Exclusion Amount at Approval² – \$ 5,043,421

Amount of Time Requested –

- Requesting a one-year and six-month extension, until July 21, 2024, for the Initial Term of the Regulatory Agreement (a total of four years and six months from the date of initial CAEATFA Board approval of January 21, 2020)

Staff Recommendation – Approval

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

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

REQUEST

On January 21, 2020, the CAEATFA Board approved a Sales and Use Tax Exclusion (“STE”) award for East Valley Water District (the “Applicant”) for the purchase of up to \$60,328,000 in Qualified Property to design and build the Sterling Natural Resource Center (“SNRC”), a plant that will include primary treatment, a membrane bio-reactor, ultraviolet light disinfection and anaerobic solids processing with off-site solids disposal to produce clean water, residuals solids for composting, and carbon-negative biogas (the “Project”). The Regulatory Agreement (“Agreement”) initial term provided the Applicant with three years from the date of CAEATFA Board approval to utilize its STE award.³

As of June 30, 2022, the Applicant has used the STE award to purchase approximately \$31.6 million of Qualified Property (50% of the total Qualified Property approved). The Applicant is requesting to extend the Agreement’s initial term by one year and six months to accommodate challenges resulting from the COVID-19 pandemic that caused supply chain and construction issues.

The Applicant states the unusual challenges from the COVID-19 pandemic has caused supply chain delays and construction adjustments; however, given the current trajectory, it believes all procurement will be completed ahead of the fourth quarter of 2023. Additionally, because the Applicant receives federal funding for the Project, it must comply with the American Iron and Steel Act standards enforced by the United States Environmental Protection Agency. According to the Applicant, the Project team has maintained forward progress purchasing additional equipment and adjusted its timeline to maximize labor while waiting on delivery of key materials. The Applicant states it is working directly with the manufacturer in an attempt to reduce delivery delays. While the timeline has been adjusted, the Project scope remains the same including the anticipated energy generation.

The CAEATFA Board can extend the initial term of the Agreement upon a finding that an extension is in the public interest and advances the purposes of the STE Program.⁴

THE APPLICANT

East Valley Water District, a California special district formed in 1954, provides water and wastewater services to over 102,000 residents within the City of Highland, portions of the City and County of San Bernardino, Patton State Hospital, and San Manuel Band of Mission Indians. With a service area of just over 30 square-miles, the Applicant receives its source of water from the Santa Ana River, the State Water Project, and the Bunker Hill Groundwater Basin.

The Applicant is currently designing and building the SNRC, a plant that will include primary treatment, a membrane bio-reactor, ultraviolet light disinfection and anaerobic solids processing with off-site solids disposal to produce clean water, residuals solids for composting, and carbon-negative biogas. The SNRC will be built-out with a community green space that will have two

³ California Code of Regulations Title 4, Division 13, Section 10035(b)(1)

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

detention ponds, a demonstration garden, a half-mile decomposed granite trail, one mile of new sidewalks, and a planting component of 249 carbon-sequestering trees and 4,482 water efficient shrubs.

The Board of Directors of the Applicant are:

Phillip R. Goodrich, Chairman of the Board
James Morales Jr., Vice Chairman of the Board
Chris Carrillo, Governing Board Member
Ronald L. Coats, Governing Board Member
David E. Smith, Governing Board Member

The company officers of the Applicant are:

Michael Moore, General Manager & CEO
Kelly Malloy, Director of Strategic Services
Brian Tompkins, CFO

THE PROJECT

The Applicant received an STE award to convert raw wastewater and source-separated food waste into biogas at the SNRC in Highland. According to Applicant, the biogas will comprise of 90% food waste and 10% wastewater. The Applicant states it will accept an estimated average of 7.7 million gallons of raw wastewater and 90,000 gallons of food waste per day over the lifetime of the Qualified Property. As such, Applicant intends on producing approximately 252,000 MMBTU of biogas per year.

The Qualified Property will be used to produce biogas and includes a portion of the power generation equipment used to power the biogas production equipment. Approximately 50% of the total amount of power generated will be used to power the SNRC, however, 10% of the power generated will be used to support operations unrelated to producing the biogas; therefore only 40% of the value of the power generation equipment was included in the Application. The remaining 50% was not included in the Application as it represents the proportion of available energy in the form of electricity that will be sold to Southern California Edison.

AGREEMENT INITIAL TERM EXTENSION REQUEST

The Applicant has requested that the initial term of the Agreement be extended from January 21, 2023 to July 21, 2024, to accommodate challenges resulting from the COVID-19 pandemic that caused supply chain and construction issues.

STAFF EVALUATION

Staff acknowledges that the COVID-19 pandemic has impacted the Project. The Applicant states there were supply chain delays due to the lack of materials available, but the Project has been able to maintain forward progress purchasing additional equipment and making construction adjustments. According to the Applicant, it anticipates making all Qualified Property purchases

by the end of 2023 and completing the Project by the beginning of 2024. To ensure the Applicant’s facility is completed within an 18-month timeline, the Applicant states it will carry out the various phases of the Project concurrently.

Based on this information, Staff believes extending the initial term of the Agreement will allow for the Project to be completed, and is, therefore, in the public interest and advances the purposes of the STE Program.

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 \$2,000 because extending the initial term qualifies as a modification to the Applicant’s Agreement.

RECOMMENDATION

Staff recommends that the Board approve the Applicant’s request to extend the initial term of the Agreement by one year and six months to July 21, 2024, as it is in the public interest and advances the purposes of the STE Program.

ATTACHMENTS

- Attachment A: East Valley Water District’s letter requesting waiver (December 14, 2022)
- Attachment B: East Valley Water District’s staff summary at the time of approval

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

**RESOLUTION APPROVING A TIME EXTENSION FOR
EAST VALLEY WATER DISTRICT’S INITIAL TERM FOR
THE REGULATORY AGREEMENT**

January 17, 2023

WHEREAS, on January 21, 2020, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”), a public instrumentality of the State of California, approved a Sales Tax Exclusion (“STE”) in the amount of \$60,328,000 of Qualified Property for **East Valley Water District** (the “Applicant”); and

WHEREAS, within three (3) years of approval by the Authority, the Applicant must make all Qualified Property purchases (STE Program regulations Section 10035(b)(1)); and

WHEREAS, upon a finding that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that all purchases of Qualified Property be made within three (3) years of Application approval (STE Program regulations Section 10035(b)(1)(B)); and

WHEREAS, the Applicant has requested a waiver of the requirement to purchase all of the Qualified Property within three (3) years, due to unexpected delays in the Project timeline, extending the term by one (1) year and six (6) months to July 21, 2024; and

WHEREAS, granting the waiver will allow the Project to proceed and the state to receive the anticipated environmental and economic benefits that justified the initial approval of the Project in accordance with the law, thereby advancing both the public interest and the purposes of the Program.

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

Section 1. The Authority finds that it is in the public interest and advances the purposes of the Program to extend the Applicant’s initial term of the Regulatory Agreement to July 21, 2024.

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

Attachment A: East Valley Water District’s Letter Requesting Waiver (December 14, 2022)



Phillip R. Goodrich
Chairman of the Board

James Morales, Jr.
Vice Chairman

Chris Carrillo
Governing Board Member

Ronald L. Coats
Governing Board Member

David E. Smith
Governing Board Member

Michael Moore, P.E.
General Manager/CEO

3111 Greenspot Road
Highland, CA 92346

(909) 889-9501
www.eastvalley.org

December 14, 2022

CAEATFA
915 Capitol Mall Room 538
Sacramento, CA 95814

RE: East Valley Water District Sales Tax Exclusion Extension

Dear California Alternative Energy and Advanced Transportation Financing Authority Board;

East Valley Water District (District) is a proud participant in the California Alternative Energy and Advanced Transportation Financing Authority Sales Tax Exclusion. Since originally being approved in January 2019 the Sterling Natural Resource Center has made significant progress toward completion of a recycled water facility that will provide a new facility for the cogeneration of electricity using wastewater solids and high strength organics. Given the unprecedented delays in the supply chain, the District is requesting an 18-month extension on the exclusion to allow for the procurement of remaining qualified equipment and project close out. This amount of time should meet the additional project needed to finalize purchasing of long-lead time items.

Since the start of the project, the world faced the unusual challenges resulting from the COVID-19 global pandemic. While the project has been able to maintain forward progress, there were supply chain delays, procurement challenges, and unforeseen material lack of availability. Given the use of US EPA/ Clean Water State Revolving Funds the project must comply with American Iron and Steel Act standards. To date, the District has reported \$31,633,400.78, and we have purchased additional equipment that will be calculated in the annual report due in January 2023 totaling approximate completion at approximately 90%. We do not anticipate expending the full funding amount approved for eligible equipment purchased for this project.

The District anticipates completing the project in the 1st quarter of 2024, allowing for all reporting requirements ahead of close out to be completed and provided to CAEATFA staff. The project team has made construction adjustments and are confident that procurement will be completed ahead of 4th quarter 2023. The project was originally expected to be completed by the end of 2022, with supply chain delays originally adjusting the completion date to spring 2023, and now it is trending no later than 4th quarter 2023. Currently the project is experiencing significant supply chain delays for items required to complete commissioning, including large valves that are not expected to be received until the 3rd quarter 2023.

Completing this project is a priority for both the District and the community as part of the organizational commitment to stewardship. Staff is working with the construction team to adjust

**Agenda Item – 4.B.3
Resolution No. 20-SM003-01**



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task timing to maximize labor while waiting for delivery of key materials. This creative approach of adapting to unforeen challenges is allowing for equipment manufacturing, construction activities, and commissioning activities to take place concurrently. The team is working directly with the manufacturer in an attempt to reduce delivery delays as much as possible. We are confident that the project will be completed within the extension date due to the limited nature of qualified equipment pending delivery and installation.

The project remains the same as the original scope, including anticipated energy generation. The Sterling Natural Resource Center has set out to serve as an example for potential partnerships and innovation. This world class project has widespread community and industry support and continues to set the example of resource preservation.

We respectfully request an 18-month extension of East Valley Water District's Serling Natural Resource Center Sales Tax Exclusion. Should you have any additional questions please contact me by email at kmalloy@eastvalley.org or phone (909) 885-4900.

Sincerely,

Kelly Malloy
Director of Strategic Services

Attachment B: East Valley Water District’s Staff Summary at the Time of Approval

The original award staff summary can be found [on the CAEATFA website](#).

**Agenda Item – 4.A.2
Resolution No. 20-SM003
Application No. 20-SM003**

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

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

**East Valley Water District
Application No. 20-SM003**

Tuesday, January 21, 2020

Prepared By: *Xee Moua, Program Analyst*

SUMMARY

Applicant – East Valley Water District

Location – Highland, San Bernardino County

Industry – Biogas Capture and Production

Project – New Wastewater and Food Waste Biogas Production Facility (Alternative Source)

Value of Qualified Property – \$60,328,000

Estimated Sales and Use Tax Exclusion Amount² – \$5,043,421

Estimated Quantifiable Net Benefits – \$3,603,727

Application Score³ –

Fiscal Benefits Points:	1,570
<u>Environmental Benefits Points:</u>	<u>145</u>
Net Benefits Score:	1,715
<u>Additional Benefits Points:</u>	<u>35</u>
Total Score:	1,749

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%.

³ Point values in the staff summary may not add up correctly due to rounding in the Application worksheet.

**Agenda Item – 4.B.3
Resolution No. 20-SM003-01**

**Agenda Item – 4.A.2
Resolution No. 20-SM003
Application No. 20-SM003**

THE APPLICANT

East Valley Water District (“East Valley” or the “Applicant”), a California special district formed in 1954, provides water and wastewater services to over 102,000 residents within the City of Highland, portions of the City and County of San Bernardino, Patton State Hospital, and San Manuel Band of Mission Indians. With a service area of just over 30 square-miles, East Valley receives its source of water from the Santa Ana River, the State Water Project, and the Bunker Hill Groundwater Basin.

East Valley is currently designing and building the Sterling Natural Resource Center (“SNRC”), a plant that will include primary treatment, a membrane bio-reactor, ultraviolet light disinfection and anaerobic solids processing with off-site solids disposal to produce clean water, residuals solids for composting, and carbon-negative biogas. The SNRC will be built-out with a community green space that will have three detention ponds, a demonstration garden, a half-mile decomposed granite trail, one mile of new sidewalks, and a planting component of 249 carbon-sequestering trees and 4,482 water efficient shrubs.

The Board of Directors for East Valley are:
David E. Smith, Chairman
Phillip R Goodrich, Vice Chairman
Chris Carrillo, Governing Board Member
Ronald L. Coats, Governing Board Member
James Morales Jr., Governing Board Member
John Mura, General Manager, CEO

THE PROJECT

East Valley is requesting a sales and use tax exclusion to convert raw wastewater and source-separated food waste into biogas at the SNRC in Highland (the “Project”). According to East Valley, the biogas will comprise of 90% food waste and 10% waste water. The Applicant states that it will accept an estimated average of 7.7 million gallons of raw wastewater and 90,000 gallons of food waste per day over the lifetime of the Qualified Property to be purchased. As such, East Valley represents it will be able to produce approximately 252,000 MMBTU of biogas a year.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to produce biogas and includes a portion of the power generation equipment used to power the biogas production equipment. Approximately 50% of the total amount of power generated will be used to power the SNRC, however, 10% of the power generated will be used to support operations unrelated to producing the biogas; therefore only 40% of the value of the power generation equipment is included in this Application. The remaining 50% is not included in this Application as it represents the proportion of available energy in the form of electricity that will be sold to Southern California Edison (SCE).

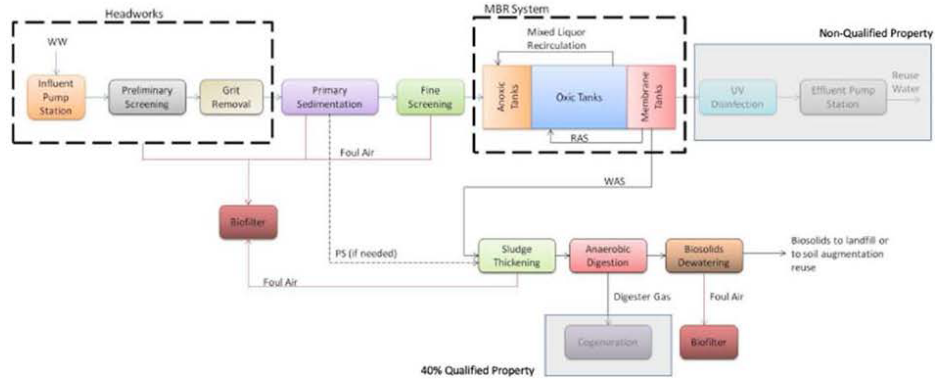


Figure 1: Process Flow Diagram

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Inert Material Removal Equipment	\$ 5,420,000
Membrane Bioreactor Equipment	5,105,000
Biological Process Reactor Related Equipment	5,962,000
Chemical Storage and Metering Equipment	335,000
Solids Processing and Digester Equipment	22,128,000
Odor Control Equipment	3,485,000
Operations Building Equipment	5,500,000
Onsite Improvement Materials	2,783,000
Sewer Collection System	2,000,000
Influent Pump Station	530,000
Electrical and Instrumentation Equipment	7,080,000
Total	<u>\$60,328,000</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 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.

**Agenda Item – 4.B.3
Resolution No. 20-SM003-01**

**Agenda Item – 4.A.2
Resolution No. 20-SM003
Application No. 20-SM003**

TIMELINE

The Applicant represents that the design, activation, procurement, and construction stages of the Project have begun. Commissioning and startup will occur in the first half of 2021 and full operations will occur beginning January 2022.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$60,328,000 and the total quantifiable net benefits are valued at \$3,603,727 for the Project. The Project received a Total Score of 1,749 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 145 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (1,570 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 \$7,918,079, resulting in a Fiscal Benefits score of 1,570 points for the Project.

- B. **Environmental Benefits (145 points)**. The Project will result in \$729,069 of total pollution benefits over the life of the Project, resulting in an Environmental Benefits Score of 145 points for the Project. These benefits derive from the production of biogas, which offsets the need for use of fossil methane.

- C. **Additional Benefits (35 points)**. Applicants may earn additional points for their Total Score. The Applicant submitted information and received 35 additional points.
 - 1. **Production Jobs (0 of 75 points)**. The Applicant represents that the Project will support a total of 12 production-related jobs at its Facility. Zero points were awarded because the marginal increase in jobs does not meet the required threshold.

 - 2. **Construction Jobs (30 of 75 points)**. The Applicant represents that the Project will support a total of 67 construction jobs at its Facility. CAEATFA estimates that approximately 10 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 30 points for the Project.

 - 3. **Unemployment (5 of 50 points)**. The Applicant’s Project is located in San Bernardino County which has an average annual unemployment rate of 5.29%. This is above 110% of the statewide average annual unemployment

Agenda Item – 4.B.3
Resolution No. 20-SM003-01

Agenda Item – 4.A.2
Resolution No. 20-SM003
Application No. 20-SM003

rate which was 5.1% in 2017, the dataset used in the application. This results in an Unemployment Score of 5 points for this Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant has submitted requests for permits and/or approvals necessary for the Project, and expects all to be secured through 2020. For example, the Applicant has sought approval from the California Department of Fish and Wildlife for installation of an effluent pipeline, discharge permits from the Regional Water Quality Control Board and State Water Resources Control Board, and approval from the San Bernardino International Airport Authority which is serving as the reviewing agency on behalf of the Federal Aviation Administration for a Wildlife Hazard Plan.

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 \$241,312.

RECOMMENDATION

Staff recommends approval of Resolution No. 20-SM003 for East Valley Water District’s purchase of Qualified Property in an amount not to exceed \$60,328,000, anticipated to result in an approximate sales and use tax exclusion value of \$5,043,421.

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

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER
REGULATORY AGREEMENT WITH EAST VALLEY WATER DISTRICT**

January 21, 2019

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **East Valley Water District** (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 \$60,328,000 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.B.3
Resolution No. 20-SM003-01

Agenda Item – 4.A.2
Resolution No. 20-SM003
Application No. 20-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.