

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: August 15, 2017**

Request to Approve Amended and Restated Final Resolution Authorizing the Issuance of Revenue Bonds, Tax-Exempt Volume Cap Allocation, and Small Business Assistance Fund (SBAF) Cost of Issuance Assistance

Prepared by: *Kris Luoma*

Applicant:	Aemerge Redpak Services Southern California, LLC and/or its Affiliates	Amount Requested:	\$12,350,000
Project Location:	City of Hesperia (San Bernardino County)	Application No.:	904(SB)
		Final Resolution No.:	569
		Prior Actions:	IR Approved April 18, 2017 FR Approved July 18, 2017

Summary. Aemerge Redpak Services Southern California, LLC (the “Company” or “Aemerge”) and/or its Affiliates request approval of to the Amended and Restated Final Resolution and Volume Cap Allocation for an amount not to exceed \$12,350,000 in tax-exempt bonds to finance the cost of refurbishing existing equipment, construction costs and earthquake safety improvements (the “Project”) and assistance from the Small Business Assistance Fund (SBAF) in an amount not to exceed \$33,600 to help pay for up to two percent of the closing costs.

Background. In January 2016, the Authority issued bonds in the amount of \$28,250,000 to finance the construction of two carbonizers to dispose of medical waste through high-heat thermal destruction. The original Project was anticipated to begin operations on April 3, 2017, but there have been construction delays and additional equipment is required to complete the Project. Together, these added significant additional project costs. Because of the additional costs, the Company has applied for additional funds to complete the Project. The Initial Resolution (IR) was approved on April 18, 2017 by the CPCFA Board for \$12,350,000. A Final Resolution (FR) in the amount of \$12,350,000 was approved by the CPCFA Board on July 18, 2017 (Attachment A). The transaction is anticipated to close on August 23, 2017.

Borrower. Aemerge Redpak Services Southern California, LLC is a Limited-Liability Company organized on August 3, 2015. The Company will provide medical waste transfer and disposal services. It is a small business with approximately 31 employees.

The principal stockholders of the Company are as follows:

Randy Seger	44.83%
Charlie Mong	33.62%
Mark Loughery	11.21%
Landon Miller	5.34%
Scott Behrens	5.00%
Total:	<u>100.00%</u>

Agenda Item 4.A.

TEFRA. The TEFRA hearing was held on June 8, 2017. There were no comments received in support of or in opposition to this Project.

Fees. The Company has paid an application fee of \$5,000 and will pay an administrative fee of \$19,700 at closing.

SBAF Assistance. The Company is a small business eligible for assistance from the SBAF in an amount not to exceed \$33,600.

Prior Financings. Prior financings are listed below.

Description	Date of Bond Issue	Original Amount	Amount Outstanding as of <u>August 1, 2017</u>
Aemerge RedPak Services Southern California, LLC Project Series 2016	1/27/2016	\$28,250,000	\$28,250,000
TOTALS:		<u>\$28,250,000</u>	<u>\$28,250,000</u>

Project Description. In January 2016, CPCFA issued bonds to finance the construction of two carbonizers to dispose of medical waste through high-heat thermal destruction. The original plan was to ship out an existing carbonizer from the parent plant in Indiana and to use it while the new carbonizer was being manufactured. Subsequent to the issuance of the 2016 bonds, the Company discovered that both carbonizers needed to be outfitted with a special alloy muffle/ processing tube made of HR160 because the original muffle experienced some corrosion. Additionally, although not previously contemplated in the 2016 bond transaction, a Special Projects Unit was created to supplement the carbonizers when special handling, such as disassembling medical instruments with lithium batteries is required. The refurbishment was completed in December 2016 and the Specialty Projects Unit was placed into service in January 2017.

Additionally, there have also been construction delays due to the City’s unfamiliarity with projects of this type and the State’s adoption of new earthquake standards that became effective January 2017. Together, these added significant additional project costs. To help with the additional costs the parent company, Aemerge, LLC, is funding a portion of the Project with an equity contribution of \$7,500,000.

The anticipated project and issuance costs are listed below:

Acquisition and Installation of New Equipment	\$6,468,000
Site Preparation	4,400,000
Reserve Fund	1,235,000
Bond Issuance Expenses	<u>247,000</u>
Total:	<u>\$12,350,000</u>

Note: The project costs reported in the Borrower’s application and shown here in staff’s report are estimated costs. At the time this financing closes, the estimated project costs will be finalized and stated in the Tax Certificate. Variations 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 from original estimates, and other reasons. In addition, such costs may

Agenda Item 4.A.

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. However, the Borrower confirms, through submission of a signed application and will confirm through covenants and representations in various bond documents, that all assets purchased with bond proceeds will qualify for tax exempt financing, that they will be used to complete the project as described, and that the average life tests required by federal law and described in the Tax Certificate will continue to be met. Tax-exempt financing may be only one source out of multiple sources of financing for a given project.

Permitting and Environmental Approvals. The Mojave Desert Air Quality Management District permit has been renewed and expires on December 31, 2017. The Company has also obtained the following permits:

- Medical Waste Transfer Station – Permits issued; Permission to Operate Granted
- Medical Waste Treatment Facility – Permits issued; Permission to Operate Granted
- January 2017 Grading Permit - Updated February 7, 2017
- February 2017 Electrical Engineering Permit – Updated March 27, 2017
- April 2017 Aemerge Equipment Package #2 – Updated May 2, 2017

Financing Details. The Company anticipates a limited offering of non-rated, fixed rate and tax-exempt solid waste disposal revenue bonds in minimum denominations of \$250,000 or any integral multiple of \$5,000 in excess thereof and a restriction on transfers to Qualified Institutional Buyers. The target date for financing is August 23, 2017.

The 2017 financing will be similar to the 2016 transaction, except that the payments on the 2017 bonds will be subordinate to the 2016 bonds. All revenues are pledged first to the 2016 bonds and then to the 2017 bonds.

The Board approved the bond documents for the 2017 subordinate bonds, and amendments to bond documents for the 2016 senior bonds on July 18, 2017. Most of the amendments to the 2016 bond documents relate to the subordinate position of the 2017 bonds. The 2016 Indenture and the 2016 Loan Agreement were amended to describe or acknowledge (i) the co-existence of the two bond series, (ii) UMB as the trustee for each bond series, (iii) there is a stream of revenues that will first pay the 2016 bonds and then the 2017 bonds and that such priority is protected, (iv) the existing 2016 bondholders have consented to the 2017 issuance, (v) the trustee for the 2016 bonds must be the same as for the 2017 bonds, (vi) updates to Aemerge's insurance requirements, (vii) updates to reporting obligations to CPCFA and CDLAC, (viii) a change to the Debt Service Coverage Ratio requirement and (ix) updates to numerous financial covenants, along with certain disclosure obligations and notice provisions.

Since the July meeting, there have been additional changes made to the 2016 and 2017 documents. The substantive amendments are as follows:

- Language was added throughout the documents to avoid allowing a new class of debt between the 2016 senior bonds and the 2017 subordinate bonds.
- The 2016 and 2017 Indentures were modified to show that there will be an Amended and Restated Deed of Trust benefitting the 2016 bond holders and any parity debt, in addition

Agenda Item 4.A.

to a separate Deed of Trust benefitting the 2017 bond holders and any debt on parity therewith.

- The 2016 Guaranty Agreement has been amended and restated.
- The Debt Service Coverage requirement described in both the 2016 and 2017 Loan Agreements has been increased.
- Other modifications were made to the documents, the effects of which do not run to the Authority, including the addition of an allowable distribution from the Borrower to the Guarantor for technology and licensing fees.

Staff seeks approval of the further revised 2017 bond documents and amendments to the 2016 bond documents.

All of the 2016 bond holders have been updated on the project and have provided verbal approval of the subordinated 2017 bonds, which is subject to the Purchaser's Counsel review. Two of the original five 2016 bond holders will be purchasing the 2017 bonds. Nuveen and Oppenheimer are purchasing the bonds for \$7,350,000 and \$5,000,000, respectively. Both bond holders have signed an Investor Letter which is the same form of Investor Letter that was used in the 2016 bond transaction. CPCFA is in receipt of the Investor Letters. Written approval of the three remaining 2016 bondholders will be obtained prior to closing. The 2016 and 2017 bonds, together, are to act like one project and one financing. Only in the case of an event of default will there be a significant difference between the two series of bondholders.

Financing Team.

Underwriter: Westhoff, Cone & Holmstedt
Bond Counsel: McGuireWoods LLP
Trustee: UMB Bank, N.A.
Issuer's Counsel: Office of the Attorney General
Bond Purchasers: Nuveen
Oppenheimer

Staff Recommendation. Staff recommends approval of the Amended and Restated Final Resolution No. 569, Volume Cap Allocation Resolution No. 14-147-05 for an amount not to exceed \$12,350,000, and a SBAF Resolution in an amount not to exceed \$33,600 for Aemerge Redpak Services Southern California, LLC and/or its Affiliates.

**AMENDED AND RESTATED
FINAL BOND RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
RELATING TO FINANCING OF SOLID WASTE DISPOSAL
FACILITIES AND EQUIPMENT FOR
AEMERGE REDPAK SERVICES SOUTHERN CALIFORNIA, LLC,
AND/OR ITS AFFILIATES**

August 15, 2017

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) has heretofore issued its California Pollution Control Financing Authority Solid Waste Disposal Revenue Bonds (Aemerge Redpak Services Southern California, LLC Project) Series 2016 (AMT) (the “2016 Bonds”), in the aggregate principal amount of \$28,250,000, pursuant to the terms of a certain Indenture, dated as of January 1, 2016 (the “2016 Indenture”), between the Authority and UMB Bank, N.A., as trustee; and

WHEREAS, the Authority has loaned the proceeds of the 2016 Bonds to Aemerge Redpak Services Southern California, LLC, an Indiana limited liability company (the “Borrower”) pursuant to the terms of a certain Loan Agreement, dated as of January 1, 2016 (the “2016 Loan Agreement”) to finance the acquisition, construction, rehabilitation, renovation, installation, improvement and equipping of certain solid waste disposal and recycling facilities (the “2016 Project”); and

WHEREAS, the Authority has previously received the application of the Borrower for financial assistance to finance the acquisition, construction, rehabilitation, renovation, installation, improvement and equipping of solid waste disposal and recycling facilities, located in San Bernardino County, and all as more particularly described in the Term Sheet (the “Term Sheet”) attached hereto as Exhibit A and incorporated herein (the “2017 Project”); and

WHEREAS, the Borrower has accordingly previously requested the Authority to issue its revenue bonds from time to time on a subordinate basis in an amount not to exceed \$12,350,000 to assist in the financing of the 2017 Project; and

WHEREAS, as previously approved by the Authority by the adoption of its resolution on July 18, 2017 entitled “Final Bond Resolution of the California Pollution Control Financing Authority Relating to Financing of Solid Waste Disposal Facilities and Equipment for Aemerge RedPak Services Southern California, LLC and/or Its Affiliates” (the “Original Final Resolution”), the proceeds of such revenue bonds will be loaned to the Borrower under a loan agreement with the Authority (the “2017 Loan Agreement”), and Aemerge, LLC, an Indiana limited liability company (the “Guarantor”) will guarantee the payments by the Borrower under such 2017 Loan Agreement; and

WHEREAS, since the Authority’s adoption of the Original Final Resolution, further changes to the structure of the proposed transaction have occurred due to investor input during the marketing of such transaction (which marketing was approved in the Original Final Resolution, resulting in modifications to the documents approved by the Original Final Resolution (the “Modifications”) and the need for approval of such modifications, including the amendment of the Guaranty Agreement, dated as of January 1, 2016, by and between Aemerge, LLC and the trustee named in the 2016 Indenture (the “2016 Guaranty”); and

WHEREAS, final approval of the terms of such revenue bonds and certain documents relating to such revenue bonds, including the amendment of the 2016 Indenture, the 2016 Loan Agreement, the 2016 Guaranty and the Modifications, to permit the issuance of such additional indebtedness, is now sought; and

WHEREAS, the Borrower has previously provided or will provide prior to the bond sale documentation to the Authority demonstrating that the 2017 Project has complied with Division 13 (commencing with Section 21000) of the Public Resources Code, or is not a project under that division; and

WHEREAS, in light of the foregoing, the Authority now desires to amend and restate the Original Final Resolution, and accordingly, this Amended and Restated Resolution (the “Resolution”) amends and restates in its entirety the Original Final Resolution.

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The 2017 Project constitutes a “project,” and the Borrower is a “participating party” both within the meaning of the California Pollution Control Financing Authority Act (the “Act”).

Section 2. Pursuant to the Act, revenue obligations of the Authority, designated as the “California Pollution Control Financing Authority Subordinate Solid Waste Disposal Revenue Bonds (Aemerge Redpak Services Southern California, LLC Project), Series 2017” (the “2017 Bonds”), or such alternate designation as may be approved by the Executive Director of the Authority, in an aggregate principal amount not to exceed \$12,350,000 are hereby authorized to be issued. The 2017 Bonds may be issued at one time, or from time to time, in one or more series separately or differently identified, and may be issued in a tax exempt or taxable mode, in accordance with the 2017 Indenture (as hereinafter defined) as finally executed. The proceeds of the 2017 Bonds shall be used to make a loan to the Borrower to finance the 2017 Project (including, without limitation, reimbursing the Borrower for costs incurred for the 2017 Project prior to the issuance of the Bonds), and to pay a portion of the costs of issuance of the 2017 Bonds.

Section 3. The Treasurer of the State of California (the “Treasurer”) is hereby authorized to sell the 2017 Bonds, at one time or from time to time on or before December 31, 2017, by negotiated sale, at such price, at such interest rate or rates and in such mode (taxable or tax-exempt)

as he may determine, such determination to be as set forth in the hereinafter referred to Purchase Contract.

Section 4. The following documents:

- i. a Loan Agreement relating to the 2017 Bonds (the “2017 Loan Agreement”), between the Authority and the Borrower;
- ii. an Indenture relating to the 2017 Bonds (the “2017 Indenture”), between the Authority and the trustee named in the Term Sheet (the “Trustee”);
- iii. a Bond Purchase Contract relating to the 2017 Bonds (the “Purchase Contract”) among the Authority, the Treasurer of the State of California and the underwriter named in the Term Sheet (the “Underwriter”), and approved by the Borrower;
- iv. a Guaranty Agreement relating to the 2017 Bonds (the “Guaranty Agreement”), by the Guarantor in favor of the Trustee;
- v. a Limited Offering Memorandum (in the form of either the “Preliminary Limited Offering Memorandum” or the final “Limited Offering Memorandum”) to be used in connection with the offering and sale of the 2017 Bonds;
- vi. a First Amendment to Loan Agreement relating to the 2016 Bonds (the “First Amendment to 2016 Loan Agreement”) between the Authority and the Borrower;
- vii. a First Amendment to Indenture relating to the 2016 Bonds (the “First Amendment to 2016 Indenture”) between the Authority and the trustee named in the 2016 Indenture; and
- viii. an Amended and Restated Guaranty Agreement relating to the 2016 Bonds (the “Amended and Restated Guaranty Agreement”) by the Guarantor in favor of the trustee named in the 2016 Indenture

are hereby approved in substantially the forms on file with the Authority as of the date of this meeting, with such insertions, deletions or changes therein in substantial conformance with the Term Sheet as the officer(s) executing and/or delivering the same may require or approve, such approval to be conclusively evidenced by execution and delivery thereof in the case of the 2017 Loan Agreement, the 2017 Indenture, the Guaranty Agreement, the Purchase Contract, the Limited Offering Memorandum, the First Amendment to 2016 Loan Agreement; the First Amendment to 2016 Indenture; and the Amended and Restated Guaranty Agreement and by delivery thereof in the case of the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum.

Section 5. The Authority understands and agrees that pursuant to the terms of the 2017 Loan Agreement the obligations of the Borrower may, under some circumstances, be carried out or assumed by a successor or assignee entity or by Affiliates of such Borrower. For purposes of this Resolution, an “Affiliate” of the Borrower means any person or entity which meets the definition of “Participating Party” in the Act and controls, is controlled by, or is under common

control with, the Borrower, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

Section 6. The dates, maturity dates, interest rate or rates, interest payment dates, denominations, forms, registration privileges, place or places of payment, terms of redemption and other terms of each series of the 2017 Bonds shall be as provided in the 2017 Indenture, as finally executed.

Section 7. The authorization to distribute the Preliminary Limited Offering Memorandum to persons who may be interested in the purchase of the 2017 Bonds granted to the Underwriters in the Original Final Resolution is hereby ratified and affirmed. The Underwriters are hereby directed to deliver a copy of the final Limited Offering Memorandum to all actual purchasers of the 2017 Bonds.

Section 8. The 2017 Bonds shall be executed by the manual or facsimile signature of the Chairman or any Deputy to the Chairman and the seal of the Authority shall be affixed thereon (or a facsimile reproduced thereon) in the form set forth in and otherwise in accordance with the 2017 Indenture. The 2017 Bonds, when executed, shall be delivered to the Trustee under the 2017 Indenture for authentication by the Trustee. The Trustee is hereby requested and directed to authenticate the 2017 Bonds by executing the Trustee's certificate of authentication appearing thereon. The Trustee is hereby requested and directed to deliver the 2017 Bonds, when duly executed and authenticated, to The Depository Trust Company, New York, New York, on behalf of the Underwriter in accordance with written instructions executed on behalf of the Authority, which instructions are hereby approved. Such instructions shall provide for the delivery of the 2017 Bonds to The Depository Trust Company, on behalf of the Underwriter thereof, upon payment of the purchase price thereof.

Section 9. The Authority hereby dedicates and confirms its allocation to the 2017 Bonds of \$12,350,000 of a portion of its private activity bond limit, as previously received, carried forward or to be received from the California Debt Limit Allocation Committee, to finance or refinance certain costs of the 2017 Project and to pay certain costs of issuance of the 2017 Bonds, so as to satisfy the requirements of Section 146 (e) of the Internal Revenue Code of 1986, with respect to the 2017 Bonds.

Section 10. Each officer of the Authority, acting alone, is hereby authorized and directed to do any and all ministerial acts that the officer may deem necessary or advisable in order to consummate the issuance, sale, or delivery of the 2017 Bonds, and otherwise to effectuate the purposes of this Resolution and the 2017 Indenture, the 2017 Loan Agreement, the Purchase Contract, the Limited Offering Memorandum, the First Amendment to 2016 Indenture and the First Amendment to 2016 Loan Agreement. The Authority hereby approves any and all documents to be delivered in furtherance of the foregoing purposes, including, without limitation, any certifications and one or more tax certificates.

Section 11. The provisions of the resolution of the Authority entitled "Resolution of the California Pollution Control Financing Authority Delegating Certain Powers and Authorizing

Agenda Item 4.A.

Certain Actions Related to Bond Financings” adopted by the Authority on January 19, 2016, apply to the documents and actions approved in this Resolution, and the provisions of such resolution are incorporated herein by reference.

Section 12. The Authority hereby approves and ratifies each and every action taken by its officers, agents, members and employees prior to the date of the Original Final Resolution or hereof in furtherance of the purposes of the Original Final Resolution or this Resolution.

Section 13. This Resolution shall take effect immediately upon its passage. The adoption by the Authority of this Resolution for the Borrower shall not be referred to in any application before any government agency as evidence of the feasibility, practicality or suitability of the 2017 Project or in any application for any required permission or authority to construct or operate the 2017 Project.

Section 14. Subject to Sections 7 and 11 herein, the Original Final Resolution is, as of the date hereof, of no further force and effect.

**EXHIBIT A
TERM SHEET**

Name of Issue:	California Pollution Control Financing Authority Subordinate Solid Waste Disposal Revenue Bonds (Aemerge Redpak Services Southern California, LLC Project), Series 2017 (the “2017 Bonds”)
Maximum Amount of Issue:	\$12,350,000
Issuer:	California Pollution Control Financing Authority (the “Authority”), Sacramento, CA
Borrower:	Aemerge Redpak Services Southern California, LLC
Guarantor	Aemerge, LLC
Trustee:	UMB Bank, N.A.
Underwriter:	Westhoff, Cone & Holmstedt
Purchasers:	Nuveen High Yield Muni Bond Fund Oppenheimer Rochester California Municipal Fund Oppenheimer Rochester High Yield Municipal Fund
Bond Counsel:	McGuireWoods LLP Richmond, VA
Project	Bond proceeds will finance the acquisition, construction, rehabilitation, renovation, installation, improvement and equipping of facilities, including the acquisition of equipment for the processing of solid waste in the form of medical waste to be located at 9600 E Ave, Hesperia, California 92345
Maximum Bond Term:	Not to exceed thirty years
Type of Sale:	Private placement
Description of Minimum Denominations:	\$250,000 or any integral multiple of \$5,000 in excess thereof
Financing Structure:	Fixed Rate
Other Credit Enhancement:	Not applicable

Agenda Item 4.A.

Anticipated Bond Rating:

Unrated

Type of Financing:

Solid waste disposal revenue bonds

Prepared by:

Mark Holmstedt, (925) 472-8747

**RESOLUTION OF THE CALIFORNIA
POLLUTION CONTROL FINANCING AUTHORITY
RELATING TO ASSISTANCE FROM THE SMALL
BUSINESS ASSISTANCE FUND FOR
AEMERGE REDPAK SERVICES SOUTHERN CALIFORNIA, LLC
AND/OR ITS AFFILIATES**

August 15, 2017

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) has approved the application of Aemerge Redpak Services Southern California, LLC (the “Borrower”), for financial assistance to finance (A) the acquisition, construction, rehabilitation, renovation, installation, improvement and equipping of a medical waste treatment and destruction center with a non-incineration processing system providing enhanced energy conversion and recycling processes, including associated equipment and appurtenances thereto for the treatment and disposal of medical waste, located in San Bernardino County, California at 9600 E Ave, Hesperia, California 92345; (B) a debt service reserve fund for the Bonds and (C) costs of issuance, as more particularly described in Application No. 904(SB) of the Borrower (the “Project”) and has adopted its Resolution No. 569 (the “Final Resolution”) authorizing the issuance of revenue notes to provide such financial assistance; and

WHEREAS, the Authority has established the Small Business Assistance Fund (the “Fund”) to assist small businesses to obtain pollution control financing through the issuance of tax-exempt revenue bonds or notes (the “Notes”); and

WHEREAS, the Authority has received and accepted an application from the Borrower for assistance from the Fund; and

WHEREAS, the Borrower has demonstrated a financial capability to make loan payments to the satisfaction of the purchaser of the Notes, as named in the Final Resolution; and

WHEREAS, authorization of assistance from the Fund is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The Borrower (as defined in the Final Resolution) is a “Small Business” as classified pursuant to Title 13 Code of Federal Regulations, Part 121, Subpart A (1-1-94 Edition) or it has 500 employees or less, and is otherwise eligible for assistance from the Fund.

Section 2. The Project constitutes a “project” within the meaning of the California Pollution Control Financing Authority Act.

Agenda Item 4.A.

Section 3. The Authority hereby authorizes and approves up to \$33,600 of assistance from the Fund to the Borrower to be used for payment of certain costs of issuance of the Notes. The actual amount of assistance shall be determined by the Executive Director of the Authority based upon the final terms of the sale of the Notes and based on the financing amount eligible for allocation of volume cap pursuant to California Code of Regulations Title 4, Division 11, Article 4, Section 8042(c).

Section 4. The Executive Director of the Authority is hereby authorized and directed, jointly and severally, to do any and all ministerial acts and to execute and deliver a contract for financial assistance with the Borrower in conformance with the terms of this resolution, which he or she may deem necessary or advisable in order to provide the assistance from the Fund and otherwise to effect the purposes of this resolution.

Section 5. This resolution shall take effect immediately upon adoption hereof. The adoption by the Authority of this resolution for the Borrower shall not be referred to in any application before any government agency as evidence of the feasibility, practicality or suitability of the Project or in any application for any required permission or authority to construct or operate the Project.

THE CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

RESOLUTION NO. 14-147-05

**A RESOLUTION TRANSFERRING A PORTION OF THE 2014 STATE CEILING
ON QUALIFIED PRIVATE ACTIVITY BONDS FOR AN
EXEMPT FACILITY PROJECT**

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) has received an application (“Application”) from the Aemerge Redpak Services Southern California, LLC (“Project Sponsor”) for the dedication of a portion of the 2014 State Ceiling on Qualified Private Activity Bonds under Section 146 of the Internal Revenue Code of 1986, as amended, to finance a Project through the issuance of bonds or other obligations as specifically described in Exhibit A (“Project”) (capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Regulations of the California Debt Limit Allocation Committee (the “Committee”) implementing the Allocation of the State Ceiling on Qualified Private Activity Bonds);

WHEREAS, the Project Sponsor has represented and confirmed in its Application certain facts and information concerning the Project;

WHEREAS, in evaluating the Project and dedicating a portion of the State Ceiling on Qualified Private Activity Bonds to the Project Sponsor for the benefit of the Project, the Authority has relied upon the written facts and information represented in the Application by the Project Sponsor; and

WHEREAS, it is appropriate for the Authority to dedicate a portion of the 2014 State Ceiling on Qualified Private Activity Bonds in order to benefit such Project described in the Application;

NOW, THEREFORE, the California Pollution Control Financing Authority resolves as follows:

Section 1. There is hereby dedicated to the Project Sponsor an amount of the 2014 State Ceiling on Qualified Private Activity Bonds equal to **\$12,350,000** (“Allocation”). Such Allocation may be used only in connection with the issuance of bonds or other obligations to finance the Project, as specifically described in Exhibit A. All of the terms and conditions of Exhibit A are incorporated herein as though set forth in full (this resolution, together with Exhibit A are hereafter referred to collectively as this “Resolution”).

Section 2. The terms and conditions of this Resolution shall be incorporated in appropriate documents relating to the Bonds. The Project Sponsor, and all of its respective successors and assignees, will be bound by such terms and conditions. The Project shall be subject to the monitoring provisions of section 5144 of the Committee’s Regulations.

Agenda Item 4.A.

Section 3. The Allocation must be used within ninety (90) days from the date of this Resolution. The Committee may grant an extension of up to ninety (90) days. However, the extension will result in a forfeiture of the Project's performance deposit.

Section 4. Within twenty-four (24) hours of using the Allocation to issue Qualified Private Activity Bonds to finance the Project, the Authority shall notify the Committee at CDLAC@treasurer.ca.gov that the Allocation has been used. This notice shall identify the Project Sponsor, the project, the date the Allocation was used, and the Allocation amount.

Section 5. Within fifteen (15) calendar days of the Bond closing, the Authority shall formally transmit to the Committee information regarding the issuance of the Bonds by submitting a completed Report of Action Taken in a form prescribed by and made available by the Committee.

Section 6. Any differences between the amount of Bonds issued and the amount of the Allocation in Section 1 of this Resolution shall automatically revert to the Authority.

Section 7. Authority staff is authorized and directed to transmit a copy of this Resolution to the Project Sponsor together with a request that the Project Sponsor retain a copy of this Resolution for the term of the Bonds. Authority staff is further directed to retain a copy of this Resolution in the files of the Authority for the same period of time.

Section 8. In consideration of the Allocation dedicated to the Project, the Project Sponsor shall comply with all of the terms and conditions contained in this Resolution and ensure that these terms and conditions are included in the documents related to the Bonds. Further, the Project Sponsor expressly agrees that the terms and conditions of this Resolution may be enforced by the Authority or the Committee through an action for specific performance or any other available remedy, provided however, that the Authority and the Committee agree not to take such action or enforce any such remedy that would be materially adverse to the Bondholders. In addition, the Project Sponsor shall ensure that the Bond documents, as appropriate, expressly provide that the Authority and Committee are third party beneficiaries of the terms and conditions set forth in this Resolution. The Committee may consent to changes in the terms and conditions set forth in this Resolution as changed circumstances may dictate.

Section 9. The Certification of Compliance II or equivalent form must be submitted by the Project Sponsor to the Authority by February 1, but no later than March 1st annually until the project's Certificate of Completion has been submitted to the Authority. The Authority is responsible for reporting to CDLAC by March 1 annually via the Online Compliance System until project completion. A copy of the Certification of Compliance II and Certificate of Completion form may be found at this website location: <http://www.treasurer.ca.gov/cdlac>. Failure to submit compliance may result in disqualification from future program participation.

Section 10. This Resolution shall take effect immediately upon its adoption.

RESOLUTION NO. 14-147-05
(EXEMPT FACILITY PROJECT)
EXHIBIT A

1. Application No.: 904(SB)
2. Project Sponsor Aemerge, LLC, Aemerge Redpak Services Southern California, LLC (and/or its Affiliates)
3. Project User: Same as Project Sponsor
4. Project Name: Aemerge Redpak Services Southern California, LLC
5. Location: 9600 E Ave, Hesperia, CA 92345
6. Amount of Allocation: \$12,350,000

Pursuant to Section 5145(d) of the CDLAC Regulations, CDLAC must be designated in the bond documents to receive notice of changes in use and circumstances of Bond Default and Qualifying Bond Default.

Attachment A

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: July 18, 2017**

Request to Approve Final Resolution Authorizing the Issuance of Revenue Bonds

Prepared by: *Kris Luoma*

Applicant:	Aemerge RedPak Services Southern California, LLC and/or its Affiliates	Amount Requested:	\$12,350,000
Project Location:	City of Hesperia (San Bernardino County)	Application No.:	904(SB)
		Final Resolution No.:	569
		Prior Actions:	IR Approved April 18, 2017

Summary. Aemerge RedPak Services Southern California, LLC (the “Company” or “Aemerge”) and/or its Affiliates requests approval of a Final Resolution for an amount not to exceed \$12,350,000 in tax-exempt bonds to finance the cost of refurbishing existing equipment, construction costs resulting from construction delays and additional earthquake safety improvements (the “Project”).

Borrower. The Company was organized as a limited liability company in 2012 in Indiana. The Aemerge facilities in California consisting of or relating to the Project provide medical waste transfer and disposal services. It is a small business with 31 employees. The project is located in San Bernardino County.

The principal owners with equity in the Company are as follows:

Randy Seger	49.82%
Charlie Mong	37.36%
Mark Loughery	12.45%
Landon Miller	.37%
Total:	<u>100.00%</u>

Legal Questionnaire. The Staff has reviewed the Company’s responses to the questions contained in the Legal Status portion of the Application. No information was disclosed in the Legal Status portion of the Application that raises questions concerning the financial viability or legal integrity of this applicant.

TEFRA. The TEFRA hearing was held on June 8, 2017. There were no comments received in support of or in opposition to this Project.

Fees. The Company has paid an application fee of \$5,000 and will pay an administrative fee of \$19,700 at closing.

Volume Cap Allocation. The Company anticipates returning to CPCFA for volume cap allocation approval on August 15, 2017.

Prior Financings. Prior financings are listed below.

Description	Date of Bond Issue	Original Amount	Amount Outstanding as of July 1, 2017
(Aemerge RedPak Services Southern California, LLC Project) Series 2016	1/27/2016	\$28,250,000	\$28,250,000
TOTALS:		<u>\$28,250,000</u>	<u>\$28,250,000</u>

Project Description. In January 2016, the Authority issued bonds to finance the construction of two carbonizers to dispose of medical waste through high-heat thermal destruction. The original plan was to ship out an existing carbonizer from the parent plant in Indiana and to use it while the new carbonizer was being manufactured. Subsequent to the issuance of the 2016 bonds, the Company discovered that both carbonizers needed to be outfitted with a special alloy muffle/processing tube made of HR160 because the original muffle experienced some corrosion. Additionally, although not previously contemplated in the 2016 bond transaction, a Special Projects Unit was created to supplement the carbonizers when special handling, such as disassembling medical instruments with lithium batteries is required. The refurbishment was completed in December 2016 and the Specialty Projects Unit was placed into service in January 2017.

The original Project was anticipated to begin operation in April 3, 2017, but there have been construction delays due to the City’s unfamiliarity with projects of this type and the State’s adoption of new earthquake standards that became effective January 2017. Together, these added significant additional project costs. To help with the additional costs the parent company, Aemerge, LLC, is funding a portion of the Project with an equity contribution of \$7,500,000.

Anticipated project and issuance costs are listed below:

Uses of Funds	To Be Paid From Bond Proceeds	To Be Paid From All Other Sources
Site Preparation	\$4,400,000	
Acquisition and Installation of New Equipment	\$6,468,000	
Bond Issuance Expenses (Including Discount)	\$247,000	\$200,000
Reserve Fund	\$1,235,000	
	Total Bond Amount	Total Other Costs
	\$12,350,000	\$200,000

Note: The project costs reported in the Borrower’s application and shown here in staff’s report are estimated costs. At the time this financing closes, the estimated project costs will be finalized and stated in the Tax Certificate. Variations 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 from 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. However, the Borrower confirms, through submission of a signed application and will confirm through covenants and

Agenda Item 4.A.

representations in various bond documents, that all assets purchased with bond proceeds will qualify for tax exempt financing, that they will be used to complete the project as described, and that the average life tests required by federal law and described in the Tax Certificate will continue to be met. Tax-exempt financing may be only one source out of multiple sources of financing for a given project.

Anticipated Project Timeline. The Company anticipates the construction of the foundation to meet California's Seismic Safety regulations and the Heat Rejection System design and construction and related items also affected by Seismic Safety regulations to be completed in the 1st quarter of 2019.

Local Government. The Company received a letter of support from Paul Russ, Mayor for the City of Hesperia (Attachment A).

Pollution Control and/or Environmental Benefits. The Company represents the project will generate the pollution control and environmental benefits described below.

Air Quality. The Project will improve air quality through reductions in transportation, treatment, and post-treatment emissions and through the elimination of most or all of these current medical waste logistics activities.

Water Quality. The Project will improve water quality through reductions in ground water seepage from landfills, and reductions in waste water and water usage in transfer stations and facilities that use autoclaving.

Energy Efficiency. The carbonizer system has been evaluated by the United States Department of Energy and has been found to be a highly energy efficient system.

Recycling of Commodities. The carbonizer system makes recycling of metals and glass easier than present processes. It also produces carbons that can be useful in agriculture and in other industrial commerce applications.

Safety and Compliance. The project complies with all safety regulations.

Consumer Cost Savings and Efficiencies. The Company will reduce medical waste costs to hospitals, institutions and other public/private generators of medical waste and veterinary waste. The safe disposal of pharmaceuticals through use of the carbonizer will benefit consumers and taxpayers.

Other benefits to the public. When the carbonizer destroys medical waste and containers, there is essentially nothing left to transport to the landfill.

Permitting and Environmental Approvals. The Mojave Desert Air Quality Management District permit has been renewed and expires on December 31, 2017. The Company has also obtained the following permits:

- Medical Waste Transfer Station – Permits issued; Permission to Operate Granted
- Medical Waste Treatment Facility – Permits issued; Permission to Operate Granted
- January 2017 Grading Permit - Updated February 7, 2017

Agenda Item 4.A.

- February 2017 Electrical Engineering Permit – Updated March 27, 2017
- April 2017 Aemerge Equipment Package #2 – Updated May 2, 2017

Financing Details. The Company anticipates a limited offering and private placement of non-rated, fixed rate and tax exempt solid waste disposal revenue bonds in minimum denominations of \$250,000 or any integral multiple of \$5,000 in excess thereof and a restriction on transfers to Qualified Institutional Buyers. The target date for financing is August 17, 2017.

The 2017 financing will be nearly identical to the 2016 transaction, except that the payments on the 2017 bonds will be subordinate to the 2016 bonds. All revenues are pledged first to the 2016 bonds and then to the 2017 bonds.

Most of the Amendments being sought relate to the subordinate position of the 2017 bonds. The 2016 Indenture and the 2016 Loan Agreement are being amended to describe (i) the co-existence of the two bond series, (ii) UMB as the trustee for each, (iii) there is a stream of revenues that will first pay the 2016 bonds and then the 2017 bonds and that such priority is protected, (iv) the existing 2016 bondholders have consented to the 2017 issuance, (v) the trustee for the 2016 bonds must be the same as for the 2017 bonds, (vi) Aemerge's insurance requirements have been updated, (vii) Certain Aemerge reporting obligations to CPCFA and CDLAC are being updated to reflect any changes since the issuance of the 2016 bonds, (viii) the Debt Service Coverage Ratio requirement has been updated and (ix) numerous Aemerge financial covenants have been updated, along with certain Aemerge disclosure obligations and notice provisions.

All of the 2016 bond holders have been updated on the project and have provided verbal approval of the subordinated bond concept and that it is subject to the Purchaser's Counsel review. Written approval of the bondholders will be obtained prior to closing. Currently, four of the five 2016 bond holders are expected to purchase the 2017 bonds. Those purchasing will all sign the same form of Investor Letter that was used for the 2016 bond transaction. The 2017 and 2016 bonds, together, are to act like one project and one financing. Only in the case of an event of default will there be a significant difference between the two series of bondholders.

Financing Team.

Underwriter: Westhoff, Cone & Holmstedt

Bond Counsel: McGuireWoods LLP

Issuer's Counsel: Office of the Attorney General

Staff Recommendation. Staff recommends approval of Final Resolution No. 569 for an amount not to exceed \$12,350,000 for Aemerge Redpak Services Southern California, LLC and/or its Affiliates.

**FINAL BOND RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
RELATING TO FINANCING OF SOLID WASTE DISPOSAL
FACILITIES AND EQUIPMENT FOR
AEMERGE REDPAK SERVICES SOUTHERN CALIFORNIA, LLC,
AND/OR ITS AFFILIATES**

July 18, 2017

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) has heretofore issued its California Pollution Control Financing Authority Solid Waste Disposal Revenue Bonds (Aemerge Redpak Services Southern California, LLC Project) Series 2016 (AMT) (the “2016 Bonds”), in the aggregate principal amount of \$28,250,000, pursuant to the terms of a certain Indenture, dated as of January 1, 2016 (the “2016 Indenture”), between the Authority and UMB Bank, N.A., as trustee; and

WHEREAS, the Authority has loaned the proceeds of the 2016 Bonds to Aemerge Redpak Services Southern California, LLC, an Indiana limited liability company (the “Borrower”) pursuant to the terms of a certain Loan Agreement, dated as of January 1, 2016 (the “2016 Loan Agreement”) to finance the acquisition, construction, rehabilitation, renovation, installation, improvement and equipping of certain solid waste disposal and recycling facilities (the “2016 Project”); and

WHEREAS, the Authority has received the application of the Borrower for assistance to finance the acquisition, construction, rehabilitation, renovation, installation, improvement and equipping of solid waste disposal and recycling facilities, located in San Bernardino County, and all as more particularly described in the Term Sheet (the “Term Sheet”) attached hereto as Exhibit A and incorporated herein (the “2017 Project”); and

WHEREAS, the Borrower has requested the Authority to issue its revenue bonds from time to time on a subordinate basis in an amount not to exceed \$12,350,000 to assist in the financing of the 2017 Project; and

WHEREAS, the proceeds of such revenue bonds will be loaned to the Borrower under a loan agreement with the Authority (the “2017 Loan Agreement”), and Aemerge, LLC, an Indiana limited liability company (the “Guarantor”) will guarantee the payments by the Borrower under such 2017 Loan Agreement; and

WHEREAS, final approval of the terms of such revenue bonds and certain documents relating to such revenue bonds, including the amendment of the 2016 Indenture and the 2016 Loan Agreement to permit the issuance of such additional indebtedness, is now sought; and

WHEREAS, the Borrower has provided or will provide prior to the bond sale documentation to the Authority demonstrating that the 2017 Project has complied with Division

13 (commencing with Section 21000) of the Public Resources Code, or is not a project under that division;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority, as follows:

Section 1. The 2017 Project constitutes a “project,” and the Borrower is a “participating party” both within the meaning of the California Pollution Control Financing Authority Act (the “Act”).

Section 2. Pursuant to the Act, revenue obligations of the Authority, designated as the “California Pollution Control Financing Authority Subordinate Solid Waste Disposal Revenue Bonds (Aemerge Redpak Services Southern California, LLC Project), Series 2017” (the “2017 Bonds”), or such alternate designation as may be approved by the Executive Director of the Authority, in an aggregate principal amount not to exceed \$12,350,000 are hereby authorized to be issued. The 2017 Bonds may be issued at one time, or from time to time, in one or more series separately or differently identified, and may be issued in a tax exempt or taxable mode, in accordance with the 2017 Indenture (as hereinafter defined) as finally executed. The proceeds of the 2017 Bonds shall be used to make a loan to the Borrower to finance the 2017 Project (including, without limitation, reimbursing the Borrower for costs incurred for the 2017 Project prior to the issuance of the Bonds), and to pay a portion of the costs of issuance of the 2017 Bonds.

Section 3. The Treasurer of the State of California (the “Treasurer”) is hereby authorized to sell the 2017 Bonds, at one time or from time to time on or before December 31, 2017, by negotiated sale, at such price, at such interest rate or rates and in such mode (taxable or tax-exempt) as he may determine, such determination to be as set forth in the hereinafter referred to Purchase Contract.

Section 4. The following documents:

- i. a loan agreement relating to the 2017 Bonds (the “2017 Loan Agreement”), between the Authority and the Borrower;
- ii. an indenture relating to the 2017 Bonds (the “2017 Indenture”), between the Authority and the trustee named in the Term Sheet (the “Trustee”);
- iii. a bond purchase contract relating to the 2017 Bonds (the “Purchase Contract”) among the Authority, the Treasurer of the State of California and the underwriter named in the Term Sheet (the “Underwriter”), and approved by the Borrower;
- iv. a guaranty agreement (the “Guaranty Agreement”), by the Guarantor in favor of the Trustee;
- v. a limited offering memorandum (in the form of either the “Preliminary Limited Offering Memorandum” or the final “Limited Offering Memorandum”) to be used in connection with the offering and sale of the 2017 Bonds;
- vi. a First Amendment to Loan Agreement relating to the 2016 Bonds (the “First Amendment to 2016 Loan Agreement”) between the Authority and the Borrower; and

Agenda Item 4.A.

- vii. a First Amendment to Indenture relating to the 2016 Bonds (the “First Amendment to 2016 Indenture”) between the Authority and the trustee named in the 2016 Indenture.

are hereby approved in substantially the forms on file with the Authority prior to this meeting, with such insertions, deletions or changes therein in substantial conformance with the Term Sheet as the officer(s) executing and/or delivering the same may require or approve, such approval to be conclusively evidenced by execution and delivery thereof in the case of the 2017 Loan Agreement, the 2017 Indenture, the Guaranty Agreement, the Purchase Contract, the Limited Offering Memorandum, the First Amendment to 2016 Loan Agreement and the First Amendment to 2016 Indenture and by delivery thereof in the case of the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum.

Section 5. The Authority understands and agrees that pursuant to the terms of the 2017 Loan Agreement the obligations of the Borrower may, under some circumstances, be carried out or assumed by a successor or assignee entity or by Affiliates of such Borrower. For purposes of this Resolution, an “Affiliate” of the Borrower means any person or entity which meets the definition of “Participating Party” in the Act and controls, is controlled by, or is under common control with, the Borrower, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

Section 6. The dates, maturity dates, interest rate or rates, interest payment dates, denominations, forms, registration privileges, place or places of payment, terms of redemption and other terms of each series of the 2017 Bonds shall be as provided in the 2017 Indenture, as finally executed.

Section 7. The Underwriters are hereby authorized to distribute the Preliminary Limited Offering Memorandum to persons who may be interest in the purchaser of the 2017 Bonds. The Underwriters are hereby directed to deliver a copy of the final Limited Offering Memorandum to all actual purchasers of the 2017 Bonds.

Section 8. The 2017 Bonds shall be executed by the manual or facsimile signature of the Chairman or any Deputy to the Chairman and the seal of the Authority shall be affixed thereon (or a facsimile reproduced thereon) in the form set forth in and otherwise in accordance with the 2017 Indenture. The 2017 Bonds, when executed, shall be delivered to the Trustee under the 2017 Indenture for authentication by the Trustee. The Trustee is hereby requested and directed to authenticate the 2017 Bonds by executing the Trustee’s certificate of authentication appearing thereon. The Trustee is hereby requested and directed to deliver the 2017 Bonds, when duly executed and authenticated, to The Depository Trust Company, New York, New York, on behalf of the Underwriter in accordance with written instructions executed on behalf of the Authority, which instructions are hereby approved. Such instructions shall provide for the delivery of the 2017 Bonds to The Depository Trust Company, on behalf of the Underwriter thereof, upon payment of the purchase price thereof.

Section 9. Each officer of the Authority, acting alone, is hereby authorized and directed to do any and all ministerial acts that the officer may deem necessary or advisable in order to consummate the issuance, sale, delivery or remarketing of the 2017 Bonds, and otherwise to effectuate the purposes of this Resolution and the 2017 Indenture, the 2017 Loan Agreement, the Purchase Contract, the Limited Offering Memorandum, the First Amendment to 2016 Indenture and

Agenda Item 4.A.

the First Amendment to 2016 Loan Agreement. The Authority hereby approves any and all documents to be delivered in furtherance of the foregoing purposes, including, without limitation, any certifications and one or more tax certificates.

Section 10. The provisions of the resolution of the Authority entitled “Resolution of the California Pollution Control Financing Authority Delegating Certain Powers and Authorizing Certain Actions Related to Bond Financings” adopted by the Authority on January 19, 2016, apply to the documents and actions approved in this Resolution, and the provisions of such resolution are incorporated herein by reference.

Section 11. The Authority hereby approves and ratifies each and every action taken by its officers, agents, members and employees prior to the date hereof in furtherance of the purposes of this Resolution.

Section 12. This Resolution shall take effect immediately upon its passage. The adoption by the Authority of this Resolution for the Borrower shall not be referred to in any application before any government agency as evidence of the feasibility, practicality or suitability of the 2017 Project or in any application for any required permission or authority to construct or operate the 2017 Project.

EXHIBIT A

TERM SHEET

Name of Issue:	California Pollution Control Financing Authority Subordinate Solid Waste Disposal Revenue Bonds (Aemerge Redpak Services Southern California, LLC Project), Series 2017 (the “2017 Bonds”)
Maximum Amount of Issue:	\$12,350,000
Issuer:	California Pollution Control Financing Authority (the “Authority”), Sacramento, CA
Borrower:	Aemerge Redpak Services Southern California, LLC
Guarantor	Aemerge, LLC
Trustee:	UMB Bank, N.A.
Underwriter:	Westhoff, Cone & Holmstedt
Bond Counsel:	McGuireWoods LLP Richmond, VA
Project	Bond proceeds will finance the acquisition, construction, rehabilitation, renovation, installation, improvement and equipping of facilities, including the acquisition of equipment for the processing of solid waste in the form of medical waste to be located at 9600 E Ave, Hesperia, California 92345
Maximum Bond Term:	Not to exceed thirty years
Type of Sale:	Private placement
Description of Minimum Denominations:	\$250,000 or any integral multiple of \$5,000 in excess thereof
Financing Structure:	Fixed Rate
Other Credit Enhancement:	Not applicable

Agenda Item 4.A.

Anticipated Bond Rating:

Unrated

Type of Financing:

Solid waste disposal revenue bonds

Prepared by:

Mark Holmstedt, (925) 472-8747