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

Board Meeting Date: Tuesday, December 10, 2024

***Request to Approve an Extension of the 15% Purchase Requirement Timeframe and the Initial Term of the Regulatory Agreement[1]***

**HC (Contra Costa), LLC**
**Application No. 23-SM031**

Prepared By: *Joshua Moua, Program Analyst*

## SUMMARY

**Applicant:** HC (Contra Costa), LLC

**Location:** Pittsburg, Contra Costa County

**Industry:** Renewable Hydrogen Production

**Project:** New Renewable Hydrogen Production Facility (Alternative Source)

**Total Amount Qualified Property Approved:** $119,617,224.88

**Estimated Sales and Use Tax Exclusion Amount at Approval:[2] –** $10,000,000

**Initial Board Approval Date:** July 18, 2023

**Amount of Time Requested** –

- Requesting a one-year and six-month extension, until July 18, 2026, for the 15% purchase requirement timeframe (three years from the date of initial CAEATFA Board approval)
- Requesting a one-year and six-month extension, until January 18, 2028, for the initial term of the Regulatory Agreement (four years and six months from the date of initial CAEATFA Board approval)

**Staff Recommendation –** Approval

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[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 at the time of initial approval, which was 8.36%.

## BACKGROUND

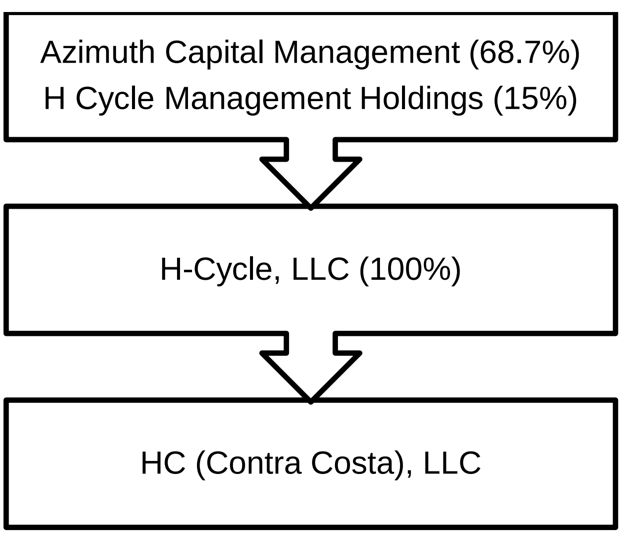
On July 18, 2023, the CAEATFA Board approved a sales and use tax exclusion (“STE”) for HC (Contra Costa), LLC (the “Applicant”) for the purchase of up to $119,617,224.88 in Qualified Property to build a new renewable hydrogen facility in Pittsburg (the “Project”). The Regulatory Agreement (“Agreement”) provided the Applicant with 18 months from the date of CAEATFA Board approval to purchase or execute purchase orders for at least 15% of the total Qualified Property amount approved. In addition, the Agreement initial term provided the Applicant with three years from the date of CAEATFA Board approval to utilize its STE award.[3]

As of September 2024, HC (Contra Costa), LLC has not used the STE to make purchases of Qualified Property. The Applicant is requesting to extend the 15% purchase requirement timeframe to accommodate project redesign due to increased capital costs. The Applicant is also requesting to extend the Agreement’s initial term for the same accommodation.

## THE APPLICANT

HC (Contra Costa), LLC was formed in Delaware as a limited liability company in 2022. The Applicant, a wholly owned subsidiary of H Cycle, LLC, is developing the H Cycle Pittsburg Renewable Hydrogen Project (“HCPRHP”), the project under consideration for an extension, and has its headquarters in Contra Costa County. The HCPRHP is H Cycle’s first facility, however, its management team has a long history in the energy and infrastructure sector and collectively completed over 50 projects with a combined value of over $17 billion.

**The ownership structure of the Applicant is as follows:**




**The company officers of H Cycle LLC are:**

Brandon Cowart, Chief Executive Officer

Matt Franzen, Chief Operating Officer

Quentin Foster, Vice President of Policy and Government Affairs

Will Cox, Vice President of Commercial and Business Development

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

**THE PROJECT**

The Applicant received an STE award to build a new renewable hydrogen facility in Pittsburg. The Applicant states its process uses technologies that are ready for commercial scale deployment or are already being used in commercial applications. According to the Applicant, the technologies installed at the HCPRHP will allow for a first-of-its-kind municipal solid waste ("MSW") organics to hydrogen production process with carbon-negative renewable hydrogen as the end product. The Applicant states that the Project will produce up to 17,000 kg of renewable hydrogen per day, using its non- combustion thermal conversion process with MSW organics feedstock. The Applicant states the Project is also beneficial because it diverts waste from landfills, and therefore reduces methane emissions. According to the Applicant, the renewable hydrogen produced will be distributed to supply fuel-cell vehicles, trucks, or buses, both from public fueling stations and private fleet infrastructure, and will also support the production of renewable fuels.

**15% PURCHASE REQUIREMENT TIMEFRAME EXTENSION REQUEST**

The Applicant has requested that the 15% purchase requirement timeframe be extended from January 18, 2025, to July 18, 2026, in order to accommodate project redesign due to increased capital costs.

**AGREEMENT INITIAL TERM EXTENSION REQUEST**

The Applicant has requested that the initial term of the Agreement be extended from July 18, 2026, to January 18, 2028, for the same accommodation.

**STAFF EVALUATION**

The CAEATFA Board can extend the 15% purchase requirement timeframe upon a finding of extraordinary circumstances and that an extension is in the public interest and advances the purposes of the STE Program. [4]

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.[5]

The Applicant states that due to a significant increase in capital costs, it underwent a complete reevaluation and redesign of the Project to ensure financial feasibility, which consumed additional time and resources and created a chain effect for obtaining financing and permitting.

According to the Applicant, it has engaged with three engineering, procurement and construction ("EPC") firms to help design the Project. The first EPC firm underestimated the acreage and infrastructure needed and the second EPC firm estimated the cost to be hundreds of millions of dollars higher than the first firm. The third and current EPC firm has been able to trim the design of the Project, but the cost is still four times the original estimate. The redesign process delayed the Applicant's air permit, which requires accurate and finalized design specifications to proceed, and caused the

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

Applicant to select a new project site. Additionally, establishing commitments from hydrogen offtakers is a critical prerequisite for closing the Project financing and the agreement negotiation process requires additional time. The Applicant states it is in discussions with financing partners and potential offtakers and is expecting financing to be secured by December 2025.

Staff has considered that the Applicant has implemented measures to ensure adherence to the Project's revised timeline. Specifically, it has hired a dedicated project management team to oversee all aspects of the Project and ensure effective coordination between design, permitting, financing, and procurement activities estimated over a span of two years. With confirmed design specifications and interest from potential offtakers and financing partners, the Applicant is positioned to proceed with procuring Qualified Property in early 2026 and complete the Project by early 2028.

Based on this information, Staff believes these are extraordinary circumstances, and that extending the 15% purchase requirement timeframe will allow for the Project to be completed, and is, therefore, in the public interest and advances the purposes of the STE Program. Staff also 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 Legal Status portion of the extension request. No information was disclosed concerning the financial viability or legal integrity of this Applicant.

## CAEATFA FEES

In accordance with STE Program regulations,[6] the Applicant's request to extend the 15% purchase requirement timeframe and the initial term qualifies as a modification to the Applicant's Agreement, incurring additional fees. The Applicant has paid the additional fee of $2,250.

## RECOMMENDATION

Staff recommends that the Board approve the Applicant's request to extend the 15% purchase requirement timeframe by one year and six months, until July 18, 2026, as the Applicant has demonstrated extraordinary circumstances, and it is in the public interest and advances the purposes of the STE Program.

Staff recommends that the Board approve the Applicant's request to extend the initial term of the Agreement by one year and six months, until January 18, 2028, as it is in the public interest and advances the purposes of the STE Program, and the remaining term shall be for a period of 14 years, until July 18, 2037, for providing annual compliance reports.[7]

[6] California Code of Regulations Title 4, Division 13, Section 10036(c)(1)(C)
[7] California Code of Regulations Title 4, Division 13, Section 10035(a)(2)

## ATTACHMENTS

Attachment A: HC (Contra Costa), LLC's letter requesting waiver (September 11, 2024)
Attachment B: HC (Contra Costa), LLC's staff summary at the time of approval

# RESOLUTION APPROVING AN EXTENSION OF HC (CONTRA COSTA), LLC'S 15% PURCHASE REQUIREMENT TIMEFRAME AND THE INITIAL TERM UNDER THE REGULATORY AGREEMENT

**December 10, 2024**

WHEREAS, on July 18, 2023, 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 $119,617,224.88 of Qualified Property for **HC (Contra Costa), LLC** (the "Applicant"); and

WHEREAS, within 18 months of approval by the Authority, the Applicant must purchase or execute purchase orders for at least 15% of the total amount of Qualified Property listed in the approval resolution (STE Program regulations Section 10035(b)(1)); and

WHEREAS, upon a finding of extraordinary circumstances and that it is in the public interest and advances the purposes of the Program, the Authority may waive the requirement that the Applicant must purchase or execute purchase orders for at least 15% of the total amount of Qualified Property within 18 months of Application approval (STE Program regulations Section 10035(b)(1)(A)); and

WHEREAS, the Applicant has requested a waiver of the requirement to purchase or execute purchase orders for at least 15% of the Qualified Property amount within 18 months due to unexpected delays in the Project timeline, extending the term by one (1) year and six (6) months to July 18, 2026; and

WHEREAS, the Applicant has demonstrated extraordinary circumstances as to why it cannot meet the 18-month 15% purchase requirement timeframe; 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 year and six months to January 18, 2028; and

WHEREAS, granting the waivers 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 these are extraordinary circumstances and that it is in the public interest and advances the purposes of the Program to extend the Applicant’s deadline to meet the 15% purchase requirement to July 18, 2026.

Section 2. 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 January 18, 2028.

Section 3. This resolution shall take effect immediately upon its passage.

# Attachment A: HC (Contra Costa), LLC's Letter Requesting Waiver (September 11, 2024)

HC (Contra Costa), LLC
1320 Willow Pass Rd. Suite 600
Concord, CA 94520

September 11, 2024

California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA)
915 Capitol Mall, Room 457
Sacramento, CA 95814
Dear Members of the Board,

**Subject:** Request for an 18-Month Extension to the 15% Purchase Requirement and Initial Term for HC (Contra Costa), LLC

We are writing to respectfully request an 18-month extension to the 15% purchase requirement deadline of January 17, 2025, and Initial Term of three years, under the Sales and Use Tax Exclusion (STE) program for the renewable hydrogen project HC (Contra Costa), LLC (the "Company"). Based on revised project timelines, the Company will not achieve the 15% milestone by the deadline. This extension is essential to accommodate necessary adjustments in our project development timeline and ensure the successful completion of the project.

**Rationale for the Extension and Anticipated Schedule:**
In January 2024, we received the initial design and capital estimate for HC (Contra Costa), LLC. However, the capital cost projections were significantly higher than anticipated, coming in at approximately seven times the original estimate. This unexpected increase necessitated engaging a new engineering firm to undertake a comprehensive value engineering process aimed at optimizing the design and reducing overall costs without compromising project objectives.

The revised Class 3 estimate was received in June 2024, providing us with a more accurate and feasible financial framework for the project. However, the redesign process caused delays in other critical areas, particularly our permitting efforts. Most notably, the submission of the project's air permit has been postponed until hydrogen offtake and investment interest has been secured under the new project scope. This delay has consequently impacted the overall project schedule.

Currently, we are integrating the results of the revised design into our financial models to solidify our commercial strategy. A key component of this strategy involves actively soliciting interest from nearby hydrogen offtakers, which is crucial for establishing the project's economic viability and securing necessary funding. We anticipate completing agreements with offtakers and finalizing project financing by December 2025.

Upon securing funding, we plan to proceed with the procurement of essential equipment in early 2026. To accommodate this revised timeline, we respectfully request an 18-month extension to the 15% purchase requirement deadline, extending it to **July 18, 2026**.

Hub and DOE, extending approximately a year longer than the initially anticipated time of signing the award agreement with DOE.

Without the requested extension, we would be unable to align equipment purchases with the secured financing and confirmed offtake agreements, thereby jeopardizing the project's success and our ability to meet the objectives outlined under the STE program.

**Assurances of Meeting the New Timeline:**
We have implemented several measures to ensure adherence to the revised timeline:

- **Enhanced Project Management:** A dedicated project management team is overseeing all aspects of the project, ensuring effective coordination between design, permitting, financing, and procurement activities.
- **Confirmed Design Specifications:** With the receipt of the Class 3 estimate, our design specifications are now solidified, allowing us to progress confidently with permitting and stakeholder engagement.
- **Active Engagement with Offtakers:** We have initiated discussions with several potential hydrogen offtakers and have received positive initial responses, indicating a strong likelihood of securing necessary agreements within the projected timeframe.
- **Financial Planning:** Preliminary discussions with financing partners are underway, and we have received expressions of interest contingent upon securing offtake agreements, positioning us well for a funding close by December 2025.

We are confident that these concerted efforts and structured plans will enable us to meet the extended deadline and fulfill all project commitments effectively.

**Qualified Property Purchased to Date:**
As of September 11, 2024, we have not purchased items determined to be Qualified Property. These purchases will be strategically made to maintain project momentum and are fully compatible with the revised design and project scope.

**Scope of Project:**
The fundamental scope and objectives of HC (Contra Costa), LLC remain unchanged. The project continues to aim at supporting California's goals to combat climate change by decarbonizing the energy sector through the production of renewable hydrogen, promote economic growth that generates high-quality jobs within the emerging green economy, and ensure the benefits of clean energy are equitably distributed across historically underserved communities. The redesign efforts have focused solely on optimizing cost-efficiency and feasibility without altering the project's intended outcomes or benefits.

**Additional Information:**
We firmly believe that granting this extension aligns with CAEATFA's mission to support and facilitate advanced energy projects that contribute to environmental sustainability and economic development. HC (Contra Costa), LLC promises to deliver significant benefits that include job creation, emission reductions, and technological advancements.

**Explanation of Necessity for the Extension:**
The extension is necessary due to a combination of factors that have extended our project timeline beyond the original estimates:

1. **Significant Increase in Capital Costs:** The greater than expected capital costs estimate required a complete reevaluation and redesign of the project to ensure financial feasibility, which consumed additional time and resources.
    1.1. Since inception of the Project, the Company has engaged three different EPC firms to undergo engineering design efforts. As a first-of-a-kind facility, the original EPC construction firm severely underestimated both the acreage and infrastructure needed to build the hydrogen production facility. After switching to the second EPC firm, Bechtel, the estimate of capital cost for project development and construction came in over a year later at hundreds of millions of dollars higher than their initially proposed amount – this was a result of unnecessary overdesign of the hydrogen production facility along with a decrease in communication of project updates and excess spend of personnel hours, in breach of the implemented contract. Upon severing ties with Bechtel, the Company engaged with a third EPC firm that was able to aggregate the previously developed engineering efforts and trim the design to approximately $500 million less capital cost than that provided by Bechtel, however, still approximately four times greater than the estimate provided by the first EPC firm. The Company has confidence in the engineering design and cost estimate provided by the third EPC firm and has moved forward with development and financing using the most recently provided metrics.
2. **Delayed Permitting Efforts:** The redesign process delayed our ability to apply for necessary permits, particularly the air permit, as accurate and finalized design specifications were required to proceed. This postponement has had a cascading effect on subsequent project phases.
    2.1. The Company initially entered an Option Agreement for the purchase of land with a company that was found to have misrepresented easement access, resulting in a land-locked project site that did not include the access roads needed for the trucks required to operate the planned waste to hydrogen production facility. Additionally, as a result of the underestimates provided by the first EPC firm, there was a need to switch project sites to a location with a larger amount of available acreage. The change in project site required a restart of the CEQA environmental permitting process, a widely known long-lead process as part of development in California.
3. **Securing Offtake Agreements:** Establishing commitments from hydrogen offtakers is a critical prerequisite for closing project financing. The process of negotiating and finalizing these agreements requires additional time to ensure favorable and sustainable partnerships.
    3.1. The hydrogen demand, supply, and overall marketplace has been slower to develop in California than previously estimated, a pain-point felt throughout the hydrogen production industry and not exclusive to the Company efforts with Project development. As members of the California Hydrogen Hub funded by DOE, ARCHES, the Company and Project anticipate the ability to secure hydrogen offtake contracts between companies within the ARCHES "ecosystem" – an effort confirmed to be facilitated by the ARCHES staff. However, even the ARCHES deployment has been delayed due to negotiations required between the

We are committed to transparent and ongoing communication with CAEATFA throughout the remaining development process and are prepared to provide regular updates on our progress toward meeting the new milestones.

**Conclusion:**
We sincerely appreciate the Board's consideration of our request for an 18-month extension to the 15% purchase requirement deadline and Initial Term. This additional time is critical to ensuring the successful and timely completion of HC (Contra Costa), LLC, thereby maximizing the project's benefits in alignment with state and community goals.

Thank you for your attention to this matter. We are available to provide any further information or clarification as needed and look forward to your favorable response.

Sincerely,

*Brandon Cowart*

Brandon Cowart
Chief Executive Officer
H Cycle, LLC
brandon.cowart@hcycle.com

## Attachment B: HC (Contra Costa), LLC's Summary at the Time of Approval

The original award staff summary can be found on the CAEATFA website.

**Agenda Item – 4.A.22**
**Resolution No. 23-SM031-01**

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

***Request to Approve Project for a Sales and Use Tax Exclusion[1]***

**HC (Contra Costa), LLC**
**Application No. 23-SM031**

**Tuesday, July 18, 2023**

Prepared By: *Stefani Wilde, Program Analyst*

### SUMMARY

**Applicant** – HC (Contra Costa), LLC

**Location** – Pittsburg, Contra Costa County

**Industry** – Renewable Hydrogen Production

**Project** – New Renewable Hydrogen Production Facility (Alternative Source)

| Value of Qualified Property | Estimated Sales and Use Tax Exclusion ("STE") Amount[2] |
|---|---|
| $119,617,224.88 | $10,000,000 |

| Estimated Net Benefit[3] | Dollar Value | Points Earned[4] |
|---|---|---|
| Estimated Fiscal Benefits | $18,440,965 | 1,844 |
| Estimated Environmental Benefits | $6,304,113 | 630 |
| Additional Benefits | N/A | 85 |
| **Total** | **$24,745,078** | **2560** |
| **Estimated Quantifiable Net Benefit** | $14,745,078 | |

**Competitive Criteria Score** – 165

**Staff Recommendation** – Approval

[1] All capitalized terms not defined in this document are defined in the STE Program's statutes and regulations.
[2] This amount is calculated based on the average statewide sales tax rate of 8.36%.
[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).)
[4] Dollar values and point values in the staff summary may not add up correctly due to rounding in the Application worksheet.

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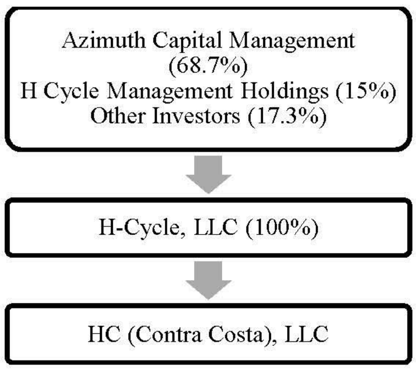
## THE APPLICANT

HC (Contra Costa), LLC (the "Applicant") is a Delaware limited liability company that formed in 2022. The Applicant, a wholly owned subsidiary of H Cycle, LLC, is developing the H Cycle Pittsburg Renewable Hydrogen Project ("HCPRHP"), the project under consideration, and has its headquarters in Contra Costa County. The HCPRHP is H Cycle's first facility, however, its management team has a long history in the energy and infrastructure sector and collectively completed over 50 projects with a combined value of over $17 billion.

The ownership structure of the Applicant is as follows:




The company officers of H Cycle LLC are:

Robert G. Morgan, Chief Executive Officer
Scott Gardner, Chief Commercial Officer
Dan Baublis, Chief Engineering Officer

## THE PROJECT

The Applicant is requesting a sales and use tax exclusion ("STE") award to build a new renewable hydrogen facility in Pittsburg (the "Project"). The Applicant states its process uses technologies that are ready for commercial scale deployment or are already being used in commercial applications. According to the Applicant, the technologies installed at the HCPRHP will allow for a first-of-its-kind municipal solid waste ("MSW") organics to hydrogen production process with carbon-negative renewable hydrogen as the end product. The Applicant states that the Project will produce up to 17,000 kg of renewable hydrogen per day, using its non-combustion thermal conversion process with MSW organics feedstock. The Applicant states the Project is also beneficial because it diverts waste from landfills, and therefore reduces methane emissions. According to the Applicant, the renewable hydrogen produced will be distributed to supply fuel-cell vehicles, trucks, or buses, both from public fueling stations and private fleet infrastructure, and will also support the production of renewable fuels.

**ANTICIPATED COSTS OF QUALIFIED PROPERTY**

The anticipated Qualified Property purchases are listed below:

| | | |
|---|---|---|
| Feedstock Preparation & Material Handling | | $30,770,000.00 |
| Syngas System | | $18,470,000.00 |
| Hydrogen Purification, Compression, & Export System | | $47,930,000.00 |
| Inside & Outside Battery Limit Equipment | | $22,447,224.88 |
| | **Total** | **$119,617,224.88** |

*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 the Project is undergoing detailed engineering and construction. The Applicant anticipates purchasing Qualified Property in the second half of 2023 and placing the Qualified Property in service in the first half of 2025.

**STATUS OF PERMITS/OTHER REQUIRED APPROVALS**

The Applicant states it submitted an application for a conditional use permit to the City of Pittsburg in August 2022. Moreover, the CEQA process has been initiated, and the City of Pittsburg issued a Notice of Preparation of its Environmental Impact Report in April 2023. The Applicant has engaged the Bay Area Air Quality Management District and expects to file an air quality permit application in Q3 of 2023. All permits are expected to be received by the first half of 2024.

**COMPETITVE CRITERIA SCORE**

The Applicant received 165 Competitive Criteria points as follows:

1. **Environmental Benefits (100 of 100 points).** The Application has a Project that produces an Alternative Source product, component, or system, and, therefore, 100 points are awarded.

2. **Unemployment (0 of 50 points).** The Applicant's Project is located in Contra Costa County, which has an average annual unemployment rate of 3.6%.[5] When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant zero points.

3. **Job Creation (0 of 75 points).** The Applicant anticipates the Project will support a total of 30 production-related jobs at its facility. CAEATFA estimates that approximately 5.08 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 zero points.

4. **California Headquarters (15 of 15 points)**. The Applicant has a California Corporate Headquarters, and, therefore, 15 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 (50 of 50 points).** The Applicant is not eligible to use any of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, 50 points are awarded.

7. **Emerging Strategic Industry (0 of 75 points).** The Project's industry is not in an Emerging Strategic Industry, and, therefore, zero points are awarded.

## PROJECT EVALUATION

### PROJECT BENEFITS

The Project received a Total Score of 2,560 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 630 points, which exceeds the 20-point threshold.

A. **Fiscal Benefits (1,844 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 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 $18,440,965, resulting in a Fiscal Benefits score of 1,844.

B. **Environmental Benefits (630 points).** The Project is anticipated to result in $6,304,113 of total pollution benefits over the life of the Project, resulting in an

[5] Unemployment rates are based on data available in October 2022.

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**Resolution No. 23-SM031-01**

Environmental Benefits Score of 630 points. These benefits derive from producing renewable hydrogen, which offsets the need for use of fossil fuels.

C. **Additional Benefits (85 points).** Applicants may earn additional points for their Total Score. The Applicant received 85 additional points.

1. **Production Jobs (0 of 75 points).** The Applicant anticipates the Project will support a total of 30 production-related jobs at its facility. CAEATFA estimates that approximately 5.08 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 zero points.

2. **Construction Jobs (35 of 75 points).** The Applicant anticipates the Project will support a total of 175 construction jobs at its facility. CAEATFA estimates that approximately 29.65 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.

3. **Unemployment (0 of 50 points).** The Applicant's Project is located in Contra Costa County, which has an average annual unemployment rate of 3.6%.[6] When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant zero points.

4. **Industry Cluster (25 of 25 points).** The industry associated with this Application has been identified by Contra Costa County and the Northern Waterfront Economic Development Initiative as an industry cluster of the region of the Project's location.

5. **Benefits and Fringe Benefits (25 of 25 points).** The Applicant states it provides medical, health, dental, and vision benefits, retirement contributions, 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.

[6] Unemployment rates are based on data available in October 2022.

## CAEATFA FEES

In accordance with STE Program regulations,[7] the Applicant has paid CAEATFA an Application Fee of $10,000 and will pay CAEATFA an Administrative Fee of up to $350,000.

## RECOMMENDATION

Staff recommends the approval of Resolution No. 23-SM031-01 for HC (Contra Costa), LLC 's purchase of qualifying tangible personal property in an amount not to exceed $119,617,224.88 anticipated to result in an approximate STE value of $10,000,000.

[7] California Code of Regulations Title 4, Division 13, Section 10036

**Agenda Item – 4.A.22**
**Resolution No. 23-SM031-01**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A REGULATORY AGREEMENT WITH HC (CONTRA COSTA), LLC**

**July 18, 2023**

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the "Authority") has received the Application of **HC (Contra Costa), LLC** (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 10035(a), with the Applicant for the Project; and

WHEREAS, the Applicant has stated the Project has an estimated cost not to exceed $119,617,224.88 over a period of three (3) 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.