

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: December 12, 2017**

Request to Approve Final Resolution Authorizing the Issuance of Revenue Notes for New Money Purposes and Tax-Exempt Volume Cap Allocation

Prepared by: Kris Luoma

Applicant:	Zero Waste Energy @ Davis Street, an Urbaser Project LLC and/or its affiliates	Amount Requested:	\$31,030,000
Project Location:	San Leandro (Alameda County)	Application No.:	918
		Final Resolution No.:	17-01-579
		Prior Actions:	17-17 Approved 12/12/2017

Summary. Zero Waste Energy @ Davis Street, an Urbaser Project LLC and/or its affiliates (“Urbaser” or the “Company”) requests approval of a Final Resolution and Volume Cap Allocation for an amount not to exceed \$31,030,000 to finance the equipping of a new organic materials enclosed composting facility.

Borrower. The Company is jointly owned by Urbaser, Inc. and Zero Waste Energy, LLC, with Urbaser owning 100% of the voting interests. Urbaser is a large business that is headquartered out of Pleasant Hill, California. The Company’s LLC was organized in Delaware on July 18, 2017, for the purpose of processing organic waste into compost.

The principal stockholders of the Company are as follows:

Urbaser, Inc., Managing Member – Class A	100%
Zero Waste Energy, LLC, Member – Class B	<u>100%</u>
Total:	<u>100%</u>

Urbaser, Inc. is a subsidiary of Urbaser, S.A.U. which is a waste processing company based out of Madrid, Spain. Zero Waste Energy, LLC is owned by Emerging Acquisitions, LLC, an Oregon limited liability company dba Bulk Handling Systems, Inc.

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

TEFRA. The TEFRA hearing was held on [December 7, 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 \$57,060 at closing.

SBAF Assistance. The Company is a large business and will contribute up to \$204,798 to the CPCFA Small Business Assistance Fund at closing.

Prior Financings. None.

Project Description. Note proceeds will be used to finance the construction of an organic materials enclosed composting facility (“the Facility”). The Facility is being constructed on property owned by Waste Management of Alameda County (WMAC). Urbaser has entered into a processing agreement with WMAC which will allow the Company to acquire, install and operate the composting facility on the property owned by WMAC. The Facility will help WMAC meet its organic materials processing and landfill diversion obligations under its long term mixed material processing and organics collection services contract with the City of Oakland. The proposed facility will be constructed and operated adjacent to WMAC’s new organics material recovery facility (OMRF). Materials processed by the OMRF will be transferred via a conveyor belt to the Urbaser facility. The Facility is projected to process approximately 79,000 tons per year of recovered organics from the OMRF and 12,000 tons per year of collected organics. The facility is expected to produce 39,000 tons of marketable compost and 4,670 tons per year of recovered recycled materials such as metals, wood and plastics.

The anticipated project and issuance costs are listed below:

Equipment	\$30,409,400
Bond Issuance Expenses	<u>\$620,600</u>
Total	<u>\$31,030,000</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 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.

Anticipated Project Timeline. The equipping of the organic materials enclosed composting facility is expected to be completed in the first quarter of 2019.

Local Government. The Company received a letter of support from Chris Zapata, City Manager for the City of San Leandro (Attachment A).

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

Water Quality. The Composting facility will be operating on concrete or asphalt paved surfaces. This will prevent any seepage of undesirable materials on exposed ground areas which could seep into ground water. The project will comply with storm water management regulations.

Safety and Compliance. The project will provide safe disposal of solid waste that is in compliance with all applicable State and Federal environmental regulations regarding solid waste disposal. The Project will achieve the minimization of the material landfilled as mandated by the California Integrated Waste Management Act of 1989 (AB 939) and the United States Resource Conservation and Recovery Act.

Recycling. The Facility is projected to process approximately 79,000 tons per year of recovered organics from Waste Management's OMRF and 12,000 tons per year of co-collected organics, all of which will be diverted from reaching local landfills. It features a state of the art automated processing equipment which is expected to yield 39,000 tons per year of marketable compost in addition to 4,670 tons per year of recovered recycle materials such as metals, wood and plastics.

Consumer Cost Savings or Efficiencies. The Waste Management franchise agreement with the City of Oakland, required the development of an organics recycling program. Waste Management charges, as a line item, a tipping fee which is part of its rate structure. The low interest cost anticipated by this financing will keep tipping fee costs to a minimum for the consumer.

Permitting and Environmental Approvals. The company provided the Solid Waste Facility Permit for the Project location at 2615 Davis Street in San Leandro. The permit provided reference to the following CEQA documents:

- Mitigated Negative Declaration SCH#1998012037 – dated February 19, 1998
- Negative Declaration SCH#2010112069 - dated November 2010
- Negative Declaration, City of San Leandro – dated July 2015
- Negative Declaration SCH#2010112069 - dated May 17, 2017

On August 11, 2017, Cal Recycle prepared a Negative Declaration with no mitigation stating that the organic materials recycling facility project will not have a significant effect on the environment.

Financing Details. The Company anticipates a negotiated direct purchase of tax exempt notes by Umpqua Bank (the "Purchaser"), which is a "Qualified Institutional Buyer", as defined in Rule 144A of the Securities Act of 1933, in minimum denominations of \$250,000 or any integral multiple of \$5,000 in excess thereof during index interest rate period (initial period), for a term not to exceed 30 years. The target date for financing is December 28, 2017.

The note documents include provisions for draw down of note proceeds over time, but such a mechanism will only be implemented if it is evident prior to the closing date above that a new federal tax bill will allow issuance of solid waste disposal "exempt facility" bonds after January 1, 2018. If this is not the case, all of the note proceeds will be paid at closing by the Purchaser, and will be invested pending disbursement to construct and install the Project.

Financing Team.

Municipal Advisor To Borrower: Westhoff, Cone & Holmstedt
Note Counsel: Orrick, Herrington & Sutcliffe LLP
Issuer's Counsel: Office of the Attorney General
Trustee: MUFG Union Bank, N.A.

Staff Recommendation. Staff recommends approval of Final Resolution No. 17-01-579 and Volume Cap Allocation Resolution No. 14-147-15 for an amount not to exceed \$31,030,000 for Zero Waste Energy @ Davis Street, an Urbaser Project LLC and/or its affiliates.

Attachment A

City of San Leandro
Civic Center, 835 E. 14th Street
San Leandro, California 94577



Office of the City Manager 510-577-3351
November 9, 2017 FAX 510-577-3340

Ms. René Webster-Hawkins
Executive Director
California Pollution Control Financing Authority
801 Capitol Mall, 2nd Floor
Sacramento, CA 95814

**RE: California Pollution Control Financing Authority, Exempt Facility Approvals
Zero Waste Energy @ Davis Street, an Urbaser Project For Waste Management of Alameda
County Inc.**

Dear Ms. Webster-Hawkins:

I write to you today on behalf of Zero Waste Energy @ Davis Street, an Urbaser Project LLC (the "Company") relating to the funding of the Organics Material Composting Facility ("OMCF") project for which approval will be requested at the California Pollution Control Financing Authority ("CPCFA") meeting in December. The OMCF project is an integral part of the Waste Management of Alameda County Inc., organic waste diversion program (the "Project").

My staff and I have worked with Waste Management of Alameda County Inc., in their development of the proposed Project, and I understand that they now are ready for final approval of the financing. I further understand that in order to receive approval for the issuance of tax exempt bonds, on whose lower interest rates the Project economics have been based, that CPCFA must grant part of the State's allocation for "private activity" bonds as defined by the federal government to the Project.

We and Waste Management of Alameda County Inc., agree that the implementation of this Project is a cost-effective addition to our overall program, considering cost, technology and expected waste diversion.

On behalf of the City of San Leandro, I would appreciate it if you would approve the OMCF Project at your December meeting. Thank you.

Sincerely,

Chris Zapata
City Manager, City of San Leandro



**FINAL NOTE RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
RELATING TO FINANCING AND REFINANCING OF SOLID WASTE DISPOSAL
FACILITIES AND EQUIPMENT
FOR ZERO WASTE ENERGY @ DAVIS STREET, AN URBASER PROJECT LLC
AND/OR ITS AFFILIATES**

December 12, 2017

WHEREAS, the California Pollution Control Financing Authority (the “Authority”) has received the application of Zero Waste Energy @ Davis Street, an Urbaser Project LLC, a Delaware limited liability company (and together with any successor, assignee or related party, the “Borrower”), for financial assistance in paying or reimbursing the costs to finance certain improvements to various solid waste disposal facilities and related vehicles and equipment for the processing, recycling and disposal of solid waste in sites in the State of California which are owned and/or operated by the Borrower, all as more particularly described in Application No. 918 of the Borrower and in the Summary of Bond Terms (the “Term Sheet”) attached hereto as Exhibit A and incorporated herein (the “Project”); and

WHEREAS, the Borrower has requested the Authority to issue its revenue notes from time to time in an amount not to exceed \$31,030,000 to assist in the financing of the Project; and

WHEREAS, the proceeds of the revenue notes will be loaned to the Borrower under a loan agreement with the Authority; and

WHEREAS, the notes will be purchased on a private placement basis by Umpqua Bank, as lender; and

WHEREAS, final approval of the terms of such revenue notes and certain documents relating to such revenue notes is now sought; and

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

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

Section 1. The Project constitutes a “project” and the Borrower is a “participating party” 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 Solid Waste Disposal Revenue Notes (Zero Waste Energy @ Davis Street Project), Series 2017” (the “Notes”), or such alternate designation as may be approved by the Executive Director of the Authority, in an aggregate principal amount not to exceed \$31,030,000 are hereby authorized to be issued, subject to the limitations stated in the Term Sheet and Exhibit B. The Notes 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 Indenture (as hereinafter defined) as finally executed. The proceeds of the Notes shall be used to make a loan to the Borrower to finance and/or refinance the Project (including without limitation, reimbursing the Borrower for costs incurred for the Project prior to the issuance of the Notes) and to pay a portion of the costs of issuance of the Notes.

Section 3. The Treasurer of the State of California (the “Treasurer”) is hereby authorized to sell the Notes, 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 Agreement.

Section 4. The following documents:

- i. a Loan Agreement relating to the Notes between the Authority the Borrower (the “Loan Agreement”);
- ii. an Trust Indenture relating to the Notes (the “Indenture”), between the Authority and the trustee named in the Term Sheet attached hereto (the “Trustee”); and
- iii. a note purchase agreement relating to the Notes among the Authority, the Treasurer of the State of California and the purchaser named in the Term Sheet (the “Purchaser”), and approved by the Borrower, (the “Purchase Agreement”);

are hereby approved in substantially the forms on file with the Authority prior to this meeting, with such insertions, deletions or changes therein (including, without limitation, insertions, deletions or changes therein appropriate) 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 Loan Agreement, the Indenture and the Purchase Agreement.

Section 5. The Authority understands and agrees that pursuant to the terms of the 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 which 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 Notes shall be as provided in the Indenture, as finally executed.

Section 7. The Notes 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 Indenture. The Notes, when executed, shall be delivered to the Trustee under the Indenture for authentication by the Trustee. The Trustee is hereby requested and directed to authenticate the Notes by executing the Trustee's certificate of authentication appearing thereon. The Trustee is hereby requested and directed to deliver the Notes, when duly executed and authenticated, to the Purchaser 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 Notes to the Purchaser, upon payment of the purchase price thereof.

Section 8. Issuance of the Bonds shall be contingent upon a separate action by the Authority to dedicate to the Bonds a portion of its private activity bond limit, as previously received, carried forward or to be received from the California Debt Limit Allocation Committee, in an amount up to the applicable principal amount of Bonds to be issued and delivered to finance certain costs of the Project.

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 Notes, and otherwise to effectuate the purposes of this Resolution and the Indenture, the Loan Agreement and the Purchase 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 (the "Delegation Resolution"), apply to the documents and actions approved in this Resolution, and the provisions of such resolution are incorporated herein by reference. This Section 10 shall be deemed to refer to and incorporate any resolution of a similar nature adopted hereafter by the Authority which replaces or supersedes the Delegation Resolution. Without limiting the foregoing, the Executive Director of the Authority is delegated the authority to deliver on behalf of the Authority such instrument(s) as may be contemplated or permitted by the Indenture to eliminate any restrictions on transfer of the Bonds as contemplated or permitted in the Indenture.

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 Project or in any application for any required permission or authority to construct or operate the Project.

EXHIBIT A

SUMMARY OF BOND TERMS

Name of Issue:	California Pollution Control Financing Authority Solid Waste Disposal Revenue Notes (Zero Waste Energy @ Davis Street Project), Series 2017 (the “Notes”)
Maximum Amount of Issue:	\$31,030,000
Issuer:	California Pollution Control Financing Authority (the “Authority”), Sacramento, CA
Borrower:	Zero Waste Energy @ Davis Street, an Urbaser Project LLC
Trustee:	MUFG Union Bank, N.A.
Underwriter:	Not applicable
Purchaser:	Umpqua Bank
Note Counsel:	Orrick, Herrington & Sutcliffe LLP, San Francisco, CA
Remarketing Agent:	Not applicable
Project:	Acquisition, construction, improvement, renovation, development and equipping of an organic materials dynamic enclosed composting facility to be located at 2615 Davis Street, San Leandro, CA 94577.
Maximum Note Term:	Not to exceed 30 years
Type of Sale:	Negotiated sale; private placement
Description of Minimum Denominations:	Initially \$250,000 and any integral multiple of \$5,000 above that amount
Financing Structure:	Initially variable rate notes based upon LIBOR index, convertible to other variable or fixed rate

Agenda Item 4.B.1.

modes. Notes will be transferable by Purchaser to either an affiliate of the Purchaser or, upon delivery of a purchaser letter, a “Qualified Institutional Buyer”, as defined in Rule 144A of the Securities Act of 1933 [or an “Accredited Investor” as described in Regulation D under the Securities Act of 1933].

Maximum Interest Rate:	{12}%
Letter of Credit:	Not applicable
Other Credit Enhancement:	Not applicable
Anticipated Note Rating:	Unrated
Type of Financing:	Solid waste disposal revenue notes
Prepared by:	Robert Martz (925) 472-8746

THE CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

RESOLUTION NO. 14-147-15

**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 Zero Waste Energy @ Davis Street, an Urbaser Project 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 **\$31,030,000** (“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.

Section 3. The Allocation must be used by December 31, 2017.

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 Committee is a third party beneficiary 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. 14-147-15
(EXEMPT FACILITY PROJECT)
EXHIBIT A

1. Application No.: 918
2. Project Sponsor Zero Waste Energy @ Davis Street, an Urbaser Project LLC and/or its affiliates
3. Project User: Same as Project Sponsor
4. Project Name: Zero Waste Energy @ Davis Street
5. Location: 2615 Davis Street, San Leandro, CA 94577
6. Amount of Allocation: \$31,030,000
7. 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.