

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

*Consideration of Ameresco San Joaquin LLC's Request to Waive a 25% Purchase
Requirement under the SB 71 Program*

Tuesday, December 13, 2011

Prepared By: *Cheryl Ide*

SUMMARY

Applicant – Ameresco San Joaquin LLC

Location – Linden, San Joaquin County

Industry – Landfill Gas

Project – New Landfill Gas Capture and Production Facility

Value of Qualified Property – \$1,723,486

Estimated Sales and Use Tax Exclusion Amount¹ – \$156,837

Amount of Time Requested: May 31, 2012

SUMMARY

Ameresco San Joaquin LLC (“ASJ” or the “Applicant”) was approved by the CAEATFA Board on December 15, 2010 for the purchase of \$1,723,486 in Qualified Property for a landfill gas facility in Linden, San Joaquin County. The SB 71 Program (“Program”) requires that ASJ purchase 25% of the total approved Qualified Property (\$556,899) within the first year (Regulation Section 10035(c)(1)), the “25% Purchase Requirement.” This requirement serves as an indicator of readiness and assists in incentivizing timely economic activity. The 25% Purchase Requirement can be waived by the Board upon a finding that a waiver is in the public interest and advances the purposes of the program. (Regulation Section 10035(c)(1)(A)).

As of December 1, 2011 ASJ had not conveyed any qualified property. On September 21, 2011, CAEATFA staff sent the Applicant a courtesy reminder of the 25% Purchase Requirement. ASJ responded by requesting an extension of the 25% Purchase Requirement to May 31, 2012 to accommodate unforeseen delays due to the Project’s interconnection costs and permitting process (Attachment A).

¹ This amount is calculated based on the average statewide sales tax rate of 9.1% at the time the Application was approved by the Board. The current anticipated STE is \$139,602, calculated at 8.1%.

About the Applicant

Ameresco San Joaquin LLC is a limited liability company that was formed on February 5, 2010 in Delaware. While ASJ is a wholly owned subsidiary of Ameresco, Inc., all contracts, operational responsibility, and revenue rest with ASJ.

Project Description

ASJ's Application approved by the CAEATFA Board was for a project at the Foothill Landfill, located in Linden, California to process raw landfill gas ("LFG") into a "green" gas or biogas for use as a fuel source for a generator or other purposes.

The Foothill Landfill is currently flaring approximately 1,500 standard cubic feet per minute (scfm) of collected LFG. ASJ is designing, permitting and will construct, own, operate and maintain a 4.35 megawatts ("MW") landfill gas-to-electricity ("LFGTE") plant to be located at the landfill. There are two major technology components of the process; the processing and conditioning of landfill gas to turn it into biogas, and the burning of the biogas in an internal combustion engine to produce electricity. The sales and use tax exclusion will only be applied to eligible equipment comprising the first portion of the process. This includes piping, valves, vessels, gas skid and other items required for the process of biogas. The LFG must be cleaned up and processed to remove water, particulates, siloxanes, and other contaminants to produce a clean "green" gas before it can be used to generate electricity for sale.

Waiver Request

ASJ has requested a waiver of the 25% Purchase Requirement due to interconnection cost overruns and permitting delays. According to the Applicant, the estimated costs for the interconnection were based on previous interconnections to PG&E power lines for a similarly sized LFGTE projects in Northern California. However, after PG&E's System Impact Study was completed, the estimated costs were approximately \$2.8 million over budget.

The cost overrun impacted the financial viability of the project and required renegotiating with the San Joaquin County landfill owner. An amendment and renegotiated Gas Purchase Agreement was approved by the San Joaquin Board of Supervisors on September 27, 2011.

Once an Interconnection Agreement with PG&E is fully executed and planning permits are issued, ASJ will begin to order equipment and move forward with the project at an accelerated pace. ASJ plans to begin ordering equipment over the next 6 months.

Staff Evaluation

According to the Program's evaluation process at the time of initial Board approval, the Project is anticipated to produce a net benefit of an estimated \$362,292 with an anticipated fiscal benefit of \$419,234 and anticipated environmental benefit of \$99,894 over the life of the equipment

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(weighted average of 19.87 years). The approved project was anticipated to support a total of 1.2 permanent jobs and 10.4 temporary construction jobs².

The Applicant has represented that a time extension until May 31, 2012 will allow the project to move forward. ASJ has further represented that the permitting delays were unanticipated and could not be reasonably avoided, however the Project remains the same as it was at the time of initial Board Approval. Based on the foregoing, staff believes that extending the 25% Purchase Requirement is consistent with the intent of the Program, is in the public interest, and advances the purposes of the Program.

Staff Recommendation: Staff recommends that the Board find it is in the public interest and advances the purposes of the Program to extend the 25% Purchase Requirement to May 31, 2012 pursuant to Regulations Section 10035(c)(1)(A).

Attachments

Attachment A: Ameresco San Joaquin LLC's Letter Requesting Waiver

Attachment B: Staff Summary/Project Description approved by the CAEATFA Board on
December 15, 2010

² The partial jobs noted reflect positions that share their time between several facilities in the region.

**A RESOLUTION OF
CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION
FINANCING AUTHORITY APPROVING A TIME EXTENSION OF THE 25%
PURCHASE REQUIREMENT**

December 13, 2011

WHEREAS, on December 15, 2010 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 \$1 of Qualified Property for **Ameresco San Joaquin LLC** (the “Applicant”); and

WHEREAS, within one year of approval by the Authority, the Applicant must make purchases of Qualified Property totaling not less than twenty-five percent (25.0%) of the total amount listed in the approval resolution (Regulations Section 10035(c)(1));

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 the Applicant purchase at least twenty five percent (25.0%) of Qualified Property within one year of Board Approval (Regulations Section 10035(c)(1)(A)); and

WHEREAS, the Applicant has requested a waiver for the requirement to purchase 25% of Qualified Property within one year to address unanticipated and unavoidable delays, and extend the term from December 15, 2011 to May 31, 2012; and

WHEREAS, granting the waiver will allow the project to proceed and the state to receive the anticipated environmental and economic benefits that justified the initial approval of the project, thereby advancing both the public interest and the purposes of the program.

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

Section 1. The Authority finds that it is in the public interest and advances the purposes of the Program to waive the requirement that the first year purchases of Qualified Property are at least twenty-five percent (25.0%) of the total amount listed in the approval resolution, and extend the term to May 31, 2012.

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

Attachment A: Ameresco San Joaquin LLC's Letter Requesting Waiver



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ameresco.com

November 21, 2011

SENT VIA EMAIL

Christine Solich, Executive Director
California Alternative Energy & Advanced Transportation Financing Authority
915 Capitol Mall, Room 457
Sacramento, CA 95814

Subject: Extension Request for SB71 Expenditure Obligation of
Ameresco San Joaquin County, LLC

Dear Ms. Solich:

In accordance with your letter dated September 21, 2011, Ameresco and its limited liability project entity for our Ameresco San Joaquin County, LLC project hereby formally requests an extension of our Expenditure Obligations contained in the Master Regulatory and Title Conveyance the Master Regulatory Agreements for the subject project.

We have addressed the required items below:

A request for a time extension, which includes an anticipated schedule for conveying the remainder of the Qualified Property

We request a time extension to May 31, 2012, for expending a minimum of 25 percent of the Qualified Property amount. Attached is an updated project schedule.

An explanation for why the extension is necessary

Due to serious cost overruns associated with the interconnection of the landfill gas-to-energy (LFGTE) plant to the electrical grid via power lines owned by PG&E, significant project delays were encountered. Since it is impossible to accurately determine the exact interconnection costs until PG&E has completed their site-specific System Impact Study (SIS), the original costs estimates were based on previous interconnections to PG&E power lines for our similarly-sized LFGTE projects in Northern California. The estimated costs for the interconnection in PG&E's SIS were approximately \$2.8 million over budget

This cost overrun impacted the financial viability of the Ameresco San Joaquin County, LLC project and required renegotiating an adjustment to the royalty rate contained in our Gas Purchase Agreement (GPA) with San Joaquin County, the landfill owner. The amendment adjusting our royalty was approved by the San Joaquin Board of Supervisors on

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September 27, 2011. Ameresco expects to receive the fully executed GPA amendment in the next few weeks. The time required to renegotiate this unexpected GPA amendment has put this project behind schedule and delayed the ordering of key project equipment.

An Interconnection Agreement with PG&E that includes these cost overruns is still being negotiated and it is expected to take another 2 to 3 months to complete. In addition, Ameresco must obtain County approval for the planning permit prior to the ordering of major equipment. Equipment can be ordered after the Interconnection Agreement is executed and the Planning Permits are issued.

An explanation for how the requested timeline will be met

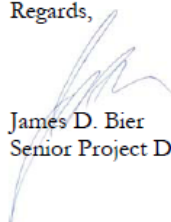
The major milestones in development of LFGTE projects are the interconnection with the local utility, air permitting, executing the Gas Purchase Agreement with the landfill owner and a Power Purchase Agreement with an energy offtaker(s). Ameresco has obtained the Authority to Construct from the San Joaquin Valley Air Pollution Control District and has fully executed projects agreements with the landfill owner and an energy offtaker. Once the interconnection agreement with PG&E is fully executed and planning permits issued, Ameresco will begin to order equipment and move forward at an accelerated pace. Ameresco plans to begin ordering equipment over the next 6 months.

Any additional information to support Board approval of waiver of the Expenditure Obligation

Ameresco has continued to meet schedule milestones that are within our control including submittal of permit applications. Permitting and interconnection items are out of our direct control (in terms of timing and cost) once submitted to the controlling agencies or utilities.

We appreciate your consideration of our request for extension. Please feel free to contact me at (209) 610-4318 or jbier@ameresco.com with any questions.

Regards,


James D. Bier
Senior Project Developer

Attachment B: Staff Summary at Board Approval

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

Request to Approve Project for SB 71 Sales and Use Tax Exclusion (STE)³

**AMERESCO SAN JOAQUIN LLC
Application No. 10-SM024**

Wednesday, December 15, 2010

Prepared By: *Heather Williams*

SUMMARY

Applicant – Ameresco San Joaquin LLC

Location – Linden, San Joaquin County

Industry – Landfill Gas

Project – New Landfill Gas Capture and Production Facility

Value of Qualified Property – \$1,723,486

Estimated Sales and Use Tax Exclusion Amount⁴ – \$156,837

Estimated Net Benefits - \$362,292

Application Score –

Fiscal Benefits Points:	2,673
<u>Environmental Benefits Points:</u>	<u>637</u>
Net Benefits Score:	3,310

<u>Additional Benefits Points:</u>	<u>37</u>
Total Score:	3,347

Staff Recommendation – Approval

³ All capitalized terms not defined in this document are defined in the Program's statute and regulations.

⁴ This amount is calculated based on the average statewide sales tax rate of 9.1%.

THE APPLICANT

Ameresco San Joaquin LLC (“San Joaquin” or “Applicant”) is a limited liability company that was formed on February 5, 2010 in Delaware. While San Joaquin is a wholly owned subsidiary of Ameresco, Inc., all contracts, operational responsibility, and revenue rest with San Joaquin.

The San Joaquin project will be constructed at the Foothill Landfill, located in Linden, California and will be used to capture and process raw landfill gas (“LFG”) into a green renewable gas suitable for combustion in an internal combustion engine or turbine for the purpose of producing electricity.

San Joaquin is 100% owned by Ameresco, Inc. (“Parent Corporation”).

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

George P. Sakellaris
CEDE & Co.

The corporate officers of the Parent Corporation are:

George P. Sakellaris – President & CEO, Chairman
David J. Anderson – EVP, Business Development & Director
Michael T. Bakas – Senior VP, Renewable Energy
David J. Corrsin – EVP, General Counsel/Secretary & Director
William J. Cunningham – Senior VP, Corporate Government Relations
Joseph P. DeManche – EVP, Engineering & Operations
Keith A. Derrington – EVP & GM, Federal Operations
Mario Iuzi – President, Ameresco Canada
Louis P. Maltezos – EVP & GM, Central Region
Andrew B. Spence – CFO, VP

THE PROJECT

The Foothill Landfill is currently flaring approximately 1,500 standard cubic feet per minute (SCFM) of collected landfill gas. San Joaquin will construct, own, operate and maintain a 4.35 megawatts (MW) landfill gas-to-electricity (LFGTE) plant to be located at the landfill.

There are two major technology components of the process: the processing and conditioning of landfill gas to turn it into biogas; and the burning of the biogas in an internal combustion engine to produce electricity. However, the sales and use tax exclusion will only be used to finance the equipment required for the first portion, which includes piping, valves, vessels, gas skid and other items required for the processing of biogas. The LFG must be cleaned up and processed to remove water, particulates, siloxanes, and other contaminants to produce a clean “green” gas before it can be used to generate electricity for sale.

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San Joaquin has a gas purchase agreement with San Joaquin County to purchase the LFG for use in the proposed plant and a long term Power Purchase Agreement (PPA) with the City of Palo Alto for the renewable energy.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Gas blowers, rotary lobe design & discharge silencer	\$ 80,000
Gas blower enclosures	15,000
Gas blower VFD	10,500
Gas dehydration skid- design, cooler, reheater, separator, and pumps	350,000
Gas filters, blower suction, prechamber gas, and engine POU	50,000
Air cooled glycol chiller	79,800
Glycol tank	2,130
Plant control panel and software	50,000
Plant instrumentation and O2 sensors	22,500
Methane detectors	10,000
Gas venture meters for each engine	10,000
Gas chromatograph and calibration gas	40,000
Plant ventilation, AC equipment, louvers	75,000
Plant manual and control valves	52,200
Condensate knockouts V1 and V2 with demister	28,000
V2 condensate pumps	5,786
Plant air compressor and dryer	18,000
TSA LFGas cleanup system including heather panel and blowers	525,000
Tigg vessels, first fill, valves, metering	149,570
TSA system flare	150,000
Total	<u>\$1,723,486</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the conveyance/reconveyance agreement a finalized project equipment list will be prepared detailing the value of the Project equipment conveyed and reconveyed and detailing the actual tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. 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.

TIMELINE

The development of the project is underway and commercial operation is expected to begin in January 2012.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated at \$1,723,486 and the total net benefits are valued at \$362,292 for the Project. The Project received a Total Score of 3,347 which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 637 which exceeds the 100 point threshold.

- A. Fiscal Benefits (2,673 points).** The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant's sales taxes, personal income taxes paid by the firm's employees, firm taxes on profits, property taxes and other indirect fiscal benefits of the Applicant which amounts to \$419,234 resulting in a Fiscal Benefits score of 2,637 points for the Project.
- B. Environmental Benefits (637 points).** The Project results in \$99,894 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 637 points for the Project. These benefits derive from the production of biogas, which offsets the need for use of fossil methane.
- C. Additional Benefits (37 of 200 points).** Applicants may earn up to 200 additional points for their Total Score. The applicant submitted information and received 37 additional points.

 - a. Permanent Jobs (0 of 40 points).** The Applicant's Project will support a total of 1.2 jobs⁵ at its Facility. CAEATFA estimates that approximately 0 of these jobs will be attributable to a marginal increase in jobs created due to the approved sales and use tax exclusion. Zero points were awarded because the marginal increase in jobs created does not meet the required threshold.
 - b. Construction Jobs (10 of 20 points).** The Applicant's Project will support a total of 10.4 construction jobs⁶ at its Facility. CAEATFA estimates that approximately 1 of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Construction Jobs Score of 10 points for the Project.
 - c. Unemployment (27 of 40 points).** The Applicant's Project is located in San Joaquin County which has an unemployment rate of 17%. This is above 110% of the statewide unemployment average which is currently 12.4% resulting in an Unemployment Score of 27 points for this Project.

⁵ This is a fraction of one job since one full-time operator and a supervisor share their time between several plants in the region.

⁶ In addition to the ten construction jobs, there is a fraction of 1 job since there will be a health and safety officer working on a quarter time basis.

STATUS OF PERMIT/OTHER REQUIRED APPROVALS

The air permit application for this Project has been submitted to the San Joaquin Valley Air Pollution Control District. The interconnection system impact study (SIS) application has been submitted to PG&E.

LEGAL QUESTIONNAIRE

Staff has reviewed the Applicant's responses to the questions contained in the Legal Status portion of the Application. The Executive Director, in consultation with legal counsel, has determined that the legal issues disclosed do not affect the financial viability or legal integrity of the Applicant.

CAEATFA FEES

In accordance with CAEATFA regulations,⁷ the Applicant has paid CAEATFA an Application Fee of \$862 and will pay CAEATFA an Administrative Fee of \$15,000.

RECOMMENDATION

Staff recommends approval of Resolution No. 10-SM024 for Ameresco San Joaquin LLC's purchase of Qualified Property in an amount not to exceed \$1,723,486 anticipated to result in an approximate sales and use tax exclusion value of \$156,837.

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

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A TITLE
CONVEYANCE AGREEMENT WITH AMERESCO SAN JOAQUIN LLC**

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **Ameresco San Joaquin LLC** (the “Applicant”), for financial assistance in the form of a conveyance/reconveyance of title agreement (the “Agreement”) regarding tangible personal property for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems (“Qualified Property”) as more particularly described in the staff summary and in the Applicant’s Application to the Authority (collectively, the “Project”); and

WHEREAS, the Applicant has requested the Authority to enter into the Agreement transferring title of Project equipment with an estimated cost not to exceed \$1,723,486 over a period of three years; and

WHEREAS, the Agreement will provide that the Applicant will, prior to any use of the Qualified Property, transfer title at no cost to the Authority from time to time as purchases of Qualified Property are made and the Authority will then transfer title back to the Applicant without having taken possession of the Qualified Property; and

WHEREAS, the Applicant believes that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Qualified Property pursuant to California Revenue and Taxation Code Section 6010.8; and

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

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

Section 1. The Project constitutes a “project” within the meaning of Public Resources Code Section 26003(g)(2).

Section 2. The requested conveyance agreement constitutes “financial assistance” within the meaning of Public Resources Code Section 26003(e)(2).

Section 3. The Applicant is a “participating party” within the meaning of Public Resources Code Section 26003(f).

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Section 4. The Executive Director, Deputy Executive Director, or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Executive Director shall deem appropriate, provided that the amount of the Qualified Property to be purchased may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Agreement between the Applicant and the Authority, as filed with the Authority prior to this meeting, is hereby approved. The Authorized Signatories are hereby authorized and directed, for and on behalf and in the name of the Authority, to execute, acknowledge and deliver to the Applicant the Agreement in substantially the form filed with or approved by the Authority, with such insertions, deletions or changes therein as the Authorized Signatory executing the same, may require or approve, and with particular information inserted therein in substantial conformance with the staff summary and in the Applicant’s Application to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Agreement, the obligations of the Applicant may, under some circumstances be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including (without limitation) the execution and delivery of any and all documents and certificates they may deem necessary or advisable in order to consummate the Agreement and otherwise effectuate the purposes of this resolution.

Section 7. The Applicant shall assure CAEATFA that all Qualified Property conveyance pursuant to the Agreement shall be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Agreement shall only apply to Qualified Property that the Applicant certifies will be installed, maintained and operated at facilities within the State of California.

Section 9. The adoption by the Authority of this Resolution for the Applicant shall not be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project or in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement, as defined in CAEATFA Regulations Section 10035(A), is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty days if necessary.