

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

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

**Anaheim Energy, LLC
Application No. 14-SM012**

Tuesday, September 16, 2014

Prepared By: *Ashley Bonnett*

SUMMARY

Applicant – Anaheim Energy, LLC

Location – Anaheim, Orange County

Industry – Biogas Capture and Production

Project – New Biogas Capture and Production Facility

Value of Qualified Property – \$19,143,601

Estimated Sales and Use Tax Exclusion Amount² – \$1,611,891

Estimated Net Benefits – \$895,499

Application Score –

Fiscal Benefits Points:	1,203
<u>Environmental Benefits Points:</u>	<u>353</u>
Net Benefits Score:	1,556

<u>Additional Benefits Points:</u>	<u>50</u>
Total Score:	1,606

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

² This amount is calculated based on the average statewide sales tax rate of 8.42%.

THE APPLICANT

Anaheim Energy (“Anaheim” or the “Applicant”), formed in 2013, is a wholly owned subsidiary of Anaergia Services, LLC (“Anaergia”).

The major shareholders (10.0% or greater) of Anaergia are:

UTS Bioenergy Holdings, LLC (88.5%)

The corporate officer of Anaergia is:

Arun Sharma, President

THE PROJECT

Anaheim, in partnership with Republic Services, a residential and commercial waste collector with a municipal recycling facility located in Anaheim, will construct an anaerobic digester that will convert wet organic matter derived from municipal solid waste preprocessed at Republic Services’ municipal recycling facility, as well as liquid wastes, into biogas (the “Project”).

The Applicant will install two wet organics processing lines at Republic Services’ facility. The processing lines will utilize Anaergia’s Organics Extrusion Press technology, which the Applicant represents is a high pressure process to recover 95% of the digestible organic material. The processing lines will sort and preprocess solid waste collected from restaurants, wet compactors, theme parks such as Disneyland, universities, grocery stores, produce markets, and food manufacturers to isolate the wet organic material, creating what is called the “wet organic fraction” of the waste. This wet organic fraction will be transported to Anaheim’s anaerobic digestion facility to serve as feedstock, along with liquid wastes and fats, oils, and greases, in the creation of biogas. The biogas will be converted to heat and power, a portion of which will be used to power the facility, and the remaining power will be sold to Anaheim Public Utilities.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture biogas and includes a portion of the power generation equipment used to power the facility. The Project’s equipment will consume 25 percent of the total amount of energy generated; therefore 25 percent of the power generation equipment is eligible for an STE under the Program. However, the remaining 75 percent of the power generation equipment is not included in this Application as this represents the proportion of electricity that the Applicant will sell to Anaheim Public Utilities.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Solids Handling and Digestion	\$ 14,433,747
Biogas Handling	1,040,000
Electrical Generation (25% of total cost)	2,404,754
Site Construction and Processing Accessories	1,265,100
Total	<u>\$19,143,601</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the master regulatory agreement a finalized project equipment list will be prepared detailing the value of the Project equipment acquired and detailing the actual tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components (of the Project) over original estimates, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation, or for other reasons.

TIMELINE

Anaheim represents that it has secured an option to lease a two acre site in Anaheim for the digestion facility, and that it has already executed a Letter of Intent and is currently negotiating a feedstock agreement with Republic Services. Anaheim expects all major agreements will be in place before the end of 2014. The Applicant anticipates initial construction at Anaheim's digestion facility will commence in June 2015, and installation of the preprocessing equipment at Republic Services' facility is expected to begin in April 2016. Commercial startup is expected to begin in January 2017.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$19,143,601 and the total net benefits are valued at \$895,499 for the Project. The Project received a Total Score of 1,606 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 353 points, which exceeds the 100 point threshold.

- A. Fiscal Benefits (1,203 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 \$1,938,411 resulting in a Fiscal Benefits score of 1,203 points for the Project.

- B. Environmental Benefits (353 points).** The Project will result in \$568,979 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 353 points for the Project. These benefits derive from displacing the use of fossil fuel through the production of biogas and the avoidance of emissions that would otherwise be produced if the waste was sent to a landfill to decompose.
- C. Additional Benefits (50 points).** Applicants may earn additional points for their Total Score. The applicant submitted information and received 50 additional points.
- 1. Permanent Jobs (20 of 75 points).** The Applicant’s Project will support a total of 15 permanent jobs at its Facility. CAEATFA estimates that approximately two of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Permanent Jobs Score of 20 points for the Project.
 - 2. Construction Jobs (30 of 75 points).** The Applicant’s Project will support a total of 25 construction jobs at its Facility. CAEATFA estimates that approximately three of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Construction Jobs Score of 30 points for the Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant represents that Republic Services’ existing solid waste permit for its preprocessing site will require only a modification to reflect the new preprocessing lines, and anticipates the CEQA Conditional Use Permit, with Conditions of Approval and Mitigation Measures, will be finalized by March 2015.

The Applicant also represents that there are other permits and approvals it must acquire for the Project, including local demolition/grading, building, and public site utility permits; South Coast Air Quality Management District air permits; wastewater discharge permits; an interconnection agreement with Anaheim Public Utilities; and a solid waste facility permit from CalRecycle. The Applicant anticipates all of these permits will be in place by December 2015.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant’s responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

CAEATFA FEES

In accordance with CAEATFA Regulations,³ the Applicant has paid CAEATFA an Application Fee of \$9,571.80 and will pay CAEATFA an Administrative Fee of up to \$76,574.40.

RECOMMENDATION

Staff recommends approval of Resolution No. 14-SM012 for Anaheim Energy's purchase of Qualified Property in an amount not to exceed \$19,143,601 anticipated to result in an approximate sales and use tax exclusion value of \$1,611,891.

³ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER
REGULATORY AGREEMENT WITH ANAHEIM ENERGY, LLC**

September 16, 2014

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

WHEREAS, the Applicant has requested the Authority to enter into the Agreement to acquire Project equipment with an estimated cost not to exceed \$19,143,601 over a period of three years; and

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

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

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

Section 1. The Project constitutes a “project” within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The requested master regulatory agreement constitutes “financial assistance” within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a “participating party” within the meaning of Public Resources Code Section 26003(a)(7).

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

Agenda Item – 4.A.2
Resolution No. 14-SM012
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Section 5. The proposed form of the Agreement between the Applicant and the Authority, as filed with the Authority prior to this meeting, is hereby approved. The Authorized Signatories are hereby authorized and directed, for and on behalf and in the name of the Authority, to execute, acknowledge and deliver to the Applicant the Agreement in substantially the form filed with or approved by the Authority, with such insertions, deletions or changes therein as the Authorized Signatory executing the same may require or approve, and with particular information inserted therein in substantial conformance with the staff summary and in the Applicant's Application to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Agreement, the obligations of the Applicant may, under some circumstances, be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

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

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

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

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

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