

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

Request to Approve Project for SB 71 Sales and Use Tax Exclusion (STE)¹

**AMERESCO JOHNSON CANYON LLC
Application No. 10-SM023**

Wednesday, December 15, 2010

Prepared By: *Heather Williams*

SUMMARY

Applicant – Ameresco Johnson Canyon LLC

Location – Gonzales, Monterey County

Industry – Landfill Gas

Project – New Landfill Gas Capture and Production Facility

Value of Qualified Property – \$766,293

Estimated Sales and Use Tax Exclusion Amount² – \$69,733

Estimated Net Benefits - \$132,303

Application Score –

Fiscal Benefits Points:	2,422
<u>Environmental Benefits Points:</u>	<u>475</u>
Net Benefits Score:	2,897
<u>Additional Benefits Points:</u>	<u>15</u>
Total Score:	2,912

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 9.1%.

THE APPLICANT

Ameresco Johnson Canyon LLC (“Johnson Canyon” or “Applicant”) is a limited liability company that was formed on August 31, 2009 in Delaware. While Johnson Canyon is a wholly owned subsidiary of Ameresco, Inc., all contracts, operational responsibility, and revenue rest with Johnson Canyon.

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

Johnson Canyon 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 Johnson Canyon Landfill is currently flaring approximately 600 standard cubic feet per minute (scfm) of collected landfill gas. Johnson Canyon will construct, own, operate and maintain a 1.426 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.

Johnson Canyon has a gas purchase agreement with Salinas Valley Solid Waste Authority 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:

VFD for gas compressor	\$ 6,152
Instrumentation, valves, gauges, switches	72,093
Chiller	71,883
Gas chromatograph	39,165
Expansion joints	4,000
Fire detection	3,000
Siloxane pretreatment	400,000
VOC flare	120,000
PLC programming	<u>50,000</u>
Total	<u>\$766,293</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 May 2012.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated at \$766,293 and the total net benefits are valued at \$132,303 for the Project. The Project received a Total Score of 2,912

which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 475 which exceeds the 100 point threshold.

- A. Fiscal Benefits (2,422 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 \$168,912 resulting in a Fiscal Benefits score of 2,422 points for the Project.
- B. Environmental Benefits (475 points).** The Project results in \$33,124 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 475 points for the Project. These benefits derive from the production of biogas, which offsets the need for use of fossil methane.
- C. Additional Benefits (15 of 200 points).** Applicants may earn up to 200 additional points for their Total Score. The applicant submitted information and received 15 additional points.

 - 1. Permanent Jobs (0 of 40 points).** The Applicant’s Project will support a total of 1.2 jobs³ 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.
 - 2. Construction Jobs (15 of 20 points).** The Applicant’s Project will support a total of 10.4 construction jobs⁴ 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 15 points for the Project.

STATUS OF PERMIT/OTHER REQUIRED APPROVALS

The air permit application for this Project has been submitted to the Monterey Bay Unified Area Air Pollution Control District. The interconnection system impact study (SIS) application has been submitted to PG&E.

³ This is a fraction of one job since one full-time operator and a supervisor share their time between several plants in the region.

⁴ 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.

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,⁵ the Applicant has paid CAEATFA an Application Fee of \$383 and will pay CAEATFA an Administrative Fee of \$15,000.

RECOMMENDATION

Staff recommends approval of Resolution No. 10-SM023 for Ameresco Johnson Canyon LLC's purchase of Qualified Property in an amount not to exceed \$766,293 anticipated to result in an approximate sales and use tax exclusion value of \$69,733.

⁵ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A TITLE
CONVEYANCE AGREEMENT WITH AMERESCO JOHNSON CANYON LLC**

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **Ameresco Johnson Canyon 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 \$766,293 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.