

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

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

**RECOLOGY EAST BAY
Application No. 11-SM005**

Tuesday, June 28, 2011

Prepared By: *Heather Williams*

SUMMARY

Applicant – Recology East Bay

Location – Oakland, Alameda County

Industry – Biomass Processing and Fuel Production

Project – New Onsite Food Scrap Pre-Processing Facility for Existing Biomass Processing and Fuel Production Facility

Value of Qualified Property – \$3,703,090

Estimated Sales and Use Tax Exclusion Amount² – \$336,981

Estimated Net Benefits - \$281,113

Application Score -

Fiscal Benefits Points:	1,504
<u>Environmental Benefits Points:</u>	<u>330</u>
Net Benefits Score:	1,834
<u>Additional Benefits Points:</u>	<u>15</u>
Total Score:	1,849

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 off of the average statewide sales tax rate of 9.1%.

THE APPLICANT

Recology East Bay (“Recology” or “Applicant”) was incorporated on June 29, 1998 in California and is headquartered in Oakland, California. Recology manufactures biomass from food scraps.

Recology Inc. owns Recology East Bay. Recology Inc. is owned by an Employee Stock Ownership Plan.

The corporate officers of Recology are:
Michael Sangiacomo, Chief Executive Officer
George McGrath, Chief Operating Officer
Mark Lomele, Chief Financial Officer
Art Cimento, Chief Development Officer

THE PROJECT

Since 2003, Recology has provided biomass material (food scraps) as feedstock for the East Bay Municipal Utility District (EBMUD) for the generation of electricity and heat at the Municipal Waste Water Treatment Plant (WWTP) in West Oakland, California. The food scraps are collected from area restaurants and grocery stores through collection programs that keep the materials from going to landfills. As collected, the food scraps are too large and/or contaminated to be fed directly into the digester for purposes of generating biogas (methane). Recology collects the food scraps and pre-processes them in preparation for anaerobic digestion. EBMUD then utilizes the processed biomass in an anaerobic digester to create biogas to generate energy.

Pre-processing is currently done at a Recology facility in Vacaville and the processed material is transported to the WWTP for anaerobic digestion. This process requires Recology to move the unprocessed food scraps from a transfer station in San Francisco to Vacaville for pre-processing and back to Oakland for processing and digestion to generate energy, roughly 100 miles per trip cycle.

Recology plans to build a food scrap pre-processing facility within the WWTP footprint. Co-locating the pre-processing facility by the anaerobic digesters on the WWTP reduces the long-haul travel required to move the food scraps. The food scraps pre-processing facility will be built, owned and operated by Recology on a portion of the existing WWTP under a land-lease agreement. EBMUD has an existing food scraps processing facility, which was recently approved for expansion to treat up to 250 tons per day of pre-processed food scraps. The pre-processing building, ancillary facilities, processing systems, scale house and office space would occupy approximately 1.4 acres of land on the property. At the ultimate capacity, the food scraps digestion project will generate enough renewable energy – approximately 2.5 megawatts of power – to power 3,700 California households.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Building shell and pad	\$1,569,100
Scale house and scales	167,640
Pipes	173,000
Water connections	37,000
Mobile equipment, except dump trucks (Bobcat, loader, excavator)	461,000
Stationary equipment (conveyors, screens, grinders, fuel tank, debris boxes)	908,000
Trucks – two end dumps	152,000
Office supplies and uniforms (safety vests, glasses, gloves, masks, boots)	27,350
Replacement parts for mobile and stationary equipment	<u>208,000</u>
Total	<u>\$3,703,090</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 pre-processing facility has been designed and the Applicant has begun the Environmental Impact Review (EIR) process. Construction of the facility is anticipated to start in January 2012, and operations are scheduled to commence between May and August of 2012.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$3,703,090 and the total net benefits are valued at \$281,113 for the Project. The Project received a Total Score of 1,849 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 330 points, which exceeds the 100 point threshold.

- A. **Fiscal Benefits (1,504 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 \$506,852, resulting in a Fiscal Benefits Score of 1,504 points for the Project.

- B. Environmental Benefits (330 points).** The Project will result in \$111,243 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 330 points for the Project. These benefits derive from (a) the production of biomass fuel, which offsets the need for fossil fuel derived sources of energy and (b) a reduction of methane emissions from material that would otherwise be sent to a landfill.
- 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 8 permanent jobs at its Facility. CAEATFA estimates that approximately one of these jobs will be attributable to a marginal increase in jobs created due to the approved STE. Zero points were awarded because the marginal increase in jobs does not meet the required threshold.
 - 2. Construction Jobs (15 of 20 points).** The Applicant’s Project will support a total of 38 construction jobs at its Facility. CAEATFA estimates that approximately 4 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 PERMITS/OTHER REQUIRED APPROVALS

The facility requires solid waste and air permits. The process for obtaining these is estimated to be six to nine months after the environmental impact report is reviewed and approved. Recology anticipates these permits will be granted by November or December of 2011.

LEGAL QUESTIONNAIRE

Staff 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

Agenda Item – 4.A.1
Resolution No. 11-SM005
Application No. 11-SM005

In accordance with CAEATFA Regulations,³ the Applicant has paid CAEATFA an Application Fee of \$2,484.99 and will pay CAEATFA an Administrative Fee of \$15,000.

RECOMMENDATION

Staff recommends approval of Resolution No. 11-SM005 for Recology East Bay's purchase of Qualified Property in an amount not to exceed \$3,703,090 anticipated to result in an approximate sales and use tax exclusion value of \$336,981.

³ California Code of Regulations Title 4, Division 13, Article 2, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A TITLE
CONVEYANCE AGREEMENT WITH RECOLOGY EAST BAY**

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **Recology East Bay** (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 \$3,703,090 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).

Agenda Item – 4.A.1
Resolution No. 11-SM005
Application No. 11-SM005

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.