

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

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

**Central Valley Ag Power, LLC
Application No. 13-SM010**

Thursday, September 26, 2013

Prepared By: *Alejandro Ruiz*

SUMMARY

Applicant – Central Valley Ag Power, LLC

Location – Oakdale, Stanislaus County

Industry – Biomass Processing and Fuel Production

Project – New Biomass Processing and Fuel Production Facility

Value of Qualified Property – \$3,481,313

Estimated Sales and Use Tax Exclusion Amount² – \$291,386

Estimated Net Benefits – \$141,634

Application Score³ –

| | |
|---------------------------------------|--------------|
| Fiscal Benefits Points: | 1,355 |
| <u>Environmental Benefits Points:</u> | <u>131</u> |
| Net Benefits Score: | 1,486 |
| | |
| <u>Additional Benefits Points:</u> | <u>28</u> |
| Total Score: | 1,514 |

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 8.37%.

³ Point values in the staff summary may not add up correctly due to rounding in the Application worksheet.

THE APPLICANT

Central Valley Ag Power, LLC (“Applicant” or “CVAP”), established in 2010, produces bioenergy from biomass provided by its partner company, Central Valley Ag Grinding (“CVAG”). CVAG was established in 1996 and collects agricultural by-products, such as nut shells and fruit pits, as well as recycled green waste for use in manufacturing and fiber markets.

The major shareholders (10.0% or greater) of Central Valley Ag Power, LLC are:

- Mike Barry (50%)
- Paul Konzen (50%)

The corporate officers of Central Valley Ag, LLC are:

- Mike Barry – President
- Paul Konzen – Vice President
- Ryan Hogan – Chief Financial Officer

THE PROJECT

The Applicant is constructing a waste-to-energy gasification facility that will convert biomass, such as recycled wood and agricultural by-products (fruit pits), into syngas (“Project”). Essentially, the biomass will be heated in the gasifier to release the energy stored in the biomass, resulting in the production of syngas. A combined heat and power unit (CHP unit) will use the syngas to produce energy in the form of heat and electricity. The heat produced will be used for the operations of CVAP as well as CVAG, making the facilities largely self-sufficient. The excess electricity generated will be sold to Pacific Gas and Electric (PG&E) and CVAG.

The biomass gasification process will also produce a useful by-product known as biochar. Biochar is a soil amendment that can improve soil fertility, remediate contaminated soil, decrease nutrient runoff and increase soil carbon levels.

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture syngas and it also includes a portion of the 1,500 kW power generation equipment used to power the facility. The Project’s equipment will consume 33 percent of the total amount of energy generated, therefore 33 percent of the power generation equipment is eligible for an STE under SB 71. However, 67 percent of the power generation equipment is not included in this Application as this represents the proportion of electricity that will be sold to PG&E and CVAG.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

| | |
|----------|-----------|
| Building | \$127,689 |
| Concrete | 143,442 |
| Controls | 388,456 |
| Dryer | 724,500 |

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| | |
|--------------------------------------|---------------------------|
| Water Treatment | 265,302 |
| Conveyance | 129,563 |
| Support Equipment | 25,000 |
| By-product Processing and Conveyance | 50,000 |
| Engine (33%) | 240,257 |
| Gas Production Treatment | 666,083 |
| High Voltage Electrical | 161,278 |
| Low Voltage Electrical | 339,743 |
| Wheel Loader | 200,000 |
| Construction Hardware | 20,000 |
| Total | <u>\$3,481,313</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 Applicant has already begun construction of the Project and anticipates that it will become operational and interconnected with the grid by late October.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$3,481,313 and the total net benefits are valued at \$141,634 for the Project. The Project received a Total Score of 1,514 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 131 points, which exceeds the 100 point threshold.

- A. Fiscal Benefits (1,355 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 \$394,801 resulting in a Fiscal Benefits score of 1,355 points for the Project.
- B. Environmental Benefits (131 points).** The Project will result in \$38,218 of total pollution benefits over the life of the Facility resulting in an Environmental Benefits Score of 131 points for the Project. These benefits derive from the production of

syngas, which will be used to generate energy normally produced through the combustion of fossil fuels.

- C. **Additional Benefits (28 of 200 points)**. Applicants may earn up to 200 additional points for their Total Score. The applicant submitted information and received 28 additional points.
1. **Permanent Jobs (0 of 40 points)**. The Applicant’s Project will support a total of three permanent jobs at its Facility. CAEATFA estimates that none 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 (10 of 20 points)**. The Applicant’s Project will support a total of 20 construction 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 Construction Jobs Score of ten points for the Project.
 3. **Unemployment (18 of 40 points)**. The Applicant’s Project is located in Stanislaus County which has an unemployment rate of 15.57 %. This is above 110% of the annual average statewide unemployment rate of 10.6%, resulting in an Unemployment Score of 18 points for this Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant is only awaiting the approval of the construction permit for the combined heat and power unit. All other required permits have been acquired.

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,⁴ the Applicant has paid CAEATFA an Application Fee of \$1,942.76 and will pay CAEATFA an Administrative Fee of \$15,000.

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

RECOMMENDATION

Staff recommends approval of Resolution No. 13-SM010 for Central Valley Ag Power, LLC's purchase of Qualified Property in an amount not to exceed \$3,481,313 anticipated to result in an approximate sales and use tax exclusion value of \$291,386.

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A TITLE
CONVEYANCE AGREEMENT WITH THE CENTRAL VALLEY AG POWER, LLC**

September 26, 2013

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **Central Valley Ag Power, 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 \$3,481,313 over a period of 3 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(a)(8)(B).

Section 2. The requested conveyance 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).

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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.