

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

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

**ABEC #4 LLC dba CE&S Dairy Biogas
Application No. 16-SM034**

December 13, 2016

Prepared By: *Ellen Hildebrand, Analyst*

SUMMARY

Applicant – ABEC #4 LLC dba CE&S Dairy Biogas

Location – Bakersfield, Kern County

Industry – Dairy Biogas

Project – New biogas production facility

Value of Qualified Property – \$2,701,502

Estimated Sales and Use Tax Exclusion Amount² – \$227,467

Estimated Net Benefits – \$337,152

Application Score³ –

Fiscal Benefits Points:	2,228
<u>Environmental Benefits Points:</u>	<u>254</u>
Net Benefits Score:	2,482
<u>Additional Benefits Points:</u>	<u>130</u>
Total Score:	2,613

Staff Recommendation – Approval

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

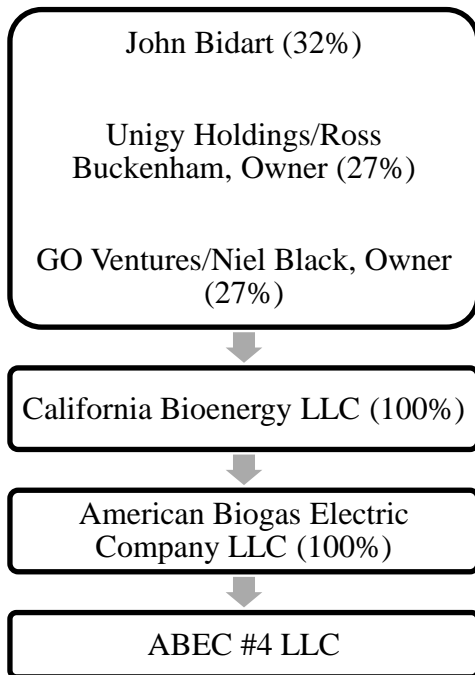
² This amount is calculated based on the average statewide sales tax rate of 8.42%.

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

THE APPLICANT

ABEC #4 LLC dba CE&S Dairy Biogas (“ABEC #4” or the “Applicant”) is a California limited liability company established by California Bioenergy LLC (“CalBio”) to develop a biogas capture plant on the CE&S Dairy located in Bakersfield, California. CalBio was established to design, finance, develop and build California dairy biogas projects and then to own and operate them in partnership with the dairy farmers.

The major shareholders (10.0% or greater) of ABEC #4 are:



The corporate officers of ABEC #4 are:

Ross Buckenham, CEO
Neil Black, President

THE PROJECT

ABEC #4’s biogas production and renewable energy generation facility will be located on the CE&S Dairy in Bakersfield, California. The Applicant will install a large in-ground heated and mixed lagoon style anaerobic digester system and one combined heat and power unit (the “Project”). The anaerobic digester will use bacteria to digest dairy cow manure, releasing biogas. The combined heat and power unit will then destroy the methane in the biogas to avoid its release into the atmosphere, and will generate heat for plant processing and electrical power for sale to Pacific Gas & Electric Company (“PG&E”).

Consistent with CAEATFA policy, the Qualified Property in this Application will be used to manufacture biogas; the Qualified Property also includes a portion of the power generation equipment used to power the facility. The Project’s equipment will consume 53 percent of the total amount of available energy generated from biogas combustion; therefore 53 percent of the

power generation equipment is eligible for a sales and use tax exclusion under SB 71. However, 47 percent of the power generation equipment is not included in this Application, as it represents the proportion of available energy in the form of electricity that will be sold to PG&E.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:⁴

Site Improvements, Electrical, & Piping	\$ 928,539
Engine & Generator Set	304,500
Engine Integration & Upgrades	88,969
Combined Heat & Power Package	311,782
Selective Catalytic Reductions System	94,248
Hydrogen Sulfide Scrubber	171,632
Carbon Catcher System	47,192
Engineering, Storage, and Air Injection, & Lighting	110,686
Switchgear Package	172,216
Chiller	310,841
Shipping, Pumps, and Rigging	160,899
Total	<u>\$2,701,502</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

The Applicant represents that construction has already begun, with installation and testing scheduled for early to middle 2017. The Project is expected to come online in late 2017.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$2,701,502 and the total net benefits are valued at \$337,152 for the Project. The Project received a Total Score of 2,613 points, which exceeds the required 1,000 point threshold and a total Environmental Benefits Score of 254 points, which exceeds the 20 point threshold.

⁴ Values in the staff summary may not add up correctly due to rounding in the Application worksheet.

- A. Fiscal Benefits (2,228 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 \$506,804 resulting in a Fiscal Benefits score of 2,228 points for the Project.
- B. Environmental Benefits (254 points).** The Project will result in \$57,815 of total pollution benefits over the life of the Project resulting in an Environmental Benefits Score of 254 points for the Project. These benefits derive from the production of dairy biogas, which offsets the need for use of fossil fuel and the avoidance of methane emissions that would otherwise be released by the manure.
- C. Additional Benefits (130 points).** Applicants may earn additional points for their Total Score. The applicant submitted information and received 130 additional points.
- 1. Permanent Jobs (30 of 75 points).** The Applicant represents that the Project will support a total of three 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 resulting in a Permanent Jobs Score of 30 points for the Project.
 - 2. Construction Jobs (60 of 75 points).** The Applicant represents that the Project will support a total of 21 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 60 points for the Project.
 - 3. Unemployment (40 of 50 points).** The Applicant’s Project is located in Kern County which has an average annual unemployment rate of 11%. This is above 110% of the statewide average annual unemployment rate which was 7.5% in 2014, the dataset used in the application. This results in an Unemployment Score of 40 points for this Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The San Joaquin Valley Unified Air Pollution Control District has determined that the Project is California Environmental Quality Act exempt and has issued the Project authority to construct. Kern County has a “By Right” permit for dairy farmers to construct biogas projects and the Water district is reviewing the Project design. PG&E has launched its BioMAT feed in tariff program and has accepted the Project’s application for upcoming BioMAT auctions. The BioMAT program is expected to offer a high enough Power Purchase Agreement price for the Project to obtain an economically viable agreement with PG&E for the export and sale of excess power. The Applicant represents that no permitting hold ups or related issues are expected.

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,⁵ the Applicant has paid CAEATFA an Application Fee of \$1,351 and will pay CAEATFA an Administrative Fee of \$15,000.

RECOMMENDATION

Staff recommends approval of Resolution No. 16-SM034 for ABEC #4 LLC dba CE&S Dairy Biogas’ purchase of Qualified Property in an amount not to exceed \$2,701,502 anticipated to result in an approximate sales and use tax exclusion value of \$227,467.

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

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER REGULATORY AGREEMENT WITH ABEC #4 LLC DBA CE&S DAIRY BIOGAS

December 13, 2016

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **ABEC #4 LLC dba CE&S Dairy Biogas** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized to process Recycled Feedstock, 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 \$2,701,502 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.6
Resolution No. 16-SM034
Application No. 16-SM034

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.