

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

Request to Approve Project for a Sales and Use Tax Exclusion¹

**North Fork Community Power, LLC
No. 23-SM001**

Tuesday, July 18, 2023

Prepared By: *Katrina Walters-White, Program Analyst*

SUMMARY

Applicant – North Fork Community Power, LLC

Location – North Fork, Madera County

Industry – Biomass Processing and Fuel Production

Project – New Biomass Processing and Fuel Production Facility (Alternative Source)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$6,277,500	\$524,799

Estimated Net Benefit ³	Dollar Value	Points Earned
Estimated Fiscal Benefits	\$394,638	752
Estimated Environmental Benefits	\$659,056	1,256
Additional Benefits	N/A	127
Total	\$1,053,694	2,135
Estimated Quantifiable Net Benefit	\$528,895	

Competitive Criteria Score – 187

Staff Recommendation – Approval

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

² This amount is calculated based on the average statewide sales tax rate of 8.36%.

³ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

THE APPLICANT

North Fork Community Power, LLC (the “Applicant”) is a California limited liability company that was formed in 2013 by the North Fork Community Development Council and Phoenix Biomass Energy, Inc. to develop a biomass processing facility at a retired sawmill in North Fork. North Fork Community Development Council is a non-profit organization established to encourage economic development after the closure of the local mill. Phoenix Biomass Energy, Inc. is a private power company that builds, owns, and operates biomass gasification plants in partnership with businesses in the agricultural, waste, and forestry industries.

On January 17, 2017, the CAEATFA Board granted the Applicant a sales and use tax exclusion (“STE”) award for the purchase of up to \$6,819,733 in Qualified Property for an estimated STE value of \$643,283 to a new bioenergy facility in North Fork, the same project being considered under this resolution. As of June 2022, the Applicant has reported \$5,296,597 in Qualified Property purchases (78% of the total Qualified Property amount approved). The project has been delayed to due to the September 2020 Creek Fire.

In January 2015, the Applicant received a grant for \$4.9 million from the California Energy Commission to support installation of biomass gasification equipment and ancillary systems.

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

North Fork Community Development Council Holdings (36.02%)
Phoenix Biomass Energy, Inc. (35.46%)
EQTEC PLC (28.52%)

The company officers of the Applicant are:

Gregory Stangl, CEO
Gregory Stangl, Managing Director of Phoenix Biomass Energy Inc.
Wade Wheeler, Managing Director of North Fork Community Development Council
David Palumbo, Managing Director of EQTEC PLC

THE PROJECT

The Applicant is requesting an STE award to develop a new small-scale bioenergy facility located in North Fork (the “Project”). The Project will convert sustainably harvested forest biomass into syngas and biochar using a pyrolysis gasification process. The Applicant will utilize forestry residue that would otherwise be piled and burned as its feedstock. As a result of the Project, the site will help with the removal of dying trees and pine beetles. The Applicant states the syngas produced by the gasifiers will power a 2 MW engine that will produce electricity to sell back to the grid to Pacific Gas & Electric Company (PG&E) under the BioMAT tariff established by SB 1122 (Rubio, 2012). Biochar, a byproduct of the gasification process, is the remains of the woody feedstock after the syngas is produced. According to the Applicant, biochar has many applications – it is commonly used as a soil amendment and can be upgraded

to activated carbon for use in water and other filtration applications. When used as a soil amendment, biochar sequesters carbon and mitigates greenhouse gas emissions, according to the Applicant.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Plant Plumbing Materials	\$2,000,000
High Voltage Poles and Equipment	\$200,000
Sewer Line Plumbing	\$75,000
Access Road Grading	\$200,000
Water Tanks	\$28,000
Screw Conveyors	\$44,500
Belt conveyors	\$100,000
Outdoor Lighting	\$70,000
Indoor/Plant Electrical Supplies	\$3,000,000
Front End Loader	\$200,000
Spare Parts	\$200,000
Pumps	\$160,000
Total	<u>\$6,277,500</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 Regulatory Agreement, a finalized Project equipment list will be prepared detailing the value of the Project equipment actually acquired, and the estimated 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, those costs may vary after closing due to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in statute or regulation, or for other reasons.

TIMELINE

The Project has been under development since 2013. The construction of the facility is ongoing and 60% complete as of October 2022. The Applicant anticipates to be in commercial operations by October 2023 and full operations by November 2023.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant has acquired all permits and required approvals for the project including a California Environmental Quality Act (CEQA) report, conditional use permit, renewable portfolio standard pre-certification from the California energy Commission and an air permit.

COMPETITIVE CRITERIA SCORE

The Applicant received 187 Competitive Criteria points as follows:

1. **Environmental Benefits (100 of 100 points)**. The Application has a Project that produces an Alternative Source product, component, or system, and, therefore, 100 points are awarded.
2. **Unemployment (42 of 50 points)**. The Applicant’s Project is located in Madera County, which has an average annual unemployment rate of 6.1%.⁴ When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant 42 points.
3. **Job Creation (30 of 75 points)**. The Applicant anticipates the Project will support a total of 22 production-related jobs at its Facility. CAEATFA estimates that approximately 1.14 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 30 points.
4. **California Headquarters (15 of 15 points)**. The Applicant has a California Corporate Headquarters, and, therefore, 15 points are awarded.
5. **Natural Disaster Relief (0 of 50 points)**. The Project is not to rebuild or relocate the Applicant’s Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application, and, therefore, zero points are awarded.
6. **Eligibility for Manufacturing and Research and Development Equipment Exemption (0 of 50 points)**. The Applicant is eligible to use one or more of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, zero points are awarded.
7. **Emerging Strategic Industry (0 of 75 points)**. The Project’s industry is not in an Emerging Strategic Industry, and, therefore, zero points are awarded.

PROJECT EVALUATION

PROJECT BENEFITS

The Project received a Total Score of 2,135 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 1,256 points, which exceeds the 20-point threshold.

⁴ Unemployment rates are based on data available in October 2022.

- A. Fiscal Benefits (752 points).** The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant’s sales and use taxes, personal income taxes paid by the firm’s employees, firm taxes on profits, property taxes, and other indirect fiscal benefits of the Applicant. The total fiscal benefits amount to \$394,638, resulting in a Fiscal Benefits score of 752.
- B. Environmental Benefits (1,256 points).** The Project is anticipated to result in \$659,056 of total pollution benefits over the life of the Project, resulting in an Environmental Benefits Score of 1,256 points. These benefits derive from the production of syngas, which offsets the need for use of fossil fuel.
- C. Additional Benefits (127 points).** Applicants may earn additional points for their Total Score. The Applicant received 127 additional points.
- 1. Production Jobs (30 of 75 points).** The Applicant anticipates the Project will support a total of 22 production-related jobs at its Facility. CAEATFA estimates that approximately 1.14 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 30 points.
 - 2. Construction Jobs (30 of 75 points).** The Applicant anticipates the Project will support a total of 24 construction jobs at its Facility. CAEATFA estimates that approximately 1.14 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 30 points.
 - 3. Unemployment (42 of 50 points).** The Applicant’s Project is located in Madera County, which has an average annual unemployment rate of 6.1%. When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant 42 points.
 - 4. Benefits and Fringe Benefits (25 of 25 points).** The Applicant states it provides medical, health, dental, and vision benefits, bonuses, pension plans retirement contributions, employee discounts, and paid leave to its employees, earning the Applicant 25 points.

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 STE Program regulations,⁵ the Applicant has paid CAEATFA an Application Fee of \$3,138.75 and will pay CAEATFA an Administrative Fee of up to \$25,110.

RECOMMENDATION

Staff recommends the approval of Resolution No. 23-SM001-01 for North Fork Community Power, LLC's purchase of qualifying tangible personal property in an amount not to exceed \$6,277,500 anticipated to result in an approximate STE value of \$524,799.

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

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH NORTH FORK COMMUNITY POWER, LLC**

July 18, 2023

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **North Fork Community Power, LLC** (the “Applicant”) for financial assistance under the Sales and Use Tax Exclusion Program, as established in Public Resources Code Section 26011.8; and

WHEREAS, the Applicant qualifies as a Participating Party under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8; and

WHEREAS, the Applicant’s qualifying tangible personal property meets the requirements of a Project under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8 (the “Project”); and

WHEREAS, after the Authority approves an Application, the Authority enters into a Regulatory Agreement, as described in Authority Regulations Section 10035(a), with the Applicant for the Project; and

WHEREAS, the Applicant has stated the Project has an estimated cost not to exceed \$6,277,500 over a period of three (3) years; and

WHEREAS, the Applicant asserts 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 Project pursuant to Revenue and Taxation Code Section 6010.8; and

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

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

Section 1. The Regulatory Agreement includes a Project within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The 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 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 Authorized Signatories deem appropriate, provided that the amount of the

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qualifying tangible personal property to be purchased for the Project may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Regulatory Agreement between the Applicant and the Authority, as filed with the Authority prior to this public meeting, is hereby approved. For, on behalf and in the name of the Authority, the Authorized Signatories are hereby authorized and directed to execute, acknowledge, and deliver to the Applicant the Regulatory Agreement in substantially the form filed with or approved by the Authority.

The Regulatory Agreement may contain insertions, deletions or changes as the Authorized Signatories executing the Regulatory Agreement may require or approve, including particular information inserted in substantial conformance with the staff summary and in the Application to the Authority. The approval of the Regulatory Agreement will be conclusively evidenced by the execution and delivery of the final Regulatory Agreement.

The Authority understands and agrees that, pursuant to the terms of the Regulatory Agreement, the obligations of the Applicant, under some circumstances, may 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 to consummate the Regulatory Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall ensure that all of the qualifying tangible personal property acquired as part of the Project that is listed in the semi-annual reports provided to the Authority pursuant to the Regulatory Agreement will be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Regulatory Agreement shall only apply to qualifying tangible personal property acquired as part of the Project that the Applicant certifies will be installed, maintained and operated at facilities physically located within the State of California.

Section 9. Neither the adoption by the Authority of this Resolution for the Applicant nor the Regulatory Agreement may be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project and may not be referred to 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 is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty (30) days if necessary.