

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

Request to Approve Project for a Sales and Use Tax Exclusion¹

**HC (Contra Costa), LLC
Application No. 23-SM031**

Tuesday, July 18, 2023

Prepared By: *Stefani Wilde, Program Analyst*

SUMMARY

Applicant – HC (Contra Costa), LLC

Location – Pittsburg, Contra Costa County

Industry – Renewable Hydrogen Production

Project – New Renewable Hydrogen Production Facility (Alternative Source)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$119,617,224.88	\$10,000,000

Estimated Net Benefit ³	Dollar Value	Points Earned ⁴
Estimated Fiscal Benefits	\$18,440,965	1,844
Estimated Environmental Benefits	\$6,304,113	630
Additional Benefits	N/A	85
Total	\$24,745,078	2560
Estimated Quantifiable Net Benefit	\$14,745,078	

Competitive Criteria Score – 165

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%.

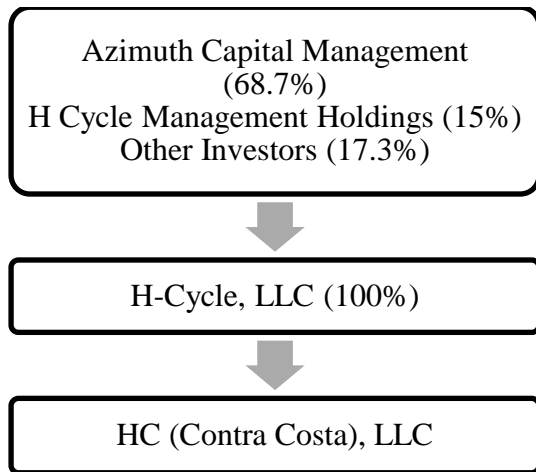
³ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

⁴ Dollar values and point values in the staff summary may not add up correctly due to rounding in the Application worksheet.

THE APPLICANT

HC (Contra Costa), LLC (the “Applicant”) is a Delaware limited liability company that formed in 2022. The Applicant, a wholly owned subsidiary of H Cycle, LLC, is developing the H Cycle Pittsburg Renewable Hydrogen Project (“HCPRHP”), the project under consideration, and has its headquarters in Contra Costa County. The HCPRHP is H Cycle’s first facility, however, its management team has a long history in the energy and infrastructure sector and collectively completed over 50 projects with a combined value of over \$17 billion.

The ownership structure of the Applicant is as follows:



The company officers of H Cycle LLC are:

Robert G. Morgan, Chief Executive Officer
Scott Gardner, Chief Commercial Officer
Dan Baublis, Chief Engineering Officer

THE PROJECT

The Applicant is requesting a sales and use tax exclusion (“STE”) award to build a new renewable hydrogen facility in Pittsburg (the “Project”). The Applicant states its process uses technologies that are ready for commercial scale deployment or are already being used in commercial applications. According to the Applicant, the technologies installed at the HCPRHP will allow for a first-of-its-kind municipal solid waste (“MSW”) organics to hydrogen production process with carbon-negative renewable hydrogen as the end product. The Applicant states that the Project will produce up to 17,000 kg of renewable hydrogen per day, using its non-combustion thermal conversion process with MSW organics feedstock. The Applicant states the Project is also beneficial because it diverts waste from landfills, and therefore reduces methane emissions. According to the Applicant, the renewable hydrogen produced will be distributed to supply fuel-cell vehicles, trucks, or buses, both from public fueling stations and private fleet infrastructure, and will also support the production of renewable fuels.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Feedstock Preparation & Material Handling	\$30,770,000.00
Syngas System	\$18,470,000.00
Hydrogen Purification, Compression, & Export System	\$47,930,000.00
Inside & Outside Battery Limit Equipment	\$22,447,224.88
Total	<u>\$119,617,224.88</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 Applicant states the Project is undergoing detailed engineering and construction. The Applicant anticipates purchasing Qualified Property in the second half of 2023 and placing the Qualified Property in service in the first half of 2025.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant states it submitted an application for a conditional use permit to the City of Pittsburg in August 2022. Moreover, the CEQA process has been initiated, and the City of Pittsburg issued a Notice of Preparation of its Environmental Impact Report in April 2023. The Applicant has engaged the Bay Area Air Quality Management District and expects to file an air quality permit application in Q3 of 2023. All permits are expected to be received by the first half of 2024.

COMPETITIVE CRITERIA SCORE

The Applicant received 165 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 (0 of 50 points)**. The Applicant’s Project is located in Contra Costa County, which has an average annual unemployment rate of 3.6%.⁵ When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant zero points.
3. **Job Creation (0 of 75 points)**. The Applicant anticipates the Project will support a total of 30 production-related jobs at its facility. CAEATFA estimates that approximately 5.08 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 zero 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 (50 of 50 points)**. The Applicant is not eligible to use any of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, 50 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 2,560 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 630 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (1,844 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 \$18,440,965, resulting in a Fiscal Benefits score of 1,844.
- B. **Environmental Benefits (630 points)**. The Project is anticipated to result in \$6,304,113 of total pollution benefits over the life of the Project, resulting in an

⁵ Unemployment rates are based on data available in October 2022.

Environmental Benefits Score of 630 points. These benefits derive from producing renewable hydrogen, which offsets the need for use of fossil fuels.

- C. **Additional Benefits (85 points)**. Applicants may earn additional points for their Total Score. The Applicant received 85 additional points.
1. **Production Jobs (0 of 75 points)**. The Applicant anticipates the Project will support a total of 30 production-related jobs at its facility. CAEATFA estimates that approximately 5.08 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 zero points.
 2. **Construction Jobs (35 of 75 points)**. The Applicant anticipates the Project will support a total of 175 construction jobs at its facility. CAEATFA estimates that approximately 29.65 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 35 points.
 3. **Unemployment (0 of 50 points)**. The Applicant’s Project is located in Contra Costa County, which has an average annual unemployment rate of 3.6%.⁶ When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant zero points.
 4. **Industry Cluster (25 of 25 points)**. The industry associated with this Application has been identified by Contra Costa County and the Northern Waterfront Economic Development Initiative as an industry cluster of the region of the Project’s location.
 5. **Benefits and Fringe Benefits (25 of 25 points)**. The Applicant states it provides medical, health, dental, and vision benefits, retirement contributions, and paid leave to its employees, earning the Applicant 25 points.

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.

⁶ Unemployment rates are based on data available in October 2022.

CAEATFA FEES

In accordance with STE Program regulations,⁷ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee of up to \$350,000.

RECOMMENDATION

Staff recommends the approval of Resolution No. 23-SM031-01 for HC (Contra Costa), LLC 's purchase of qualifying tangible personal property in an amount not to exceed \$119,617,224.88 anticipated to result in an approximate STE value of \$10,000,000.

⁷ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH HC (CONTRA COSTA), LLC**

July 18, 2023

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **HC (Contra Costa), 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 \$119,617,224.88 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.