

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

Request to Approve Project for a Sales and Use Tax Exclusion¹

**Biofuels San Bernardino BioGas, LLC
Application No. 23-SM027**

Tuesday, September 19, 2023

Prepared By: *Jeannie Yu, Program Analyst*

SUMMARY

Applicant – Biofuels San Bernardino BioGas, LLC

Location – Rialto, San Bernardino County

Industry – Landfill Gas Capture and Production

Project – New Landfill Gas Capture and Production Facility (Alternative Source)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$30,783,686	\$2,573,516

Estimated Net Benefit ³	Dollar Value	Points Earned ⁴
Estimated Fiscal Benefits	\$5,485,863	2,132
Estimated Environmental Benefits	\$2,880,025	1,119
Additional Benefits	N/A	67
Total	\$8,365,888	3,317
Estimated Quantifiable Net Benefit	\$5,792,372	

Competitive Criteria Score – 102

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%.

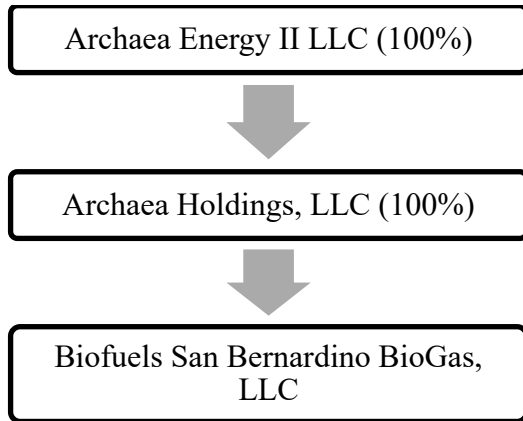
³ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

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

THE APPLICANT

Biofuels San Bernardino BioGas, LLC (the “Applicant”) is a Delaware limited liability company that formed in 2018. The Applicant is a new landfill gas capture and production facility headquartered in Houston, Texas.

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



The company officers of the Applicant are:

Starlee Sykes, CEO
Mukhtadar Khan, CFO
Richard Walton, President

THE PROJECT

The Applicant is requesting a sales and use tax exclusion (“STE”) award to build a new landfill gas capture and production facility located in Rialto (the “Project”). The Applicant has partnered with the County of San Bernardino to convert landfill gas produced at the Mid-Valley Landfill into renewable natural gas (“RNG”), which will be sold into the voluntary and vehicle fuel market offsetting the use of traditional fossil fuel sources. According to the Applicant, Mid-Valley Landfill is currently flaring the landfill gas, and by building the Project, landfill flaring will be obsolete. The landfill gas processing uses state of the art upgrading technology to remove volatile organic compounds, carbon dioxide, nitrogen, and oxygen, delivering up to 2,440 MMBTU per day of RNG to customers. The facility also incorporates a microturbine power plant that will use the lower quality landfill gas to generate renewable electricity for facility power. The Applicant states that 100% of the power generated by the microturbines will be used to power the RNG plant. The Applicant states that the use of RNG in California generates Low Carbon Fuel Standard credits, Renewable Identification Numbers credits, and blue gas sales.

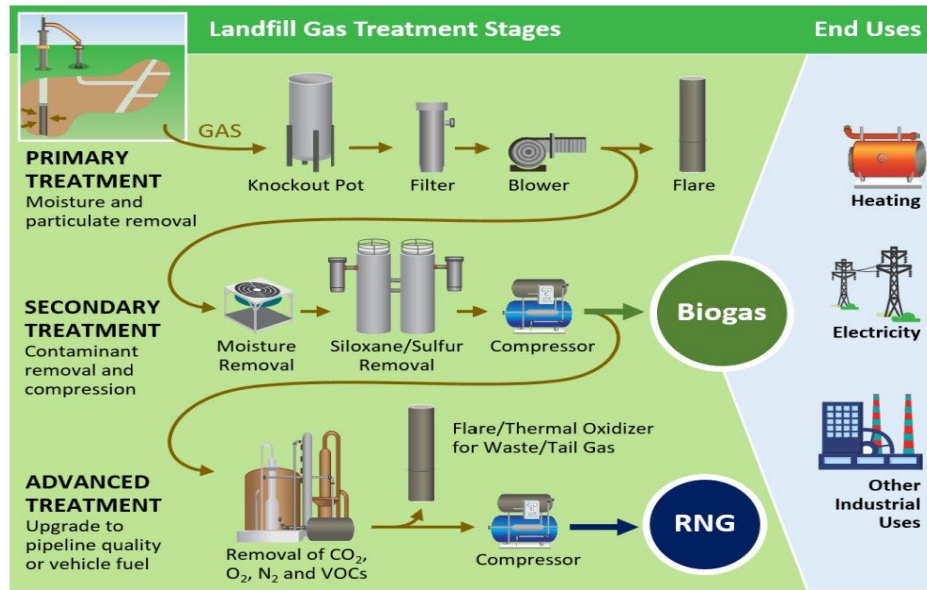


Figure 1: Landfill Gas Treatment

The Applicant anticipates the Qualified Property purchased for the Project will be used to manufacture RNG; consistent with STE Program regulations,⁵ the Qualified Property also includes a portion of the power generation equipment used to power the facility for production purposes. The Project’s equipment will generate electricity and 100% of the power generated will be consumed for facility operations; therefore, 100% of the power generation equipment is eligible for a sales and use tax exclusion.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Foundations, Underground Wiring, Conduit, & Piping	\$1,544,720
H2S Treatment System and Related Equipment	\$14,955,919
Enclosed Ground Flare	\$1,083,600
Microturbines	\$4,760,675
Switchgear	\$701,000
Circuit Breakers	\$500,000
Microturbine Feed Compressor	\$16,809
Transformers	\$410,000
TSA Buffer	\$339,396
Control Building	\$226,320
Condensate Tank	\$246,749
Oil Water Separator	\$55,266
Condensate Sumps	\$170,824

⁵ California Code of Regulations Title 4, Division 13, Section 10031(x)

Agenda Item – 4.A.5
Resolution No. 23-SM027-01

Pipe Racks	\$1,050,360
Interconnecting Piping, Valves, Wiring & Instrumentation	\$2,288,846
Pipeline to CNG Station	\$833,202
Compressors, Tank, VFDs, Dryer, & Filtration	\$1,600,000
Total	<u>\$30,783,686</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

According to Applicant, the San Bernardino biomethane facility construction began in February 2023 with an estimated commercial operation date of February 2025.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

According to the Applicant, the construction of the facility is permitted into two phases; phase 1 permitting, which consists of civil site preparation, underground utilities installation, and building of concrete foundation, is complete, while phase 2 permitting is pending with the San Bernardino County's Building and Safety Division. Phase 2 consists of finalizing phase 1, including grade installation of equipment piping, electrical, and structural property, and installing the interconnecting pipeline. The Applicant states permits for phase 2 are expected to be received by Q4 of 2023. The Applicant disclosed an Air Permit will also be needed and is expected to be received by February 2024.

COMPETITIVE CRITERIA SCORE

The Applicant received 102 Competitive Criteria points as follows:

1. **Environmental Benefits (100 of 100 points).** The Applicant has a Project that produces an Alternative Source product, component, or system, and, therefore, 100 points are awarded.
2. **Unemployment (2 of 50 points).** The Applicant's Project is located in San Bernardino County, which has an average annual unemployment rate of 4.4%.⁶ When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant two points.

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

3. **Job Creation (0 of 75 points).** The Applicant anticipates the Project will support a total of five production-related jobs at its Facility. CAEATFA estimates that approximately 0.73 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 (0 of 15 points).** The Applicant does not have a California Corporate Headquarters, and, therefore, zero 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).** 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 3,317 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 1,119 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (2,132 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 \$5,485,863, resulting in a Fiscal Benefits score of 2,132.
- B. **Environmental Benefits (1,119 points).** The Project is anticipated to result in \$2,880,025 of total pollution benefits over the life of the Project, resulting in an Environmental Benefits Score of 1,119 points. These benefits derive from the production of biogas, which offsets the need for the use of fossil methane.
- C. **Additional Benefits (67 points).** Applicants may earn additional points for their Total Score. The Applicant received 67 additional points.

1. **Production Jobs (0 of 75 points).** The Applicant anticipates the Project will support a total of five production-related jobs at its Facility. CAEATFA estimates that approximately 0.73 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 (40 of 75 points).** The Applicant anticipates the Project will support a total of 80 construction jobs at its Facility. CAEATFA estimates that approximately 11.67 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 40 points.
3. **Unemployment (2 of 50 points).** The Applicant's Project is located in San Bernardino County, which has an average annual unemployment rate of 4.4%. When compared to the statewide average annual unemployment rate of 4.3%, the Project location earned the Applicant two 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, profit sharing, dependent care & assistance reimbursement, transportation subsidies, education reimbursement, gym subsidies, employee discounts 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.

CAEATFA FEES

In accordance with CAEATFA regulations,⁷ the Applicant has paid CAEATFA an Application Fee of \$10,000 and will pay CAEATFA an Administrative Fee of up to \$123,134.74.

RECOMMENDATION

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

Agenda Item – 4.A.5
Resolution No. 23-SM027-01

Staff recommends the approval of Resolution No. 23-SM027-01 for Biofuels San Bernardino BioGas, LLC's purchase of qualifying tangible personal property in an amount not to exceed \$30,783,686 anticipated to result in an approximate STE value of \$2,573,516.

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH BIOFUELS SAN BERNARDINO BIOGAS, LLC**

September 19, 2023

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **Biofuels San Bernardino BioGas, 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 \$30,783,686 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

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.