

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: June 23, 2010
Request for Initial Resolution

Prepared by: *Samantha Russell*

Applicant: Zero Waste Energy Development, LLC and/or its Affiliates	Amount Requested: \$23,225,000
Project	Application No.: 00837
Location: Santa Clara County	Initial Resolution No.: 10-08

Summary. Zero Waste Energy Development and/or its Affiliates (the “Company”) requests approval of an Initial Resolution for an amount not to exceed \$23,225,000 to finance construction of an anaerobic digestion system for food and green waste material, land development, and infrastructure improvements which are required to operate the facility.

Borrower. The Company was organized on February 20, 2009 in Santa Clara County. The Company was created specifically for the purpose of constructing and managing this and other proposed anaerobic digestion systems.

The partners of the Company are as follows:

GreenWaste Recovery, Inc.	50%
Zanker Road Resource Management, Ltd.	<u>50%</u>
Total:	<u>100%</u>

Legal Questionnaire. The Staff has reviewed the Company’s responses to the questions contained in the Legal Status portion of the Application. No information was disclosed that raises questions concerning the financial viability or legal integrity of this applicant.

Project Description. The Company anticipates constructing a facility which will use a batch anaerobic digestion system to take organic materials and, using a dry fermentation system, produce and capture methane from the controlled composting of those materials. The material will consist mostly of food, green waste and material which are similar. The small fractions of similar material will come from GreenWaste’s San Jose Material Recovery Facility and the food and green waste will come from the Company’s various collection operations largely in the San Jose/Santa Clara County vicinity. The methane produced will fuel generators; the power produced will be used internally and the excess sold to PG&E.

The first few stages of the process take place in an approximately 75,000 square foot enclosed process facility. Components include the following:

- A receiving area for feedstock material delivery and storage
- A large hall that will serve as a mixing and material transport area
- 16 anaerobic digesters
- An engine room with 2 generators
- 8 compost curing tunnels

Land development and infrastructure improvement activities which are required to construct and operate the facility include provision for electricity, potable water, reclaimed water for dust suppression and sanitary sewer connections. The project will be located adjacent to the Zanker Road Landfill on a site leased from the City of San Jose.

Volume Cap Allocation. The Company anticipates applying to the Authority for volume cap allocation in October 2010.

Financing Details. The Company anticipates the issuance of negotiated tax exempt bonds.

Financing Team.

Underwriter: Westhoff, Cone & Holmstedt
Bond Counsel: Law Offices of Leslie M. Lava
Financial Advisor: Andrew Rose
Issuer's Counsel: Office of the Attorney General

Staff Recommendation. Staff recommends approval of Initial Resolution No. 10-08 for Zero Waste Energy Development, LLC and/or its Affiliates for an amount not to exceed \$23,225,000.

Note: An Initial Resolution approval is not a commitment that the Board will approve a Final Resolution and bond financing of the proposed Project.

**RESOLUTION OF OFFICIAL INTENT TO ISSUE BONDS TO
FINANCE SOLID WASTE DISPOSAL/RESOURCE RECOVERY FACILITIES FOR
ZERO WASTE ENERGY DEVELOPMENT, LLC AND/OR ITS AFFILIATES**

June 23, 2010

WHEREAS, the California Pollution Control Financing Authority (“Authority”), a public instrumentality, is authorized and empowered by the provisions of the California Pollution Control Financing Authority Act (“Act”) to issue bonds for the purpose of defraying the cost of facilities for the disposal of solid and liquid waste products, including resource recovery and energy conversion facilities; and

WHEREAS, Zero Waste Energy Development, LLC, a California limited liability company (“Applicant”), has requested that the Authority assist in financing solid waste disposal/resource recovery facilities to be owned and operated by the Applicant and/or its Affiliates (as hereinafter defined) (collectively, “Company”), which are expected to be comprised of the construction of buildings, the acquisition of solid waste collection, processing and/or transporting equipment, including rolling stock and vehicles. and/or resource recovery related equipment, including anaerobic digesters, and other equipment functionally related thereto, and related site improvements (“Facilities”), and have presented an estimate of the maximum cost of such Facilities as shown in Exhibit “A” attached hereto; and

WHEREAS, the Authority desires to encourage the Company to provide solid waste disposal/resource recovery facilities which will serve the public of the State; and

WHEREAS, the Authority deems it necessary and advisable to further the purposes of the Act that the Facilities be acquired at the earliest practicable date, but the Company requires satisfactory assurances from the Authority that the proceeds of the sale of bonds of the Authority will be made available to finance such Facilities; and

WHEREAS, the Company expects to incur or pay from its own funds certain expenditures in connection with the Facilities prior to the issuance of indebtedness for the purpose of financing costs associated with the Facilities on a long-term basis; and

WHEREAS, subject to meeting all the conditions set forth in this resolution the Authority reasonably expects that debt obligations in an amount not expected to exceed \$23,225,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Company for its prior expenditures for the Facilities; and

WHEREAS, Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations require the Authority to declare its reasonable official intent to reimburse prior expenditures for the Facilities with proceeds of a subsequent borrowing;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority as follows:

Section 1. The Authority finds and determines that the foregoing recitals are true and correct. For purposes of this Resolution, an “Affiliate” of the Applicant means any person or entity which meets the definition of “participating party” in the Act and controls, is controlled by, or is under common control with, the Applicant, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

Section 2. The Authority declares its official intent to issue, at one time or from time to time, an aggregate of up to \$23,225,000 principal amount of bonds of the Authority for the Facilities; including for the purpose of reimbursing to the Company costs incurred for the Facilities prior to the issuance of the bonds.

Section 3. The bonds will be payable solely from the revenues to be received by the Authority pursuant to a loan agreement or other agreements to be entered into between the Authority and the Company in connection with the Facilities. Each bond shall contain a statement to the following effect:

“Neither the faith and credit nor the taxing power of the State of California or any political subdivision thereof or any local agency is pledged to the payment of the principal of, premium, if any, or any interest on this bond.”

Section 4. The bonds shall be issued subject to the conditions that (i) the Authority and the Company shall have first agreed to mutually acceptable terms for the bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the loan of the proceeds thereof to the Company; (ii) all requisite governmental approvals shall have first been obtained; (iii) a Final Resolution shall have been received from the Authority; and (iv) an allocation shall have been received from the California Debt Limit Allocation Committee.

Section 5. The Executive Director of the Authority is hereby directed to indicate the willingness of the Authority to proceed with and effect such financing in order to assist the Company by defraying the cost of the Facilities, subject to due compliance with all requirements of the law and the obtaining of all necessary consents and approvals and meeting all other requirements of the Authority.

Section 6. It is intended that this Resolution shall constitute “some other similar official action” towards the issuance of bonds within the meaning of Section 1.103-8(a)(5) of the Treasury Regulations and “official intent” within the meaning of Section 1.150-2 of the Treasury Regulations, each as applicable under Section 103 of the Internal Revenue Code of 1986, as amended. It is also intended that this statement of “official action” or “official intent” by the Authority shall continue in full force and effect even if this Resolution ceases to be effective for other purposes.

Section 7. This Resolution shall take effect immediately upon its passage and remain in full force and effect thereafter; provided that, subject to Section 6, this Resolution shall cease to be effective on June 23, 2013 unless prior thereto the Authority specifically adopts a further resolution extending the effective date of this Initial Resolution, which it will do only after receiving a specific request for such action from the Company, accompanied by an explanation of the status of the project and any additional information requested by the Authority to supplement the Company's application.

EXHIBIT A

NUMBER: 10-08

LOCATIONS: 2100 Los Esteros Road
San Jose, California 95134

TYPE: Solid Waste Disposal/Resource Recovery

AMOUNT: Up to \$23,225,000