

RESOLUTION NO. 3374-17

**A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF WINDSOR RESCINDING RESOLUTION 3367-17 AND
AWARDING A
FRANCHISE TO GREENWASTE RECOVERY, INC. FOR RESIDENTIAL AND
COMMERCIAL GARBAGE, RECYCLABLE MATERIAL, AND ORGANIC WASTE
COLLECTION SERVICES FOR THE PERIOD OCTOBER 1, 2017 THROUGH
SEPTEMBER 30, 2027; APPROVING A COLLECTION SERVICE AGREEMENT
WITH GREENWASTE RECOVERY, INC.; APPROVING MAXIMUM RATES FOR
SERVICE RECIPIENTS EFFECTIVE OCTOBER 1, 2017; MAKING CEQA FINDINGS;
AND AUTHORIZING THE
TOWN MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN
AND TAKE ALL NECESSARY AND APPROPRIATE ACTIONS TO IMPLEMENT
THE AGREEMENT**

WHEREAS, the Town of Windsor (the “Town”) is in the final year of a ten-year collection service agreement with Windsor Refuse and Recycling, Inc. for the provision of residential and commercial solid waste, green waste and recyclables collection services; and

WHEREAS, the Town of Windsor Code requires solid waste service agreements to be competitively bid every ten years; and

WHEREAS, on April 20, 2016, the Town Council of the Town of Windsor (the “Council”) formed and appointed Councilmember Foppoli and Councilmember Okrepkie to the Town’s Waste Management Franchise Request for Proposals Ad Hoc Subcommittee to discuss desired service levels and related requirements for inclusion in a Request for Proposal (“RFP”) for collection services; and

WHEREAS, the Town retained R3 Consulting Group (“R3”) to assist staff in developing and issuing the RFP and developing a draft Collection Service Agreement (“CSA”); and

WHEREAS, the Town hosted two public meetings on July 19 and July 27, 2016, to discuss and receive community input on the Town’s waste management services, Assembly Bill 939 and other State recycling mandates, residential and commercial solid waste program components, and desirable services changes or enhancements; and

WHEREAS, at a public meeting on August 17, 2016, the Council provided additional policy direction to staff and authorized the Town Manager to issue a Request for Proposals document; and

WHEREAS, on August 25, 2016, the Town issued its RFP, and subsequently issued eight addenda thereto; and

WHEREAS, on September 14, 2016, a mandatory pre-proposal meeting was held which interested Proposers were required to attend, sign-in, and submit a Communication Protocol Form in order to be considered eligible in the competitive RFP process; and

WHEREAS, also on September 14, 2016, the Town issued a Draft CSA; and

WHEREAS, on November 21, 2016, the Town received five proposals in response to the RFP; and

WHEREAS, the Town formed an RFP evaluation team consisting of three staff members and two representatives from R3; and

WHEREAS, the evaluation team conducted interviews with the five proposers, completed site visits at the proposed material recovery facilities; and scored and ranked the five proposers on the basis of the following equally-weighted criteria: qualifications, financial ability, technical approach, sustainability programs, public education and outreach program, and service recipient rates; and

WHEREAS, the two top-ranked proposers' cumulative scores differed by one point; and

WHEREAS, on March 13 and March 15, 2017, R3 and Town staff met with the two top-ranked companies to obtain a best and final offer from each of them; and

WHEREAS, having concluded such negotiations, staff recommends that the exclusive Franchise for Residential and Commercial Garbage, Recyclable Material and Organic Waste Collection Services be awarded to GreenWaste Recovery, Inc. (the "Contractor") and that a CSA, substantially in the form attached hereto, be approved by Council and authorized for execution by the Town Manager on behalf of the Town; and

WHEREAS, at a public meeting on April 19, 2017, Town staff presented its recommendation to the Council, along with the reasons therefor and a comprehensive summary evaluation of each of the proposals; and

WHEREAS, the Council heard and considered the staff report and all comment thereon, whether oral or written, together with the draft CSA presented by Town staff, which includes in Exhibits thereto the proposed fees payable from and the proposed service recipient rates payable to the Contractor; and

WHEREAS, on April 19, 2017, Council did not award the agreement, and asked staff to obtain clarification of service recipient rate information submitted by C&S and WR&R; and

WHEREAS, on April 27, 2017, staff met with C&S and WR&R and obtain updated service recipient rate information; and

WHEREAS, at a public meeting on May 17, 2017, Town staff presented its recommendation to the Council, along with the reasons therefor and a comprehensive summary evaluation of each of the proposals; and

WHEREAS, the Council heard and considered an updated staff report and all comment thereon, whether oral or written, together with the draft CSA presented by Town staff, which includes in Exhibits thereto the proposed fees payable from and the proposed service recipient rates payable to the Contractor; and

WHEREAS, the Council approved the maximum amount of the rates that the Contractor may charge its service recipients, as set forth in Exhibit 1, of the CSA, for the period October 1, 2017 through September 30, 2018 (“Rate Year One”); and

WHEREAS, the maximum rates for subsequent rate years shall be adjusted annually pursuant to Article 4 of the CSA; and

WHEREAS, the Town retained First Carbon Solutions who performed an analysis under the California Environmental Quality Act (“CEQA”) of the potential for the award of the contract to result in any significant environmental impacts, which analysis is contained in the June 13, 2017, Environmental Checklist attached to the Staff Report for this matter; and

WHEREAS, the Environmental Checklist concludes that it can be seen with certainty that there is no possibility that the contract will have a significant effect on the environment; and

WHEREAS, the Council has reviewed the Environmental Checklist, agrees with its conclusions, and finds that the award of the contract is exempt from CEQA review pursuant to the “common sense” exemption, CEQA Guidelines section 15061(b)(3); and

WHEREAS, on May 17, 2017, the Council adopted Resolution 3367-17 awarding a franchise to GreenWaste Recovery, Inc.; and

WHEREAS, on May 24, 2017, Councilmember Salmon filed a letter with the Town Manager requesting reconsideration of Council’s action adopting a resolution awarding the Collection Service Agreement to GreenWaste Recovery, Inc.; and

WHEREAS, on May 30, 2017, at the Town Council Special Meeting, in accordance with the adopted Council Rules, Councilmember Salmon moved and Vice Mayor Foppoli seconded, respectively, a motion to reconsider Resolution No. 3367-17, resulting in a roll call vote and a majority vote approving the motion to reconsider; and

WHEREAS, pursuant to Council Rules, reconsideration was agendized for the next regularly scheduled Council meeting, on June 7, 2017, and

WHEREAS, at the June 7, 2017, meeting, the three Councilmembers present directed continuance of the reconsidered item to a Special Council meeting set for June 13, 2017, with direction to staff to obtain the Best And Final Offer (“BAFO”) from all five proposing companies, and to provide a timeline and process to determine whether the Town’s Corporation Yard located at 8400 Windsor Road could be utilized for transfer of recyclable materials should a proposed transfer facility not be obtainable or permitted by October 1, 2017; and

WHEREAS, at the June 13, 2017, Town Council Special Meeting, staff presented the BAFO summaries of three out of five proposing companies, with two companies having declined to submit a BAFO as requested, and the Public Works Director presented information related to the Town’s Corporation Yard; and

WHEREAS, the Council heard and considered the BAFO summaries, information related to the Corporation Yard, and all comment thereon, whether oral or written; and

WHEREAS, the Council approved a resolution awarding the solid waste franchise to GreenWaste Recovery Inc., authorizing the Town Manager to execute a Collection Service Agreement with GreenWaste Recovery, Inc., as amended by Council, and approving maximum rates for service recipients effective as of October 1, 2017.

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Windsor as follows:

1. The Recitals above are true and correct and are incorporated herein by reference.
2. The Town of Windsor Franchise for Residential and Commercial Garbage, Recyclable Material, and Organic Waste Collection Services for the period October 1, 2017 through September 30, 2027, is hereby awarded to GreenWaste Recovery, Inc.
3. A Collection Service Agreement and all Exhibits thereto, with GreenWaste Recovery, Inc., substantially in the form attached to the accompanying agenda report, is hereby approved, with only such changes as do not materially increase the Town’s liability thereunder and which are approved by the Town Attorney.
4. The maximum rates for Rate Year One of the CSA that Contractor may charge its service recipients, as set forth in the Service Recipient Rates attachment to the accompanying agenda report, are hereby approved and adopted.
5. The maximum rates for Rate Year One shall be effective October 1, 2017 through September 30, 2027.
6. The Town Manager is hereby authorized to execute an Agreement with GreenWaste Recovery, Inc., substantially in the form attached hereto, with such non-materials changes as are approved

by the Town Attorney, on behalf of the Town and to take such other and further action as is necessary and appropriate to carry out the intent of this Resolution.

7. Each section, subsection, clause, sentence, phrase, and other portion of this Resolution is severable, and the Town Council declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase or other portion hereof, irrespective of the fact that one or more sections, subsections, clauses, sentences, phrases, or other portions hereof may be held invalid or unconstitutional.

8. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 13th day of June, 2017, by the following vote:

AYES:	COUNCILMEMBERS MILLAN, SALMON AND MAYOR FUDGE
NOES:	VICE MAYOR FOPPOLI
ABSTAIN:	NONE
ABSENT:	COUNCILMEMBER OKREPKIE



DEBORA FUDGE, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK