

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

Request to Amend Resolution for Sales and Use Tax Exclusion (STE)¹

**GreenWaste Recovery, Inc.
Application No. 18-SM013 (Amended)**

October 16, 2018

Prepared By: *Xee Moua, Program Analyst*

SUMMARY

Applicant – GreenWaste Recovery, Inc.

Location – San Jose, Santa Clara County

Industry – Mixed Recycling and Organics

Project – Expansion of Existing Materials Recovery Facility (Recycled Resource Extraction)

Value of Qualified Property – \$11,999,548

Estimated Sales and Use Tax Exclusion Amount² – \$1,003,162

Application Score –

Fiscal Benefits Points:	2,423
<u>Environmental Benefits Points:</u>	<u>46</u>
Net Benefits Score:	2,469
<u>Additional Benefits Points:</u>	<u>65</u>
Total Score:	2,534

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.
² This amount is calculated based on the average statewide sales tax rate of 8.36%.

THE APPLICANT

GreenWaste Recovery, Inc. (“GreenWaste” or the “Applicant”), a California corporation, is a recycling and diversion company formed in 1991. GreenWaste collects and processes residential and commercial trash, yard trimmings, recyclables, food waste, and construction and demolition debris.

On November 15, 2016, the CAEATFA Board approved GreenWaste its first STE award for the purchase of up to \$4,458,683 in Qualified Property for an estimated STE value of \$375,421 to install a new municipal solid waste processing system.

The Applicant was originally approved for its second Sales and Use Tax Exclusion for Qualified Property in the amount of \$4,610,748 at the CAEATFA Board meeting on May 15, 2018 (the staff report from May 15, 2018 is included as Attachment A).

In addition, GreenWaste previously received a bond award from the California Pollution Control Financing Authority (CPCFA) on March 20 2007 for an amount not to exceed \$38,305,000. On December 12, 2017, the CPCFA Board approved an initial resolution reflecting intent for issuance of a new tax-exempt bond for GreenWaste in an amount not to exceed \$72,000,000 and approved a final resolution authorizing the issuance of a bond not to exceed \$38,000,000.

The major shareholders (10.0% or greater) of GreenWaste Recovery, Inc. are:
Frank Weigel Revocable Trust, dated July 27, 2010, 10.417%
Juan and Cindy Pena Revocable Trust, dated May 6, 2010, 10.417%
Murray B. Hall Revocable Trust, dated September 16, 1997, 17.292%
Richard A. Cristina and Diane L. Cristina Trust, dated December 20, 1995, 19.792%

The corporate officers of GreenWaste Recovery, Inc. are:
Richard Cristina, Chairman
Murray Hall, Vice President
Frank Weigel, Co-Chief Executive Officer
Dave Tilton, Chief Financial Officer
Tracy Adams, Co-Chief Executive Officer

THE PROJECT

GreenWaste is requesting a sales and use tax exclusion to expand its existing recycling facility located in San Jose by installing a new municipal solid waste processing system and single stream processing system (the “Project”). According to the GreenWaste, these systems consist of various equipment including conveyors, belts, screens, chutes, drum separators, splitter drums, fans, support bents, discs, ladders, and platforms that will recover organics, aluminum cans, metals, steel cans, high-density polyethylene (HDPE) mix, PET, film plastic, mixed rigid plastic, mixed glass, and scrap aluminum. With the new municipal solid waste processing system, the Applicant represents it will be capable of processing 1,500 tpd of material, of which 60% will be organics and 17% will various mixed recyclables. Next, the Applicant represents that the new

single stream processing system will be able to process an average of 935 tpd as opposed to 850 tpd, resulting in approximately 22,100 tons more mixed recyclables. GreenWaste represents that organic material will be transferred to GreenWaste’s sister facility, Z-Best Composting, while recyclables will be sold to customers overseas.

Shortly after Board approval of the Project in May 2018, GreenWaste confirmed its plans to expand its Project in order to produce a cleaner output of recyclables, and increase its diversion rate in response to China’s implementation of National Sword. The Applicant submitted its application for the May Board meeting because it had already begun purchasing equipment for the first project, and therefore could not wait for the confirmation of the additional expansion.

On July 20, 2018, GreenWaste submitted an Application requesting an additional \$7,388,800 in Qualified Property to further expand the Project by incorporating a new single stream processing system. Aside from adding the single stream processing system, the scope of the Project remains the same. If approved, the existing Master Regulatory Agreement will be amended to increase the Qualified Property amount from \$4,610,748 to \$11,999,548.



Figure 1: GreenWaste’s Materials Recovery Facility

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Equipment, Structure, Controls	\$7,482,481
Mechanical and Electrical Installation, Demolition, Retrofit Work	4,204,993
John Deere Loader	312,074
Total	<u><u>\$11,999,548</u></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 master regulatory agreement a finalized project equipment list will be prepared detailing the value of the Project equipment acquired and detailing the actual 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, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation, or for other reasons.

TIMELINE

GreenWaste represents that equipment installation for its municipal solid waste processing system began on April 27, 2018 and system start up began July 2018. The construction and installation for the single stream processing system will take place in October 2018, with the anticipation of being operational by February 2019.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$11,999,548 and the total quantifiable net benefits are valued at \$1,473,605 for the Project. The Project received a Total Score of 2,534 points, which exceeds the required 1,000 point threshold, and a total Environmental Benefits Score of 46 points, which exceeds the 20 point threshold.

- A. **Fiscal Benefits (2,423 points)**. The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant's sales taxes, personal income taxes paid by the firm's employees, firm taxes on profits, property taxes and other indirect fiscal benefits of the Applicant which amounts to \$2,430,654 resulting in a Fiscal Benefits score of 2,423 points for the Project.

- B. **Environmental Benefits (46 points)**. The Project will result in \$46,114 of total pollution benefits over the life of the Project resulting in an Environmental Benefits Score of 46 points for the Project. These benefits derive from the processing of organic waste and mixed recycling for use in another product, which thereby diverts approximately 322,400 tons from landfills annually, according to the Applicant.

- C. **Additional Benefits (65 points)**. Applicants may earn additional points for their Total Score. The Applicant submitted information and received 65 additional points.
 - 1. **Production Jobs (35 of 75 points)**. The Applicant represents that the Project will support a total of 51 production-related jobs at its Facility. CAEATFA estimates that approximately three of these jobs will be attributable to a

marginal increase in jobs created due to the approved STE resulting in a Permanent Jobs Score of 35 points for the Project.

2. **Construction Jobs (30 of 75 points)**. The Applicant represents that the Project will support a total of 35 construction jobs at its Facility. CAEATFA estimates that approximately two of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Construction Jobs Score of 30 points for the Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant represents that the Project will operate under existing Solid Waste and Special Use permits.

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 CAEATFA Regulations,³ the Applicant has paid CAEATFA an Application Fee of \$2,305.37 for their initial application. Since the current application is considered an amendment to the original resolution, the Applicant paid an additional application fee of \$3,694.40. Additionally, under the terms of the original resolution, the Applicant would have paid CAEATFA an Administrative Fee up to \$18,442.99. With the increased award, the Applicant will pay CAEATFA an Administrative Fee up to \$47,998.19.

RECOMMENDATION

Staff recommends approval of an amendment to Resolution No. 18-SM013, increasing GreenWaste Recovery, Inc.'s purchase of Qualified Property to an amount not to exceed \$11,999,548 anticipated to result in an approximate sales and use tax exclusion value of \$1,003,162.

³ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION AMENDING THE ORIGINAL RESOLUTION 18-SM013 APPROVING
AND AUTHORIZING EXECUTION OF A MASTER REGULATORY AGREEMENT
WITH GREENWASTE RECOVERY, INC.**

October 16, 2018

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **GreenWaste Recovery, Inc.** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized in an Advanced Manufacturing process or for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems (“Qualified Property”) as more particularly described in the staff summary and in the Applicant’s Application to the Authority (collectively, the “Project”); and

WHEREAS, the Applicant was approved for a Sales and Use Tax Exclusion on May 15, 2018 and has entered into an Agreement on May 23, 2018 to acquire Project equipment with an estimated cost not to exceed \$4,610,748 over a period of three years; and

WHEREAS, the Applicant has requested the Authority increase the amount of Qualified Property to an amount not to exceed \$11,999,548 over a period of three years; and

WHEREAS, the Applicant believes 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 Qualified Property pursuant to California Revenue and Taxation Code Section 6010.8; and

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

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

Section 1. The May 15, 2018 GreenWaste Recovery, Inc. Resolution Number 18-SM0013 is amended to replace the \$4,610,748 in Qualified Property with \$11,999,548.

Section 2. With the exception of the changes described above, all other provisions, terms, obligations, and covenants contained in the Master Agreement shall remain in full force and effect.

Attachment A: GreenWaste Recovery, Inc.’s Staff Summary at Board Approval

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

Request to Approve Project for Sales and Use Tax Exclusion (STE)⁴

**GreenWaste Recovery, Inc.
Application No. 18-SM013**

Tuesday, May 15, 2018

Prepared By: *Melanie Holman, Program Analyst*

SUMMARY

Applicant – GreenWaste Recovery, Inc.

Location – San Jose, Santa Clara County

Industry –Mixed Recycling and Organics

Project – Expansion of Existing Municipal Solid Waste Processing System
(Recycled Resource Extraction)

Value of Qualified Property – \$4,610,748

Estimated Sales and Use Tax Exclusion Amount⁵ – \$385,459

Estimated Quantifiable Net Benefits – \$903,981

Application Score –

Fiscal Benefits Points:	3,301
<u>Environmental Benefits Points:</u>	<u>44</u>
Net Benefits Score:	3,345

<u>Additional Benefits Points:</u>	<u>65</u>
Total Score:	3,410

Staff Recommendation – Approval

⁴ All capitalized terms not defined in this document are defined in the Program’s statute and regulations.

⁵ This amount is calculated based on the average statewide sales tax rate of 8.36%.

THE APPLICANT

GreenWaste Recovery, Inc. (“GreenWaste” or the “Applicant”), a California corporation, is a recycling and diversion company formed in 1991. GreenWaste collects and processes residential and commercial trash, yard trimmings, recyclables, food waste, and construction and demolition debris.

On November 15, 2016, the CAEATFA Board approved GreenWaste for an STE award for the purchase of up to \$4,458,683 in Qualified Property for an estimated STE value of \$375,421 to install a new municipal solid waste processing system. Since that date, the Applicant has exhausted its award and identified opportunities for further growth and equipment that will enable it to produce a cleaner output of recyclables.

GreenWaste previously received a bond award from the California Pollution Control Financing Authority (CPCFA) on March 20 2007 for an amount not to exceed \$38,305,000. On December 12, 2017, the CPCFA Board approved the initial resolution reflecting intent for issuance of a new tax–exempt bond for GreenWaste in an amount not to exceed \$72,000,000 and approved a final resolution authorizing the issuance of a bond not to exceed \$38,000,000.

The major shareholders (10.0% or greater) of GreenWaste Recovery, Inc. are:
Frank Weigel Revocable Trust, dated July 27, 2010, 10.417%
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Murray B. Hall Revocable Trust, dated September 16, 1997, 17.292%
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The corporate officers of GreenWaste Recovery, Inc. are:
Richard Cristina, Chairman
Murray Hall, Vice President
Frank Weigel, Co-Chief Executive Officer
Dave Tilton, Chief Financial Officer
Tracy Adams, Co-Chief Executive Officer

THE PROJECT

GreenWaste is requesting a sales and use tax exclusion to expand its existing recycling facility located in San Jose to install a new processing system that will consist of various equipment including conveyors, belts, screens, chutes, drum separators, splitter drums, fans, support bents, discs, ladders, and platforms that will recover organics, aluminum cans, metals, steel cans, high-density polyethylene (HDPE) mix, PET, film plastic, mixed rigid plastic, mixed glass, and scrap aluminum (the “Project”). Currently, the Applicant represents it has been receiving 2,400 tons per day (tpd) of material on average. The new system will be capable of processing 1,500 tpd of material, according to GreenWaste. This increased capacity will allow GreenWaste to recover 7-8% more organics and recyclables than the current system is capable of, the Applicant

represents. Of the 390,000 tons of material that will be processed annually at the facility, GreenWaste represents that it estimates 17% will be recyclable material, or 66,300 tons per year. Organic material will be transferred to GreenWaste’s sister facility, Z-Best Composting.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Equipment, Structure, Controls	\$2,014,415
Mechanical and Electrical Installation, Demolition, Retrofit Work	2,284,259
John Deere Loader	<u>312,075</u>
Total	<u>\$4,610,748</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 master regulatory agreement a finalized project equipment list will be prepared detailing the value of the Project equipment acquired and detailing the actual 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, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation, or for other reasons.

TIMELINE

GreenWaste represents that equipment installation will begin on April 27, 2018. System start up is expected in July 2018.

PROJECT EVALUATION

NET BENEFITS

The total cost of the Qualified Property purchases is anticipated to be \$4,610,748 and the total quantifiable net benefits are valued at \$903,981 for the Project. The Project received a Total Score of 3,410 points, which exceeds the required 1,000 point threshold, and a total Environmental Benefits Score of 44 points, which exceeds the 20 point threshold.

D. Fiscal Benefits (3,301 points). The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant’s sales taxes, personal income taxes paid by the firm’s employees, firm taxes on profits, property taxes and other indirect fiscal benefits of the Applicant which amounts to \$1,272,303 resulting in a Fiscal Benefits score of 3,301 points for the Project.

E. Environmental Benefits (44 points). The Project will result in \$17,137 of total pollution benefits over the life of the Project resulting in an Environmental Benefits Score of 44 points for the Project. These benefits derive from the processing of

mixed recyclables and organics for use in another product, which thereby diverts approximately 300,300 tons from landfills annually, according to the Applicant.

F. Additional Benefits (65 points). Applicants may earn additional points for their Total Score. The Applicant submitted information and received 65 additional points.

3. Permanent Jobs (35 of 75 points). The Applicant represents that the Project will support a total of 29 permanent jobs at its Facility. CAEATFA estimates that approximately one of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Permanent Jobs Score of 35 points for the Project.

4. Construction Jobs (30 of 75 points). The Applicant represents that the Project will support a total of 20 construction jobs at its Facility. CAEATFA estimates that approximately one of these jobs will be attributable to a marginal increase in jobs created due to the approved STE resulting in a Construction Jobs Score of 30 points for the Project.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

The Applicant represents that the Project will operate under existing permits.

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,⁶ the Applicant has paid CAEATFA an Application Fee of \$2,305 and will pay CAEATFA an Administrative Fee up to \$18,443.

RECOMMENDATION

Staff recommends approval of Resolution No. 18-SM013 for GreenWaste Recovery, Inc.'s purchase of Qualified Property in an amount not to exceed \$4,610,748 anticipated to result in an approximate sales and use tax exclusion value of \$385,459.

⁶ California Code of Regulations Title 4, Division 13, Section 10036

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A MASTER
REGULATORY AGREEMENT WITH GREENWASTE RECOVERY, INC.**

May 15, 2018

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority” or “CAEATFA”) has received the Application of **GreenWaste Recovery, Inc.** (the “Applicant”), for financial assistance in the form of a master regulatory agreement (the “Agreement”) regarding tangible personal property utilized in an Advanced Manufacturing process or for the design, manufacture, production or assembly of Advanced Transportation Technologies or Alternative Source products, components, or systems (“Qualified Property”) as more particularly described in the staff summary and in the Applicant’s Application to the Authority (collectively, the “Project”); and

WHEREAS, the Applicant has requested the Authority to enter into the Agreement to acquire Project equipment with an estimated cost not to exceed \$4,610,748 over a period of three years; and

WHEREAS, the Applicant believes 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 Qualified Property pursuant to California Revenue and Taxation Code Section 6010.8; and

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

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

Section 1. The Project constitutes a “project” within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The requested master 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, Deputy 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 Executive Director shall deem appropriate, provided that the amount of the Qualified Property to be purchased may not be increased above the amount approved by the Authority.

Agenda Item – 4.B.1
Resolution No. 18-SM013
Application No. 18-SM013

Section 5. The proposed form of the Agreement between the Applicant and the Authority, as filed with the Authority prior to this meeting, is hereby approved. The Authorized Signatories are hereby authorized and directed, for and on behalf and in the name of the Authority, to execute, acknowledge and deliver to the Applicant the Agreement in substantially the form filed with or approved by the Authority, with such insertions, deletions or changes therein as the Authorized Signatory executing the same may require or approve, and with particular information inserted therein in substantial conformance with the staff summary and in the Applicant's Application to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof. The Authority understands and agrees that pursuant to the terms of the Agreement, the obligations of the Applicant may, under some circumstances, 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 in order to consummate the Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall assure CAEATFA that all Qualified Property listed in the semi-annual reports pursuant to the Agreement shall be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Agreement shall only apply to Qualified Property that the Applicant certifies will be installed, maintained and operated at facilities within the State of California.

Section 9. The adoption by the Authority of this Resolution for the Applicant shall not be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project or 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, as defined in CAEATFA Regulations Section 10035(a), is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty days if necessary.