



NEWPORT BEACH

City Council Staff Report

September 9, 2025
Agenda Item No. 16

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Revocable License Agreement with Sprouts of Promise Foundation for Temporary Use of City Property for a Certified Farmers' Market at McFadden Square and Newport Pier

ABSTRACT:

Since 2015, a certified farmers' market has operated each Sunday morning in McFadden Square at the base of the Newport Pier. The current license agreement for the market is set to expire September 30, 2025. In compliance with the City of Newport Beach's procurement requirements, a Request for Proposals (RFP) was published in December 2024 to identify a qualified operator for continued operation of the market. Only one proposal was received, from the current operator. Sprouts of Promise Foundation was selected as the most qualified and responsive proposer. For the City Council's consideration is a new, five-year Revocable License Agreement (Attachment A) with Sprouts of Promise Foundation for operation and management of the certified farmers' market at McFadden Square and Newport Pier, including a request to waive City Council Policy F-7.

RECOMMENDATIONS:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- b) Authorize the City Manager and City Clerk to execute the Revocable License Agreement between the City of Newport Beach and Sprouts of Promise Foundation for Temporary Use of the City Property for the Certified Farmers' Market at McFadden Square and Newport Pier in a form substantially similar to the agreement attached to the staff report; and
- c) Approve a waiver of City Council Policy F-7 – *Income and Other Property* based on the findings contained in this staff report and the Agreement that charging less than fair market rent promotes the City's goals to provide essential or unique services to the community that cannot otherwise be provided if full market rates were charged.

DISCUSSION:

Since 2015, a certified farmers' market has operated on the City-owned property known as McFadden Square Plaza at the base of the Newport Pier on the Balboa Peninsula. The market, managed by Sprouts of Promise Foundation, was relocated to McFadden Square from the public right-of-way on Via Oporto at Central Avenue after operating there for more than four years due to extensive construction in the Lido Marina Village area.

The weekly Newport Pier Certified Farmers' Market (Market) operates on the City-owned pedestrian plaza at the base of the Newport Pier and the corner of West Balboa Boulevard and McFadden Place, adjacent to the West Ocean Front public parking lot, as shown in Figure 1 below.

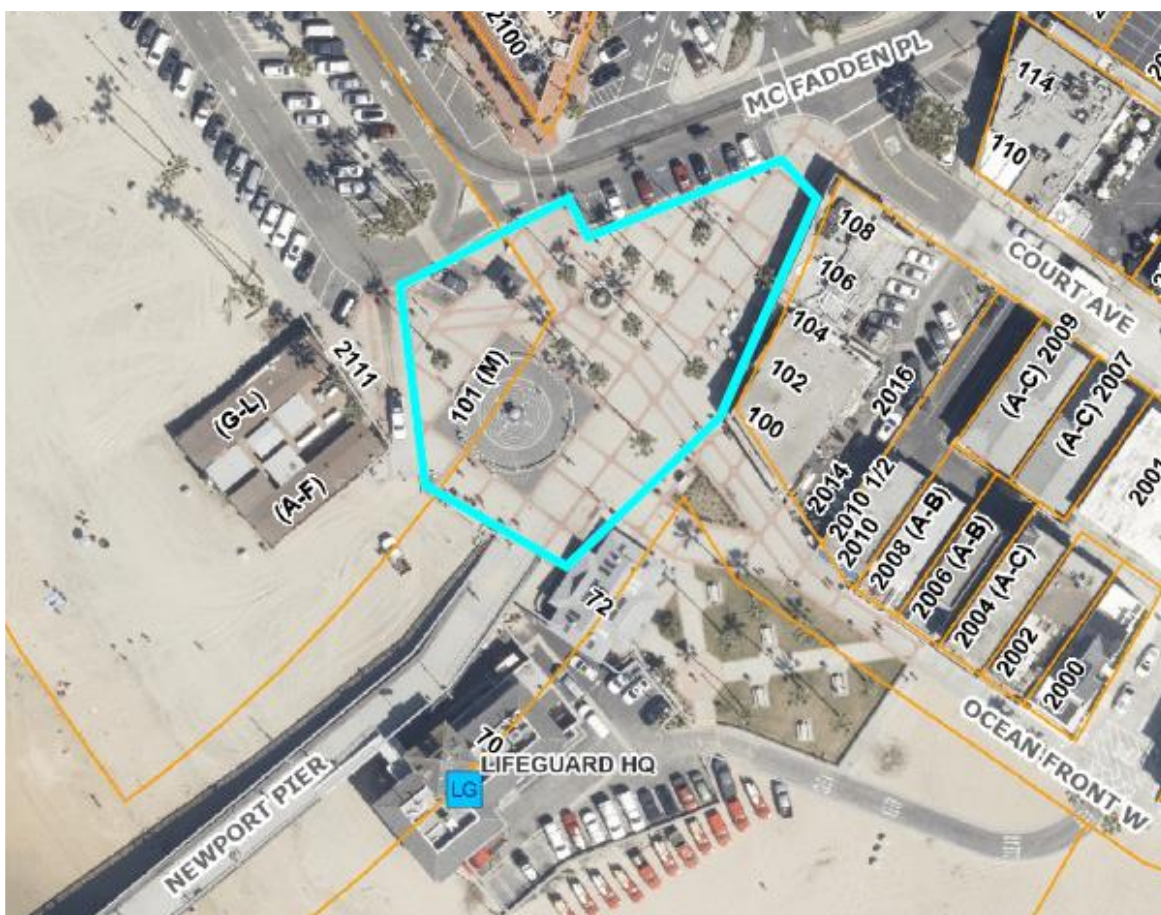


Figure 1 – location of current market

The Market runs every Sunday morning from 8 a.m. to 2 p.m., with set-up starting no earlier than 7 a.m. and tear-down and clean-up completed by 4 p.m. The Market layout takes the various converging pedestrian and bike pathways into consideration so as not to impede the flow of traffic in the area (Attachment B).

Under the current license agreement, the manager pays the City a license fee of \$364.56 per month, or \$4,374.72 per year. The Market is operating as a “certified farmers’ market” with “certified producers” as defined by the California Code of Regulations [Title 3,

Sections 1392.2(d) and 1392.2(e)] with the appropriate permits and approvals from the State of California Department of Agriculture and the Orange County Health Department. The current license agreement allows for up to 40 vendors, with participation each week averaging around approximately 40 vendors.

Request for Proposals

City Council Policy F-7 – *Income and Other Property* (Policy F-7) establishes the selection process for all tenants utilizing City-owned real property assets. In anticipation of the expiration of the current license, and in accordance with Policy F-7, the City published RFP No. 2025-32 in December 2024 to solicit bids for the use of City-owned property. The RFP was distributed through PlanetBids, the City's web-based procurement portal, and was also emailed to more than 150 companies involved in operating and managing community and farmers markets throughout Southern California.

A mandatory pre-bid site walk was held on January 16, 2025, and proposals were due to the City by February 6, 2025.

The purpose of the RFP was to solicit proposals from qualified operators interested in continuing the management and operation of the certified farmers' market at the Newport Pier. Market operators were asked to include the following in their proposals:

1. Their ability to provide a high quality, family-friendly certified farmers' market;
2. Their experience attracting high-quality vendors that are certified farmers or producers;
3. A comprehensive plan detailing the proposed market layout and vendor mix, with an information tent, a restroom, trash and recycling, and signage plan; and
4. Information about the operator's staffing and management of the necessary permits and licensing, safety and security, set-up and operating guidelines was also required, as well as the marketing and outreach capabilities.

Selection Process

Proposers were required to have a minimum of five years' experience delivering community or certified farmers' markets for local governments with knowledgeable and experienced staff. The proposers' ability to retain the mix and quality of products offered at the existing market was of particular concern to the panel.

Proposals were reviewed by a staff panel and scored based on the following criteria:

- Qualifications and Experience of the Firm
- Qualifications and Experience of Key Personnel and Staffing
- Method of Approach / Project Approach

- Participating Vendors

The City received one proposal to operate the McFadden Market. City staff conducted a thorough review of the proposal and determined the sole proposer, Sprouts of Promise Foundation, met the qualifications and requirements of the RFP and illustrated its capacity to successfully operate the McFadden Market, with a total weighted score of 2,740 out of 3,000 maximum points.

Proposed Market

Sprouts of Promise Foundation (Licensee) is the incumbent market operator and proposes to continue operating the farmer's market by retaining the existing vendors and producers and adding a limited number of new vendors to complement the existing offerings and meet the interests of the community. The Licensee will also allow a limited number of the vendors to offer unique "hot" food items available for consumption at the market, aimed towards not pulling business away from local retail establishments.

With an emphasis on safety and security, appropriate permits will also be obtained from the Fire Department to ensure the safety of the food vendors that will be cooking onsite. The Licensee's proposed market layout and site plan is shown in Attachment B.

City Council Policy F-7, Income and Other Property

Due to the unique services provided to the community, and the income and operational limitations of managing a weekly market, a nominal amount of rent is proposed in the Agreement to offset some of the City's administrative costs. Staff believes the following findings can be made, as required by Policy F-7 (Attachment C) when less than fair market value rent is received in exchange for non-financial benefits, and a waiver is requested:

1. The Market provides an essential or unique service to the community that might not otherwise be provided if full market value rent of the property was required; and
2. With the proposed rent charged at less than fair market value, the use provides an important amenity to the City and might not otherwise be provided if full fair market value of the property were required.

Revocable License Agreement

The proposed terms of the Agreement are summarized below:

1. The initial term is 5 years, with one 5-year extension option, for a total possible term of 10 years, unless terminated earlier as provided by the Agreement.
2. A license fee in the amount of \$6,000 per calendar year shall be paid by the Licensee, with payments submitted to the City each month. The license fee shall be adjusted by the change in the Consumer Price Index (CPI) each year upon the anniversary of the effective date of the Agreement.

3. The Licensee shall be responsible for obtaining the necessary permits and approvals from state and local agencies to operate the Market and will be responsible for ensuring each of the vendors has the necessary permits and approvals for their individual businesses, including obtaining a City business license, if required. The requirement for a City business license shall be waived as a hardship for certified producers pursuant to Section 5.04.025 of the Newport Beach Municipal Code (NBMC).
4. The Market may operate every Sunday from 8 a.m. to 2 p.m., with setup beginning no earlier than 7 a.m. and tear-down completed by 4 p.m., and the site returned to its original condition free of trash and debris.
5. Setup of the Market shall include placement of traffic control bollards and signage as may be required by the City's Public Works and/or Fire Departments.
6. The Market operations must adhere to applicable federal, state and local laws and the operator shall obtain the necessary permits and approvals.
7. A Licensee representative shall be present onsite during each Market, from commencement of setup to completion of clean up.
8. Licensee shall provide certificates of insurance to the satisfaction of the City's risk manager, naming the City as additional insured.

The Agreement has been reviewed by the City Attorney's Office and has been approved as to form. The Licensee has reviewed and approved the terms of the Agreement.

FISCAL IMPACT:

Revenues collected pursuant to the proposed Agreement, \$6,000 per year as adjusted annually by the change in CPI, will continue to be posted to the General Fund (01050505) accounts in the Community Development Department and will be included in future years' budgets.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Revocable License Agreement

Attachment B – Market Site Plan

Attachment C – City Council Policy F-7