



NEWPORT BEACH

City Council Staff Report

September 10, 2019
Agenda Item No. 8

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Amendment No. One to On-Call Professional Services Agreement
with ECO/NOMICS, Inc. (C-8478-1)

ABSTRACT:

On May 9, 2017, the City entered into an On-Call Professional Services Agreement with ECO/NOMICS, Inc., doing business in California as ECAL/NOMICS, Inc. (EcoNomics), to provide solid waste consulting services. The contracted services include providing assistance to City staff in the development of a new solid waste franchise system, assisting in the data collection required by CalRecycle, and performing community and business outreach to meet mandatory commercial and organics recycling goals. At this time, additional services are necessary to fully update the City's solid waste program as well as assist with the implementation of a multitude of new state mandated regulations. The requested amendment extends the term of the agreement until May 8, 2025, and increases the total not to exceed limit from \$300,000 to \$1,050,000.

RECOMMENDATION:

- 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; and
- b) Approve Amendment No. One to Professional Services Agreement with ECO/NOMICS, Inc. to extend the term of the agreement until May 8, 2025, and to increase the not to exceed amount by \$750,000 for a total not to exceed amount of \$1,050,000, and authorize the Mayor and City Clerk to execute the amendment.

FUNDING REQUIREMENTS:

The current adopted budget includes sufficient funding for these services. It will be expensed to the Professional Services account in the Environmental Liability Fund, 16003-811008. This account is funded through the application of a franchise fee set at 5.5% of gross receipts derived from each franchisee's solid waste handling services within the City. Expenditures related to the preparation, adoption, or implementation of an integrated waste management plan are considered an authorized use of these funds.

DISCUSSION:

California's Department of Resources Recycling and Recovery (CalRecycle) enforces standards set by the state legislature for solid waste diversion in California in an effort to restore, protect, and enhance the environment to ensure public health, environmental quality, and economic viability. CalRecycle requires local jurisdictions to implement programs to reduce the amount of solid waste going to landfills. The State of California has passed several bills to mandate commercial recycling and the diversion of organic materials from the waste stream by businesses and residents throughout the state. These bills put the responsibility on each city to ensure these programs are in place and to complete significant reports and documentation for CalRecycle on an annual basis.

The City of Newport Beach utilizes regulations included in our non-exclusive solid waste franchise agreements to help us achieve these state mandated diversion requirements. Currently in these agreements, haulers are required to have a recycling program at each account and recycle 55% of the material collected. Additionally, they pay a 16% franchise fee on all revenues collected from City accounts: 10.5% goes into the General Fund and 5.5% goes into the Environmental Liability Fund. The current commercial franchise agreements went into effect on November 9, 2017, and will expire on November 8, 2024.

This is a time of significant change for solid waste management in California. AB1826, which was passed in 2014, requires businesses generating organic waste to have a compliant mandatory organics recycling program in place. As of January 1, 2019, businesses that generate 4 cubic yards of commercial solid waste per week are required to arrange for organic waste recycling services. There are currently 530 food service establishments in the City. Of these, approximately 300 are currently required to recycle organic waste per AB 1826. Of these 300, approximately 100 have a compliant AB 1826 program in place, and 200 are non-compliant. The majority of the food-based businesses are currently subject to AB 1826 recycling and are now under this mandate.

Further, the 2016 California Green Building Code update included new regulations for construction and demolition waste disposal as of January 1, 2017 that required a 65% diversion rate, which was then increased to 75% effective January 1, 2019, and is under the current review.

Consequently, to prepare for compliance with this new legislation, the City still has a number of tasks to complete. First, the Public Works staff and the City Attorney's Office are in the process of amending the commercial franchise agreement to include current regulations that contain additional and extensive reporting requirements in order to show CalRecycle the City's compliance with the law. Second, we are in the process of updating our Municipal Code to contain an enforcement tool for cases of non-compliance by waste haulers, businesses, or property owners. Finally, we need to be able to provide more outreach and training to assist business owners in achieving compliance.

In 2016, we identified the need to utilize a specialized consultant to assist with the management of our solid waste program for a number of reasons. While the City Attorney's Office is responsible for preparing the new franchise documents and Municipal Code revisions, a consultant has knowledge about the many requirements placed on haulers in franchise agreements, verifiable reporting systems, and other items that help gain compliance with mandatory waste goals. Additionally, the City has a responsibility to be business-friendly and provide assistance to meet these mandates and our current staffing level does not provide for this important, additional service to the business community.

On March 14, 2017, the City of Newport Beach circulated a Request for Qualifications (RFQ) to firms performing these services and Council awarded a three-year contract to EcoNomics, Inc. with a not to exceed amount of \$300,000 to provide these services.

Due to the significant amount of work staff has requested of EcoNomics to assist with reviewing and updating our solid waste program, we are approaching the not to exceed amount at a greater rate than anticipated. EcoNomics has provided technical assistance in the process of updating the Municipal Code to conform to current legislation and CalGreen mandated requirements. They have also assisted in performing analysis of haulers and businesses to determine their compliance with AB 341 and AB 1826. Their staff has conducted site visits to many businesses to analyze what and how much waste the businesses generate, as well as provide training for staff of the businesses who will be responsible for implementing and continuing with compliant programs.

Moving forward, EcoNomics has a number of outstanding projects to complete before the end of their current contract on May 8, 2020. Their projects involve continued assistance with Council/staff working group meetings, assistance with the development of compliant CalGreen programs, working with haulers to target non-compliant generators, participating in workshops with haulers to educate them regarding the changes to the franchise hauler program, assistance with compliance notification, and assistance with the development of a compliant residential organics program.

Legislation is already in place that will require municipalities to implement new programs and make significant changes to current municipal solid waste programs. Beginning January 2020, green waste will no longer be accepted at the landfills for free and will not be counted as a diversion credit as a result of AB 1383. In addition, this bill will require all municipalities to implement a curbside organics recycling program to all residents. EcoNomics has developed an extensive understanding of Newport Beach and the challenges facing the community. Over the course of their contract, EcoNomics will continue to provide necessary technical assistance and guidance to assist the City in gaining compliance with the new laws and regulations.

Staff requests Amendment No. One with EcoNomics be executed to extend the term of the agreement to May 8, 2025, and to increase the not to exceed amount by \$750,000 for a total not to exceed amount of \$1,050,000. This amendment will allow for continued technical assistance with active programs in the city, the development of additionally required programs, and to assist businesses and haulers to gain compliance with state and City solid waste regulations.

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).

ATTACHMENT:

Attachment A – Amendment No. One with ECO/NOMICS, Inc.