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# **NEWPORT BEACH**

## **City Council Staff Report**

March 24, 2020  
Agenda Item No. 5

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** David A Webb, Public Works Director - 949-644-3311,  
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**TITLE:** Resolution No. 2020-27: Resolution of Intent to Conduct a Public Hearing to Grant New Non-Exclusive Solid Waste Franchises

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### **ABSTRACT:**

Following the City Council's review and approval of an amendment to the City's non-exclusive solid waste franchise agreement on October 22, 2019, staff has received several applications from franchise haulers expressing interest in obtaining a new agreement. Staff requests City Council approval of a resolution of intent to conduct a Public Hearing on April 28, 2020 to consider granting Non-Exclusive Solid Waste Franchises to these applicants.

### **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) Adopt Resolution No. 2020-27, *A Resolution of the City Council of the City of Newport Beach, California, Declaring its Intention to Conduct a Public Hearing to Consider Granting Non-Exclusive Commercial Solid Waste and Divertible Materials Handling Services Franchises.*

### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

### **DISCUSSION:**

The City utilizes a nonexclusive solid waste franchise system for the collection of commercial solid waste throughout the City. This waste comes from multi-family residential complexes, as well as retail, commercial, recreational, and industrial sources. The collection of construction and demolition waste is also regulated in this system.

CalRecycle, the state agency regulating solid waste handling, diversion, and disposal, has added significant new regulations over the past few years, primarily dealing with commercial recycling and organics recycling for businesses generating large amounts of this waste stream. Further, CalRecycle places significant reporting responsibilities on local jurisdictions, requiring cities to document and illustrate the recycling programs in place so as to disclose where standards are not being met. Finally, CalRecycle requires cities to develop enforcement mechanisms as a tool to use to gain compliance with regulations.

The current active nonexclusive solid waste franchise agreements expire on November 8, 2024. Staff and its solid waste consultant, EcoNomics, Inc., have worked to develop an amended solid waste franchise agreement that retains our non-exclusive system, provides better verification of hauler and generator recycling programs in place in the City, and provides for a mechanism to address solid waste generators that are reluctant to add diversion programs as required by state law.

At the October 22, 2019, City Council meeting, staff presented proposed amendments to the existing Non-Exclusive Franchise Agreement for Commercial Solid Waste Handling Services. Upon review, the City Council approved the new amended Non-Exclusive Solid Waste Franchise Agreement which includes a number of significant changes. Some key changes include extending the agreement by two years in length so as to expire on November 8, 2026, updating insurance requirements, and including terms in the agreement that will assist these franchise haulers in compliance with AB 341, AB 1826, and CALGreen diversion requirements. These changes complement the recent Code amendments that more clearly describe how franchise haulers working in cooperation with AB 341 and AB 1826 can work to meet State mandated waste diversion requirements.

The City cannot require all current franchisees to execute this new amended franchise agreement and it is likely that some franchisees will not sign the amended franchise. Should they choose not to do so, the existing franchise will remain in effect until its expiration in 2024. Upon approval of the resolution by City Council, the City will work with individual franchisee applicants in preparing their new Non-Exclusive Commercial Solid Waste Franchise Agreements for a first reading at a Public Hearing on April 28, 2020.

#### **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 – Resolution No. 2020-27

Attachment B – Sample Agreement