



CITY OF

NEWPORT BEACH

City Council Staff Report

September 14, 2021
Agenda Item No. 6

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance No. 2021-15: Non-Exclusive Commercial Solid Waste Franchises

ABSTRACT:

On August 24, 2021, the City Council held a public hearing to consider granting non-exclusive commercial solid waste franchise agreements to Greenstone Materials, Inc. and Roche Excavating, Inc. with an effective date of October 14, 2021 and an expiration date of October 7, 2027. Following the public hearing, the City Council introduced Ordinance No. 2021-15. For the City Council's consideration is the adoption of Ordinance No. 2021-15, granting franchise agreements to these two entities.

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) Conduct second reading and adopt Ordinance No. 2021-15, *An Ordinance of the City Council of the City of Newport Beach, California, Granting the 2020 Non-Exclusive Franchise Agreement for Commercial Solid Waste and Divertible Materials Handling Services Within the City of Newport Beach* to the two so named companies.

DISCUSSION:

The City of Newport Beach (City) utilizes a non-exclusive franchise system to manage commercial solid waste collection within the city. This system allows the City to meet the solid waste collection needs of the business community in a comprehensive manner while still complying with State of California (State) law.

Over the past several years, the State has been making significant changes to its laws regarding the disposal of solid waste, as well as the amount that is required to be diverted away from landfills and recycled or reused (Assembly Bill 939 and 341, Senate Bill 1383).

Newport Beach Municipal Code (NBMC) Section 12.63.030 provides that no person shall provide commercial solid waste handling services or conduct a solid waste enterprise in the City without having first been awarded a franchise and entered into a franchise agreement with the City. At the July 27, 2021 meeting, the City Council passed a Resolution of Intention, Resolution No. 2021-68 (Attachment A), to conduct a public hearing at the August 24, 2021 meeting to consider granting franchises to the two entities listed therein.

At the August 24, 2021 meeting, the City Council held a public hearing, conducted the first reading of Ordinance No. 2021-15 (Attachment B) to consider granting franchises to the two entities listed therein, and passed it to second reading.

NBMC Section 12.63.080 allows the City Council to approve or conditionally approve an application for a franchise if, on the basis of the application, information, materials and testimony submitted, the City Council finds that:

- The application complies with NBMC Chapter 12;
- The applicant or any person responsible for the management of the entity submitting the application has not within the past three years: (1) had a franchise for commercial solid waste handling services terminated by the City; and/or (2) operated a solid waste enterprise within the City without a franchise;
- Awarding the franchise is in accord with the objectives of NBMC Chapter 12;
- Granting of such franchise will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the City or be materially detrimental to the public welfare or injurious to property or public improvements; and
- The applicant has sufficient experience, equipment or recycling plan to safely comply with the requirements of the franchise agreement.

Staff has received and reviewed the franchise applications from both entities listed in Resolution 2021-68; Greenstone Materials, Inc., and Roche Excavating, Inc. Based on staff's review, the submitted applications meet all criteria required under NBMC 12.63.080.

The new Non-Exclusive Commercial Solid Waste Franchises will take effect 30 days after adoption of the ordinance with an effective date of October 14, 2021, contingent on the execution of the individual franchise agreements, and the approval of each firm's required insurance and bonds.

FISCAL IMPACT:

Companies (Franchisees) that are approved and granted a 2020 Non-Exclusive Franchise Agreement for Commercial Solid Waste and Divertible Materials Handling Services within the City are required to pay a franchise fee to the City which is equal to a total of sixteen percent (16%) of the gross receipts for all commercial franchise services provided by Franchisee in the City.

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. 2021-68
Attachment B – Ordinance No. 2021-15