



City Council Staff Report

DATE: April 17, 2013 CONSENT CALENDAR

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 1819, RELATING TO SELECTION OF CONTRACTOR AND ESTABLISHING REGULATIONS FOR THE GRANT OF SOLID WASTE FRANCHISE AGREEMENTS

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

SUMMARY:

The City Council will consider adoption of Ordinance No. 1819.

RECOMMENDATION:

1. Waive the reading of the full text of the ordinance and adopt Ordinance No. 1819, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING PALM SPRINGS MUNICIPAL CODE SECTION 6.04.015 RELATING TO THE SELECTION OF CONTRACTOR AND ESTABLISHING REGULATIONS FOR THE GRANT OF SOLID WASTE FRANCHISE AGREEMENTS FOR THE CITY OF PALM SPRINGS."

STAFF ANALYSIS:

On April 3, 2013, Ordinance No. 1819 was introduced for first reading, by the following vote:

ACTION: 1) Waive full reading of the ordinance text and adopt by title only Ordinance No. 1819, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING PALM SPRINGS MUNICIPAL CODE SECTION 6.04.015 RELATING TO THE SELECTION OF CONTRACTOR AND ESTABLISHING REGULATIONS FOR THE GRANT OF SOLID WASTE FRANCHISE AGREEMENTS FOR THE CITY OF PALM SPRINGS."

AYES: Councilmember Foat, Councilmember Hutcheson, Councilmember Lewin, Mayor Pro Tem Mills and Mayor Pougnet.

NOES: None.

ABSENT: None.

ABSTAIN: None.

Item No. **2.E.**

This report provides for the City Council to waive further reading and adopt the ordinance. The ordinance shall be effective 30-days from adoption.


James Thompson
City Clerk


David H. Ready, Esq., Ph.D.
City Manager

/kdh
Attachment: Ordinance No. 1819

ORDINANCE NO. 1819

**AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA,
AMENDING PALM SPRINGS MUNICIPAL CODE SECTION 6.04.015
RELATING TO SELECTION OF CONTRACTOR AND ESTABLISHING
REGULATIONS FOR THE GRANT OF SOLID WASTE FRANCHISE
AGREEMENTS FOR THE CITY OF PALM SPRINGS.**

City Attorney Summary

Section 1001 of the City Charter allows the City Council to adopt rules and regulations for the grant of franchises in the City. This Ordinance establishes rules and regulations for the grant of solid waste franchises in the City. This Ordinance also makes findings regarding the need to adopt such rules and regulations immediately to preserve the ability of the City to enter into a new franchise agreement in full compliance with all federal and state laws regarding disposal and recycling of solid waste.

**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA,
ORDAINS:**

Section 1. Section 6.04.015 of the Palm Springs Municipal Code is amended to read:

6.04.015 Purpose of Chapter; Selection of Contractor.

(a) It is hereby declared and determined that the business of collecting, transporting, disposing and/or recycling of solid waste affects the health, safety, and public welfare and the quality of life of the residents of the City, including without limitation, the frequency of collection, means of collection and transportation, level of service, charges and fees, and whether solid waste services are to be provided by means of non-exclusive, partially exclusive, or wholly exclusive, franchise, contract, license, or permit, and the terms and conditions of such franchise, license, or permit. It is therefore one purpose of this Chapter to regulate this business in order to ensure its orderly operation and to minimize the adverse effects it may have on the local environment.

(b) It is also the intent of this Chapter, aside and apart from the purpose of regulation, to generate revenue for municipal purposes including but not limited to the maintenance of the public streets and roadways which are impacted by the heavily laden vehicles used in this business.

(c) It is also recognized that the City is required to prepare, adopt, and implement an integrated waste management plan and that the City may impose fees to fund the cost of this effort. Therefore, it is the purpose of this Chapter to assist in implementation of an integrated waste management plan and to provide funding toward the cost of that plan.

(d) Pursuant to the provisions of Article X of the Palm Springs City Charter (Section 1000 *et seq.*), the City Council is empowered to enter into an agreement for solid waste management services through a private contractor. The granting of exclusive or

nonexclusive franchises for solid waste management services are within the classification of "municipal affairs," and the provisions of this Section, together with the provisions of this Chapter, shall constitute the exclusive procedure applicable to the grant of franchises for conducting the business of collecting, transporting, disposing, and/or recycling solid waste in the City.

(e) At least every fifteen (15) years, a City franchise agreement for the collection and disposal of solid waste and for the collection of recyclable material shall be granted and approved by ordinance. The City Clerk shall give notice of the City Council's consideration of a franchise agreement by providing notice pursuant to Government Code Section 6061, ten days in advance of the hearing.

(f) The City Council shall not engage a franchisee or contractor which has been, or whose officers, directors, shareholders, subsidiaries, affiliates, employees or agents have been found guilty of felonious conduct related to antitrust activities, illegal transport or disposal of hazardous waste, or bribery of public officials.

(g) Further, during the term of any agreement with the City, should the franchisee or contractor or any of its officers, directors, shareholders, affiliates, employees or agents be found guilty or should it be determined to have been found guilty of such felonious conduct described above, the City Council reserves the unilateral right to terminate its agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it shall deem proper. Such action shall be taken after the franchisee or contractor has been given notice and opportunity to present evidence in mitigation.

(h) The term "found guilty" shall be deemed to include any judicial determination of guilt including, but not limited to, pleas of "guilty," "nolo contendere," "no contest" or "guilty to a lesser charge" entered as part of a plea bargain.

Section 2. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL
THIS 17TH DAY OF APRIL, 2013.

STEPHEN P. POUINET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. 1819 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on the 3rd day of April, 2013, and adopted at a regular meeting of the City Council held on the 17th day of April, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California