Agenda Report

Date: May 24, 2016

To: Jeffrey W. Collier, City Manager

From: Kathryn A. Marshall, City Clerk-Treasurer

Subject: Repeal Ordinance No. 3047 – Solid Waste Collection Franchise

RECOMMENDATION

It is recommended the City Council adopt an Ordinance repealing Ordinance No. 3047 which granted an exclusive solid waste collection and recycling franchise to Arakelian Enterprises (Athens Services).

DISCUSSION

At its meeting held January 12, 2016, following a public hearing, the City Council adopted Ordinance No. 3047 which granted an exclusive franchise to Athens Services to provide solid waste collection and recycling services in the City.

A referendum on Ordinance No. 3047 was submitted to the City on February 10, 2016 and certified as sufficient by the Los Angeles County Registrar-Recorder/County Clerk on March 23, 2016. Based on the County's findings, the City Clerk-Treasurer issued a Certification of Sufficiency of the Referendum on March 24, 2016.

In accordance with Elections Code Section 9114, certification of the qualified Referendum petition was submitted to the City Council at its next Regular Meeting on April 26, 2016 for a determination, pursuant to Elections Code Section 9241, to either repeal Ordinance No. 3047 in its entirety or present the Referendum to the voters at an election. Without discussion, the City Council continued the matter two weeks to its May 10, 2016 meeting. At that meeting, the City Council received and filed the Certification of Sufficiency of the Referendum and directed staff to return with an Ordinance repealing Ordinance No. 3047.

FISCAL IMPACT

The fiscal impact associated with this action is estimated to be under $500 for publication of the Ordinance.

Submitted by:

Kathryn A. Marshall
City Clerk-Treasurer

Attachment: A – Ordinance Repealing Ordinance No. 3047

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, REPEALING ORDINANCE NO. 3047 WHICH GRANTED TO ARAKELIAN ENTERPRISES, INC. (dba ATHENS SERVICES) AN EXCLUSIVE FRANCHISE TO PROVIDE SOLID WASTE COLLECTION AND RECYCLING IN THE CITY OF WHITTIER

WHEREAS, at its December 8, 2015 Council meeting, the City Council reviewed the Franchise agreement with Arakelian Enterprises, Inc. (dba Athens Services), introduced Ordinance No. 3047 to award the franchise and passed Resolution No. 8747 setting a public hearing for January 12, 2016 to consider objections to said franchise;

WHEREAS, at the January 12, 2016 Council Meeting the City Council conducted and concluded a duly noticed public hearing on its intention to grant said franchise and after the conclusion of the public hearing, in which the Council received public testimony concerning the award of said franchise, the Council adopted Ordinance No. 3047 awarding a ten (10) year solid waste collection and recycling franchise agreement to Arakelian Enterprises, Inc. (dba Athens Services) for the City of Whittier, pursuant to the terms, conditions, restrictions and service area defined in the Exclusive Franchise Agreement for the Provision of Solid Waste Services ("Agreement") between Arakelian Enterprises, Inc. and the City of Whittier;

WHEREAS, subsequent to the award of said franchise by ordinance, a referendum petition was circulated and submitted to the City Clerk;

WHEREAS, at the City Council meeting of April 26, 2016 the City Clerk certified that a valid referendum petition containing the requisite number of signatures was timely submitted to the City Clerk's office and the City Council continued the matter to its meeting of May 10, 2016 to determine what action to take with regard to the referendum;

WHEREAS, the California Elections Code provides, in Section 9241, that once a valid referendum petition has been certified the City Council has the option to repeal the ordinance that is the subject of the referendum petition or submit the ordinance to the voters; and

WHEREAS, at the City Council meeting of May 10, 2016 the City Council voted four in favor, and one recusal, to direct staff to bring an ordinance for introduction to repeal Ordinance No. 3047 at the council meeting of May 24, 2016.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. The City Council hereby finds and determines that it can be seen with certainty that there is no possibility that the repeal of Ordinance No. 3047 will have a significant effect on the environment. Accordingly, pursuant to the provisions of §15061(b)(3) of Division 6 of Title 14 of the California Code of Regulations, the adoption of this Ordinance is not subject to the requirements of the California Environmental Quality Act of 1970, as amended.

SECTION 3. The City Council hereby repeals Ordinance 3047, which awarded a ten (10) year solid waste collection and recycling franchise agreement to Arakelian Enterprises, Inc. (dba Athens Services).

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Whittier hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published in the official newspaper within fifteen (15) days after its adoption. This Ordinance shall become effective thirty (30) days from its adoption.

APPROVED AND ADOPTED this ___ day of June 2016.

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JOSEPH A. VINATIERI, Mayor

ATTEST:

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KATHRYN A. MARSHALL
City Clerk-Treasurer