

**SECOND AMENDMENT TO THE
FRANCHISE AGREEMENT
BETWEEN THE CITY OF GLENDORA AND ARAKELIAN
ENTERPRISES, INC.,
FOR INTEGRATED WASTE MANAGEMENT**

BY AND BETWEEN

CITY OF GLENDORA

AND

ARAKELIAN ENTERPRISES, INC.

D/B/A/ ATHENS SERVICES

AGREEMENT EFFECTIVE SEPTEMBER 1, 2014

AMENDMENT EFFECTIVE JULY 1, 2018

**SECOND AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN
THE CITY OF GLENDORA AND
ARAKELIAN ENTERPRISES, INC.,
FOR INTEGRATED WASTE MANAGEMENT**

THIS SECOND AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE CITY OF GLENDORA AND ARAKELIAN ENTERPRISES, INC., FOR INTEGRATED WASTE MANAGEMENT (“Second Amendment”) is entered into as of July 1, 2018 (“Effective Date”), by and between the City of Glendora, California, a municipal corporation (“*City*”), and Arakelian Enterprises, Inc. dba Athens Services, a California corporation (“Athens Services”).

RECITALS

WHEREAS, the City is empowered under Section 7 of Article XI of the California Constitution to make and enforce, within its limits, all police and sanitary ordinances and regulations not in conflict with general laws; and

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (the “Act” or “AB 939”), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for Solid Waste handling within their jurisdictions; and

WHEREAS, the California Constitution and the Act authorize the City to determine the aspects of solid waste handling which are of local concern, including the means by which solid waste services are to be rendered and whether solid waste services are to be provided on an exclusive or non-exclusive basis; and

WHEREAS, the City Council of the City of Glendora has determined that the public health, safety, and well-being require that an exclusive franchise be awarded to a qualified solid waste enterprise to provide integrated waste management, to arrange with Solid Waste Customers for the collection of Solid Waste, including the recovery of Recyclable Solid Waste, and the collection and disposal of Solid Waste from specified properties within the City; and

WHEREAS, the City Council of the City of Glendora declares its intention to maintain reasonable rates for collection and disposal of Solid Waste and collection and recycling of Recyclable Solid Wastes within the City concurrent with achieving state-mandated landfill diversion and recycling marks as established by AB 939; and

WHEREAS, effective September 1, 2014, City and Athens Services entered into that certain Franchise Agreement between the City of Glendora and Arakelian Enterprises, Inc., for Integrated Waste Management (“Original Agreement”); and

WHEREAS, effective June 9, 2015, the City and Athens Services entered into that certain First Amendment to the Franchise Agreement between the City of Glendora and Arakelian Enterprises, Inc., for Integrated Waste Management (“First Amendment”); and

WHEREAS, the Original Agreement, as amended by the First Amendment, shall be referred to herein as the “Franchise Agreement”; and

WHEREAS, the City Council of the City of Glendora and Athens Services desire to amend the Franchise Agreement as set forth in this Second Amendment.

NOW, THEREFORE, the parties, in consideration of their respective mutual promises, agree as follows:

TERMS OF AGREEMENT

1. Each and every one of the Recitals set forth above is a material part of this Second Amendment and is hereby incorporated by reference into and made part of this Second Amendment by this reference.

2. Except as otherwise defined herein, all defined terms used in this Second Amendment shall have the meaning set forth in the Franchise Agreement.

3. A new Section 1.DD of the Franchise Agreement is added as follows:

“ DD. AB 1826

“ “AB 1826” shall mean Assembly Bill 1826 (Chesbro), codified as Chapter 12.9 (commencing with Section 42649.8) of Part 3 of Division 30 of the Public Resources Code, as may be amended from time to time, and any regulations that may be adopted from time to time by any agency of the State of California to implement said Act.”

4. A new Section 1.EE of the Franchise Agreement is added as follows:

“ EE. AB 1594

“ “AB 1594” shall mean Assembly Bill 1594 (Williams), amending Public Resources Code Sections 40507 and 41781.3, as may be amended from time to time, and any regulations that may be adopted from time to time by any agency of the State of California to implement said Act.”

5. A new Section 1.FF of the Franchise Agreement is added as follows:

“ FF. Organic Waste

“ “Organic Waste” shall have the meaning set forth in Public Resources Code section 42649.8(c).”

6. Two new paragraphs in Section 3.G. of the Franchise Agreement are added as follows:

“School District Facilities - Effective January 1, 2019, Athens Services shall offer to collect and dispose of all Solid Waste, Green Waste, Organic Waste, and

compostables generated at certain premises owned and/or operated by any and all public, K-12 school district(s) operating within City of Glendora limits (“School District”), but only to the extent the following conditions are fulfilled:

1. Athens Services’ collection operations are (or become) franchised with, or expressly permitted by, such School District(s); and
2. Athens Services’ collection operations to a School District will not cause an infringement upon the franchised rights of any other waste or recycling enterprise(s) having franchised operations within such School District; and
3. The franchise agreement, permit or other express authorization for waste and recycling services between Athens Services and each School District served pursuant to this Section 3.G shall require Athens Services to add the City of Glendora as an additional insured to the commercial general liability insurance coverages applicable to such services.
4. The franchise agreement, permit or other express authorization for waste and recycling services between Athens Services and each School District served pursuant to this Section 3.G shall incorporate an indemnity and defense provision favoring the City of Glendora, in a form substantially as follows:

“To the full extent permitted by law, Athens Services shall indemnify, defend and hold harmless City of Glendora and its officers, employees and agents from and against any liability (including liability for claims, suits, actions, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys’ fees and costs,), where the same arise out court costs, defense costs and expert witness fees of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of those services performed by Athens Services of behalf of [name of school district] pursuant to that Section 3.G of that certain “Second Amendment to the Franchise Agreement Between the City of Glendora and Arakelian Enterprises, Inc., For Integrated Waste Management” dated July 1, 2018, or by any individual or entity for which Athens Services is legally liable, including but not

limited to officers, agents, employees or subcontractors of Consultant.”

To the extent the above conditions are met, Athens Services shall make collections from School District premises Monday through Friday (or on Saturdays following non-working holidays earlier that week) at the service levels needed to comply with all current state-mandated diversion rates for Solid Waste, Green Waste, Organic Waste, and compostables, all as further detailed in Exhibit F, to the extent such collection schedules and services are consistent with Athens Services’ franchise contract with the subject School District. The services to be provided to School Districts pursuant to this Section G shall be provided by Athens Services or its subcontractors at no additional charge to School District or the City; provided, however, that any changes in service levels, services for special projects at School District facilities, or additional services requested by School District in excess of those listed in Exhibit F shall be paid for by School District at reduced fees to be negotiated between School District and Athens Services. For clarity, the School District facilities do not include Citrus College.

“Compost/Mulch/Fertilizer – Effective July 1, 2018, Athens Services shall deliver to the City compost (up to a maximum of 100 tons per year) to the City for its use. Mulch and fertilizer will be provided to the extent available. The City and Athens Services shall meet and confer twice per year, no later than October 31 and April 30 annually, to mutually prepare a plan for the delivery frequency, amounts, and delivery locations for compost to be provided to the City in the upcoming fiscal year. All costs of delivering compost to the City shall be born by Athens Services.”

7. A new Section 3.R. of the Franchise Agreement is added as follows:

“ R. Commercial & Multi-Family Organic Waste Services (AB 1826)

“ Effective July 1, 2018, Athens Services will provide all staff, labor, and materials to ensure City-wide compliance with AB 1826. This includes account site visits and reviews, public education and outreach as appropriate, meeting with CalRecycle staff, providing Organic Waste tonnage data to both the City and CalRecycle, and administering an Organic Waste services program. Athens Services shall direct all source-separable or separated Organic Waste to an organics processing facility capable of meeting the requirements AB 1826 and any other applicable Organic Waste diversion requirements.

“ Athens Services will provide 35-gallon Organic Waste barrels to commercial and multi-family Customers, and School District facilities, that qualify and meet the compliance requirements of AB 1826, as well as commercial and multi-family Customers, and School District facilities, that might not meet the compliance requirements of AB 1826 but can demonstrate that they are able to

and have a need to source-separate Organic Waste from their waste stream. Athens Services will also provide dedicated non-food organics barrels (barrel size to be determined based on account site survey by Athens Services and to prevent any overfilling of, or overflow from, the containers) for non-food organic collection to those multi-family Customers that are subject to such collection under AB 1826. Such barrels for organics shall be of sufficient service level, and serviced on such frequency, that there does not result in any overfilling of, or overflow from, the containers. Athens Services will provide Organics Waste and non-food organics barrels to such Customers and School District facilities at a weekly frequency of service not to exceed the regular mixed waste frequency of service. Athens Services will replace such organics barrels as needed, upon Customer request and review by Athens Services.

“ Athens Services reserves the right to inspect, audit, and review the service level (quantity of container(s) and weekly frequency of pick-up) of organics services at each account that requests organics services. Athens Services may reduce or increase the organics service level based on the inspection and audit.

“ Organics Waste from commercial and multi-family Customers in the City must be clean per Section 1.FF above, and must contain less than 5% contamination. If any Organics Waste customer is identified as containing more than 5% contaminants, Athens Services will implement the following provisions in order to work with the Customer to decontaminate their Organics Waste:

- 1- Identify the source (Customer) of contamination (first offense) and meet with that Customer to inform, educate, and eliminate the contaminants from their Organics Waste.
- 2- If Organics Waste contamination continues with the same identified source (second offense), that Customer's Organics Waste container(s) will be “red tagged” for non-compliance and the container(s) will not be picked-up until the Customer removes the identified contaminants. Once the container(s) has been identified as clean Organics Waste, Athens Services will resume its normal pick up service to that Customer. If the Customer chooses not to clean up the container(s), the Customer shall be subject to the “Organics Waste Contamination Fee” in Exhibit C for each noncompliant container and incident.
- 3- If Athens determines that the identified Customer in Step #1 has a third or subsequent offense within 90 days of the first offense, Athens will “red tag” the contaminated container(s) for non-compliance and will not pick-up the contaminated container(s) with the organics truck, notify the city and customer of the third or subsequent offense, charge the “Organics Waste Contamination Fee” in Exhibit C for each non-compliant container and for each pick-up, and have the option to reduce the customers' Organics Waste service level to a minimum of

one organics barrel picked up one time per week until the customer can demonstrate that they are able to comply with the Organics Waste Program.

“ Athens Services will provide sufficient service equipment (including an estimated one truck) in order to collect source-separated clean Organic Waste from commercial, multi-family, and School District accounts within the City having organics barrels as needed such that there does not result any overfilling of, or overflow from, the containers. Upon collecting such Organic Waste, Athens Services will take the Organic Waste to American Organics, or any other facility that can divert the Organic Waste from the landfill, where the Organic Waste may be counted as diversion for City as provided by applicable law.”

8. A new Section 3.S. of the Franchise Agreement is added as follows:

“ S. Residential Green Waste Services (AB 1594)

“ Effective January 1, 2020, Athens Services will comply with AB 1594, including public education and outreach as appropriate. Athens Services will continue to collect and haul Green Waste from residential accounts in accordance with then-current procedures, but will commence compliance with AB 1594 by transferring all source-separated residential Green Waste (excluding food waste, food scraps, or other Green Waste not allowed for such diversion) to American Organics, or any other facility that can divert the Green Waste from the landfill, where the Green Waste may be counted as diversion for the City as provided by applicable law.”

9. Effective as of the Effective Date of this Second Amendment, Section 4.E of the Franchise Agreement is replaced in its entirety with the following:

“ E. Construction and Demolition Debris

Athens Services guarantees that each individual construction or demolition project that falls under Title 6, Chapter 6.09 of the Municipal Code meets the 65% diversion rate or as required under applicable State law. Athens Services will consult with construction and demolition debris Customers to assist in project diversion planning.”

10. Effective as of the Effective Date of this Second Amendment, Section B.11 of Exhibit B to the Franchise Agreement is revised to add a second paragraph as follows (all other provisions of said provision to remain unchanged):

“ Athens Services guarantees compliance with the requirements of AB 939, AB 1826, AB 1594 and AB 341 as amended from time to time. Athens Services shall carry out its obligations under this Agreement so that the City will meet or exceed the diversion standards set forth in those requirements, and all amendments thereto more fully set forth below. City and Athens Services shall

reasonably assist each other to meet the diversion requirements necessary for compliance with the stated bills. In carrying out the provisions of this Section, Athens Services agrees to perform the following obligations at its cost and expense:

(a) Defend, with counsel approved by City, indemnify and hold harmless the City against all fines and/or penalties imposed by the CalRecycle, if Athens Services fails or refuses to provide information relating to its operations that is required under this Agreement, and such failure or refusal prevents or delays the submission of reports required by AB 939, AB 1826, AB 1594 or AB 341 (as amended from time to time) in a timely manner;

(b) Assist City in preparing for, and participating in, the CalRecycle's biannual review of the City's source reduction and recycling element pursuant to Public Resources Code Section 41825;

(c) Assist City in responding to inquiries from the CalRecycle in applying for an extension under Public Resources Code Section 41820, if so directed by City; in conducting any hearing conducted by the CalRecycle relating to AB 939, AB 1826, AB 1594 and AB 341, as amended from time to time; or in any other investigative or enforcement manner undertaken by any agency;

(d) Defend, with counsel acceptable to City, and indemnify and hold harmless the City against any fines or penalties levied against it for violation of the diversion requirements of AB 939, AB 1826, AB 1594 and AB 341 (as amended from time to time), provided that Athens Services' obligation to indemnify City shall be subject to the limitations set forth in Public Resources Code Section 40059.1(c) as may be amended from time to time.”

11. Effective as of the Effective Date of this Second Amendment, Section 6 of the Franchise Agreement is replaced in its entirety with the following:

“SECTION 6 – EFFECTIVE DATE AND TERM OF AGREEMENT

“ A. Term

“ The term of this Agreement shall be for a period of ten (10) years, commencing September 1, 2014, and ending at midnight on August 31, 2024, subject to Automatic Extensions as provided in Section 6.B of this Agreement (as may be extended, “Term”); provided, however, that (i) both City and Athens Services may contract to extend the Term of this Agreement at any time, and (ii) no later than two (2) years prior to the expiration of the then-current Term, City and Athens Services will meet to discuss extending the Term of this Agreement, understanding that the parties have no obligation to enter into another agreement when the Term of this Agreement terminates.

“ B. Automatic Extensions

“ Notwithstanding Section 6.A of this Agreement, on September 1, 2018, the Term of this Agreement shall be extended through August 31, 2025, and thereafter on each September 1 commencing September 1, 2019, the Term of this Agreement shall be extended one (1) year (each an “Automatic Extension”), so that the full Term of the Agreement shall remain seven (7) years.

“ Commencing with the Automatic Extension to be effective September 1, 2024, either party may terminate the Automatic Extension provisions of this Section 6.B by giving the other party both (i) written notice of intent to terminate further Automatic Extensions on or before any February 28, and (ii) written notice of termination of further Automatic Extensions on or before the next-succeeding July 31, effective September 1. During the five (5) month period following any notice of intent to terminate further Automatic Extensions, the parties shall meet and negotiate in good faith at the request of either party. Upon any termination of further Automatic Extensions, the remaining Term of the Agreement shall be seven (7) years from the effective date of termination of further Automatic Extensions. If the notice of termination of further Automatic Extensions is given, only the Automatic Extension provisions described in this Section 6.B shall terminate and be of no further force or effect, and all other provisions of this Agreement shall remain in full force and effect for the balance of the Term then remaining.”

“ C. Defaults Terminate Contract and Automatic Extensions.

The parties hereto further agree and acknowledge that the nature of this Agreement is that of an exclusive franchise, notwithstanding any contrary uses of titles, headings, or vernacular used elsewhere herein. It is further acknowledged that this Agreement provides for an exclusive franchise for purposes of Public Resources Code 49520 *et seq.* This provision is not a waiver of the notice rights provided under Public Resources Code 49520, but rather serves as an acknowledgement by the parties that Public Resources Code 49520 is directly inapplicable to this Agreement due to the Agreement’s exclusive franchise nature.”

12. Effective as of the Effective Date of this Second Amendment, Section B7(G) of Exhibit B to the Franchise Agreement is revised as follows:

“ G. Monthly & Quarterly Reports

1. The information listed below shall be the minimum reported on a quarterly basis. The reports shall be delivered to the City at least 15 days prior to the start of the upcoming fiscal quarter.

i. Solid Waste collected by Athens Services for the prior quarter, sorted by type of Solid Waste (Refuse, Recycling Solid Waste, Green Waste, Organic Waste) in tons collected and

disposed, and the facilities where the tons were processed or disposed.

ii. Warning notices issued for contaminated Green Waste and Organic Waste containers or notices issued for non-collection during the prior quarter as well as notices pursuant to Section 4.A of the Agreement.

iv. Graffiti removal performed, including, if requested by the City, photographs of the graffiti, its location, and other information reasonably required by the City of Glendora Police Department.

v. All information and records reasonably requested by City pertaining to Athens Services' compliance with AB 1826, AB 939, diversion mandates pertaining to construction and demolition debris, and all other State law diversion mandates.

2. The information listed below shall be the minimum reported on a monthly basis. The reports shall be delivered to the City at least 15 days prior to the start of the upcoming month.

i. Gross receipts received during the prior month by Customer category and calculation of franchise fees due."

13. Effective as of the Effective Date of this Second Amendment, Section B7(H) of Exhibit B to the Franchise Agreement ("Annual Reports") is revised to add a new Subsection 10 to read as follows:

" 10. Organics Data and Education Plan. Starting September 1, 2018, and annually thereafter no later than July 15th, Athens Services shall meet and confer with the City to develop an annual education plan to include outreach to commercial and multi-family Customers, School Districts (if applicable), and City facilities, which plan shall provide outreach education on, and compliance monitoring for, the requirements of AB 1826. Athens Services shall provide a report on the prior year activities including, without limitation, annual outreach, including the methods and type of contact, correspondence sent, replies received, etc. The annual education plan report shall include the number of audits conducted, monitoring program information, training provided, Customers subject to Organic Waste recycling services, number of violations, number of Organic Waste containers and service frequencies. All reported information shall be sufficient to allow the City a full review of Athens Services' compliance with AB 1826 and any other programmatic mandates for Organic Waste enacted by State law. Athens Services shall pay for all outreach materials including any direct mailings to Customers.

14. Effective as of the Effective Date of this Second Amendment, Section B.10 of Exhibit B to the Franchise Agreement is revised to add an additional paragraph as follows (all other provisions of said provision to remain unchanged):

“ City may conduct a contract compliance audit at any time, and City anticipates that such audit shall be performed not less than once every two years for purposes of reviewing and ensuring Athens Services’ compliance with all terms of this Agreement. Annually, upon thirty (30) days written notice from the City to Athens Services, the parties shall meet and confer to conduct such contract compliance review, which review may include, without limitation, issues of: levels of service, diversion compliance, public education and community outreach, State-mandated reporting requirements, franchise fee payments, Customer rates, Customer complaint issues, and other matters of Athens Services’ performance under this Agreement.”

15. Effective as of the Effective Date of this Second Amendment, Exhibit C of the Franchise Agreement is replaced in its entirety by Exhibit C attached hereto and incorporated herein by reference.

16. Effective as of the Effective Date of this Second Amendment, Exhibit D of the Franchise Agreement is hereby replaced in its entirety with that Exhibit D attached hereto and incorporated herein by reference.

17. Effective as of the Effective Date of this Second Amendment, Exhibit F of the Franchise Agreement is hereby replaced in its entirety by the Exhibit F attached hereto and incorporated herein by reference.


18. This Second Amendment shall be governed by, and construed, interpreted and enforced in accordance with, the laws of the State of California without regard to any conflict of laws provision that would apply the laws of any other jurisdiction.

19. Except as modified herein, either expressly or by necessary implication, the terms and conditions of the Franchise Agreement shall remain in full force and effect.

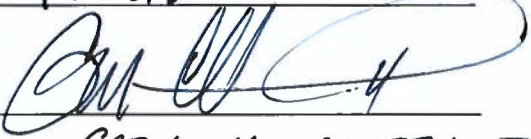
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be duly executed as of the Effective Date.

**ARAKELIAN ENTERPRISES, INC.
dba ATHENS SERVICES**

By: 
Name: Greg Lughnane
Its: President


ATTEST:

By: 
Name: GARY M CLIFFORD II
Its: EXECUTIVE VICE PRESIDENT

CITY OF GLENDORA

By: 
Mendell Thompson
Mayor

ATTEST:

By: 
Kathleen R. Sessman
City Clerk



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ORANGE COUNTY | LOS ANGELES | RIVERSIDE | CENTRAL VALLEY

AWATTORNEYS.COM

June 26, 2018

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Arakelian Enterprises, Inc.
dba Athens Services
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City of Industry, CA 91746

George Kieffer
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Blvd.
Los Angeles, CA 90064

Chris Jeffers, City Manager
City of Glendora
116 E. Foothill Blvd.
Glendora, CA 91741-3380

Re: Side Letter Agreement (“**Side Letter**”) Regarding the Legal Effect of the Second Amendment to the Franchise Agreement Between The City of Glendora and Arakelian Enterprises, Inc., for Integrated Waste Management

Athens Services & City of Glendora:

This letter-agreement (“Side Letter”) memorializes an understanding between the City of Glendora (“City”) and Arakelian Enterprises, Inc., dba Athens Services (“Athens”), regarding the understanding of the parties relating to the termination provision(s) of that certain “Franchise Agreement between the City of Glendora and Arakelian Enterprises, Inc., for Integrated Waste Management” dated September 1, 2014 (the “Original Agreement”), as amended by a “Second Amendment to the Franchise Agreement Between the City of Glendora and Arakelian Enterprises, Inc., for Integrated Waste Management” effective July 1, 2018 (the “Second Amendment”). City and Athens may be referred to, individually or collectively, as “party” or “parties” herein. The Original Agreement and Second Amendment are collectively referred to herein as the “Agreement.”

In June 2018, the parties entered into negotiations for the Second Amendment to the Original Agreement. Among other revisions to the Original Agreement, the Second Amendment extended the term of the Agreement and altered the manner by which future extensions of the Agreement’s term could be effected (the so-called “evergreen provision(s)”). Specifically, Section 11 of the Second Amendment (adding a new Section 6 to the Original Agreement) established rolling one-year Automatic Extensions (as defined in the Second Amendment) that could be terminated upon a two-step noticing process to be initiated by the City.

///

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George Kieffer
Chris Jeffers
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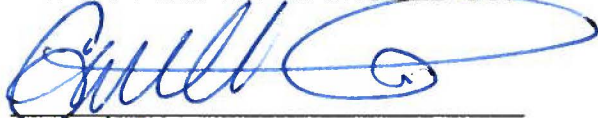
In the course of negotiating the Second Amendment, the City expressed concern about a potential for ambiguity as to whether an un-cured default of the Agreement by Athens would also work a termination of the "evergreen provision(s)" of the Second Amendment. The City proposed language revisions to Section 11 of the Second Amendment to clarify that, notwithstanding any other provision of the Agreement, any un-cured default of the Agreement by Athens shall constitute grounds for immediate termination of the Agreement as well as the immediate termination of any an all pending or already-accrued Automatic Extensions.

In response, Athens took the position that further clarifying language was not needed in the Second Amendment itself because Original Agreement, Exhibit B, Section B.14(C), provides rights of immediate termination upon uncured default. Athens further agreed that such immediate termination of accrued or future Automatic Extensions of the "evergreen provision(s)" of the Second Amendment was intended in the event of an un-cured Athens default pursuant to the terms of the Original Agreement.

By this Side Letter the parties understand and agree as follows: the City's right to terminate the Agreement, as expressed in the Original Agreement, Exhibit B, Section B.14(C), supersedes the effect of the "evergreen provision(s)" of the Second Amendment such that an event of un-cured default by Athens (as a default is defined in the Agreement, Exhibit B, Section B.14(C)) will (i) at the City's option, result in a termination of the Agreement, including the "evergreen provision(s)" of the Second Amendment, regardless of whether an evergreen extension has accrued or not, and (ii) waive all notice requirements set forth in Section 11 of the Second Amendment.

By executing this Side Letter, the parties thereto, acknowledge and agree to the interpretation set forth hereinabove.

THE FOREGOING IS HEREBY
ACKNOWLEDGED & AGREED TO:



E.V.P., on behalf of
Arakelian Enterprises, Inc. dba Athens Services

[Signatures Continue to Next Page]


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George Kieffer
Chris Jeffers
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THE FOREGOING IS HEREBY
ACKNOWLEDGED & AGREED TO:



Chris Jeffers, City Manager, on behalf
of the City of Glendora

APPROVED AS TO FORM & CONTENT:

By: 
William W. Wynder, City Attorney

By: 
George Kieffer, Counsel for Athens
Services

EXHIBIT C

RATE AND FEE SCHEDULE

EFFECTIVE JULY 1, 2018

I. Residential Properties

A. Basic Rates

	<u>Net Rate</u>	<u>City Fees</u>	<u>Total Rate</u>
Single Dwelling Unit	29.51	3.25	32.76
Duplex	57.99	6.38	64.36
Triplex	86.52	9.52	96.04
Per Apartment	19.39	2.13	21.52
Apartment Scout	29.70	3.27	32.97
Residential Curb Scout	54.72	6.02	60.74
Residential Yard Scout	66.02	7.26	73.28
Bin 1.5 Yard 1X	133.46	14.68	148.14
Bin 3 Yard 1X	174.79	19.23	194.01
Bin 3 Yard 2X	278.15	30.60	308.74
Bin 3 Yard 3X	376.43	41.41	417.83
Bin 3 Yard 4X	471.61	51.88	523.49
Bin 3 Yard 5X	558.50	61.44	619.94
Bin 3 Yard 6X	614.03	67.54	681.58
Scout Bin 1.5 Yard 1X	169.92	18.69	188.61
Scout Bin 1.5 Yard 2X	273.67	30.10	303.77
Scout Bin 3 Yard 1X	211.30	23.24	234.54
Scout Bin 3 Yard 2X	351.09	38.62	389.71
Scout Bin 3 Yard 3X	440.81	48.49	489.30

B. Non-Basic Rates

Bin Apartment Rental	47.97	5.28	53.25
Scout Bin Apartment Rental	80.82	8.89	89.71
Curb Manure	23.61	2.60	26.21

II. Non-Residential Properties

A. Basic Rates

Bin 1.5 Yard 1X	132.43	14.57	147.00
Bin 1.5 Yard 2X	206.91	22.76	229.67
Bin 1.5 Yard 3X	268.93	29.58	298.51
Bin 1.5 Yard 4X	327.98	36.08	364.06
Bin 1.5 Yard 5X	382.00	42.02	424.03
Bin 1.5 Yard 6X	447.17	49.19	496.35
Bin 3 Yard 1X	173.81	19.12	192.93
Bin 3 Yard 2X	277.15	30.49	307.63
Bin 3 Yard 3X	376.38	41.40	417.78
Bin 3 Yard 4X	471.53	51.87	523.40
Bin 3 Yard 5X	558.42	61.43	619.85
Bin 3 Yard 6X	657.64	72.34	729.99
Scout Bin 1.5 Yard 1X	168.92	18.58	187.50
Scout Bin 3 Yard 1X	210.26	23.13	233.39
Scout Bin 3 Yard 2X	350.07	38.51	388.58
Scout Bin 3 Yard 3X	467.91	51.47	519.38
Scout Bin 3 Yard 4X	607.73	66.85	674.58
Scout Bin 3 Yard 5X	747.55	82.23	829.78
Scout Bin 3 Yard 6X	857.17	94.29	951.45

B. Non-Basic Rates

Roll-off – Mixed Waste	763.46	83.98	847.44
10 Yard C&D (3 ton limit + actual cost over 3 tons)	626.39	68.90	695.29
20 Yard C&D (4 ton limit + actual cost over 4 tons)	721.76	79.39	801.15
30 Yard C&D (5 ton limit + actual cost over 5 tons)	817.13	89.88	907.01
Organics Waste Contamination Fee	250.00	27.50	277.50
CC 1 Can	44.02	4.84	48.86
CC 2 Can	70.06	7.71	77.77
CC 3 Can	95.19	10.47	105.66
CC 4 Can	119.18	13.11	132.28
CC 5 Can	141.08	15.52	156.60
CC 6 Can	163.09	17.94	181.03
3 Yard Temporary Bin	164.25	18.07	182.32
Extra Dump	58.71	6.46	68.16
Plastic Liners	29.64	3.26	32.90
Bin Lock Lids	32.61	3.59	36.20
Storage Box Delivery	118.53	13.04	131.57
Stand By	112.61	12.39	125.00
Bin Wash Out	66.37	7.30	73.67
Bin Go Back	66.37	7.30	73.67
Relocate Roll-off	65.18	7.17	72.35
Roll-off Dead Run	106.66	11.73	118.40
Demurrage per Day	14.22	1.56	15.78
Compactor Wash Out	219.27	24.12	243.39
Storage Box Rental	118.53	13.04	131.57
Residential Go Back	23.71	2.61	26.32
Residential Go Back Dead Run	23.71	2.61	26.32
Bin Exchange	75.85	8.34	84.20
Bin Exchange with Metal Lids	88.90	9.78	98.67
Transportation Services	130.38	14.34	144.72

III. Other Rate Provisions

A. Commencing September 1, 2014, and continuing through August 31, 2024, the ratepayers for the Residential Properties Basic Rate for single dwelling units shall receive an annual \$10.75 credit from Athens Services, credited to the customers in quarterly installments and reflected in the customer's quarterly invoice. For clarity, this annual credit shall terminate on August 31, 2024, notwithstanding any extension of the Term of this Agreement.

B. Commencing September 1, 2014, and continuing until August 31, 2019, Athens Services shall pay to the City a monthly Environmental Administrative Fee in the amount of \$28,755.00; provided, however, that effective September 1, 2018, the Environmental Administration Fee shall be increased as described in Exhibit D, except that the one-time extraordinary rate adjustment of 6.73% effective July 1, 2019, described in Section D2 of Exhibit D, shall not apply to the Environmental Administrative Fee.

C. Commencing September 1, 2019, and continuing through the end of the Term of this Agreement, including any extensions thereto, Athens Services shall pay to the City a monthly Environmental Administrative Fee in the amount of \$47,655.00; provided, however, that commencing September 1, 2020, and each September 1 thereafter, the Environmental Administration Fee shall be increased as described in Exhibit D.

D. Commencing July 1, 2015, and continuing through the end of the Term of this Agreement, including any extensions thereto, subject to City Council approval, the Franchise Fee, which is passed through to Customers, shall be established at eleven percent (11 %) of the net rates charged by Athens Services.

E. The hourly rate for driver and collection vehicle to assist in emergencies shall be \$125, plus actual processing and disposal costs."

EXHIBIT D

RATE ADJUSTMENT

SECTION D1 -ANNUAL MAXIMUM RATE ADJUSTMENTS

Section D1.1 Adjustment Request

Athens Services may request an adjustment to the maximum permitted rates annually, to be effective each July 1. Athens Services shall submit its request in writing, to be received by City in person or via certified mail, by the preceding March 1. The request shall be based on the method of adjustment described in this Section D1 of Exhibit D. Failure to submit a written request by March 1 shall result in Athens Services waiving the right to request such an increase for that year.

Annual adjustment to the maximum rates calculated in accordance with this Section D1 is subject to the approval of the City Manager, or his or her designee.

Section D1.2 Cost Components

The approved Athens Services compensation consists of the following cost components, each adjusted by the change in the corresponding rate adjustment factor.

Rate Adjustment Factors and Initial Weightings

<u>Cost Component</u>	<u>Initial Weighting</u>	<u>Rate Adjustment Factor</u>
Landfill Disposal	13%	Actual per ton gate rate charged to Athens Services by the Landfill
All Other	87%	Consumer Price Index for All Urban Consumers (Los Angeles-Long Beach-Anaheim, CA, All items, Not Seasonally Adjusted, CUUSA421SAO ("CPI"))
Total	100%	

Section D1.3 Rate Adjustment Steps

All rates will be adjusted using the weighted changes of the cost components identified above.

Step One - Calculate the percentage increase or decrease in each rate adjustment factor listed in Section D1.2 as follows:

Landfill Disposal Factor - Measured as the change in the landfill gate rate to be charged on the effective date of the rate adjustment as compared to the gate rate charged the previous July 1. As long as Athens Services uses the San Bernardino County landfill system to dispose of the City of Glendora's waste, the landfill gate rate shall be the contract rate paid by Athens Services for the use of the San Bernardino County landfills.

CPI Factor - The change in CPI shall be measured as the annual average indices for the twelve (12) months ended the April immediately preceding the effective date of the rate adjustment (May through April) versus the annual average indices for the twelve months ended the April twelve (12) months before that date (May through April) for All Urban Consumers in the Los Angeles-Long Beach-Anaheim area, or an equivalent index approved by mutual agreement in the event the CPI as described above is no longer published.

Step Two - Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted percent change to the rates.

Step Three - Add to the total weighted percent change from Step Two the greater of: (a) the lesser of (i) 1.0%, or (ii) the amount by which 5.0% exceeds the total weighted percent change from Step Two; or (b) 0.0%. Purely as an example, and not by way of limitation, if the total weighted percent change were 3.5%, then the rate adjustment would be calculated as 3.5% plus 1.0%, or 4.5%. As another example, if the total weighted percent change were 4.6%, then the rate adjustment would be calculated as 4.6% plus 0.4%, or 5.0%. As another example, if the total weighted percent change were 5.3%, then the rate adjustment would be calculated as 5.3% plus 0.0%, or 5.3%.

Step Four - Multiply the rate adjustment from Step Three by the existing rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.

Step Five - Recalculate weightings for the following year based upon these changes.

Section D1.4 Example Rate Adjustment Calculation

Step One: Calculate percentage change in Indices

Row	Adjustment Factor	Index	A	B	C
			Old Index Value	New Index Value	Percent Change in Index ((Column B/Column A)-1)
1	Landfill Disposal	(1)	\$ 28.86	\$ 29.44	2.01%
2	All Other	(2)	236.648	240.001	1.42%

Step Two: Determine components

Row	Adjustment Factor	Index	D	E	F
			Cost Component Weighting (3)	Percent Change in Index (from Column C)	Total Weighted Change (Columns D x E)
3	Landfill Disposal	(1)	13.00%	2.01%	0.26%
4	All Other	(2)	87.00%	1.42%	1.24%
5	Total		100.00%		1.50%

Step Three: Determine if 1% is applied to Total Weighted Percentage Change

Row		G
6	Total Weighted % Change	1.50%
7	Apply 1% or Lesser %	1.00%
8	Total % Change	2.50%

Step Four: Apply percentage change to all rates (example rates shown below)

Row	Example Rate Categories	H	I	J	K
		Current Customer Rate	Total Percentage Change (from Column G)	Rate Increase or Decrease (Column H x Column I)	Adjusted Rate (Column H + Column J)
9	Single Dwelling Units	\$ 24.90	2.50%	\$ 0.63	\$ 25.53
10	Res. Bin 1.5yd. 1x week	\$ 112.60	2.50%	\$ 2.82	\$ 115.42
11	Com. Bin 1.5 yd. 1x week	\$ 111.73	2.50%	\$ 2.80	\$ 114.53
12	Scout Bin 1.5 yd. 1x week	\$ 142.51	2.50%	\$ 3.57	\$ 146.08
13	Com. I Can	\$ 37.14	2.50%	\$ 0.93	\$ 38.07
14	Locking Lid	\$ 12.00	2.50%	\$ 0.30	\$ 12.30
15	Roll-Off Box	\$ 644.43	2.50%	\$ 16.11	\$ 660.54
16	3 yd. Temp Service	\$ 138.57	2.50%	\$ 3.47	\$ 142.04
17	Extra dump	\$ 49.54	2.50%	\$ 1.24	\$ 50.78

Step Five: Re-weight cost components

Row	Adjustment Factor	Index	L	M	N	O	P
			Cost Component Weightings (Column D)	Percent Change in Index (Column E)	Change in Cost Component Weightings (Column L x Column M)	Adjusted Cost Component Weightings (Column L + Column N)	Cost Components Reweighted to Equal 100% (Column O Row divided by Column O Total)
18	Landfill Disposal	(1)	13.00%	2.01%	0.26%	13.26%	13.06%
19	All Other	(2)	87.00%	1.42%	1.24%	88.24%	86.94%
20	Total		100.00%			101.50%	100.00%

(1) Actual change in gate rate charged to Athens Services.

(2) Consumer Price Index for Los Angeles-Long Beach-Anaheim, CA, All items, Not Seasonally Adjusted, CUUSA421SAO.

(3) First year based on percentages provided in this Section D1. After the first adjustment, this column comes from Column P of the previous year's rate adjustment worksheet.

Section D1.5 Rate Reductions

In the event the rate calculation results in a reduction, the City may implement the reduction whether or not Athens Services has submitted a request. If for any reason a calculated rate reduction is not implemented, future rate increases shall be offset by the amount of the waived reduction.

SECTION D2 – EXTRAORDINARY RATE ADJUSTMENT REQUEST

Athens Services may request an adjustment to maximum rates in the event of extraordinary changes in the cost of providing service under this agreement. Extraordinary rate adjustments may be requested no more than once per year.

For each request for an adjustment to the maximum rates that Athens Services may charge customers brought pursuant to this section, Athens Services shall prepare a schedule documenting the extraordinary costs. Such request shall be prepared in a form acceptable to City with support for assumptions made by Athens Services in preparing the estimate.

City may request appropriate supporting information in connection with the City's review of Athens Services' rate adjustment request. City shall review Athens Services' request and, in City's sole judgment and absolute, unfettered discretion, make the final determination as to whether an adjustment to the maximum rates will be made, and, if an adjustment is permitted, the appropriate amount of the adjustment.

As compensation for providing Organic Waste services, as provided in Section 3.R. of this Agreement, and residential Green Waste services, as provided in Section 3.S. of this Agreement, Athens Services shall be granted two (2) separate one-time extraordinary rate adjustments of 6.73% each, effective July 1, 2018, and July 1, 2019, respectively; provided, however, that such extraordinary rate adjustments shall not apply to the construction and demolition roll off rates set forth in Exhibit C.

EXHIBIT F

SCHOOL DISTRICT FACILITIES SERVICE LEVELS

Glendora Unified School District

Location / Address	Equipment Type	Equipment Quantity	Equipment Size	Service Frequency	Period
Glendora USD Administration Office 500 N Loraine	Mixed Waste Bin	3	3 Yard	5	10 Months
	Mixed Waste Bin	3	3 Yard	3	June-July
Goddard School 859 E Sierra Madre	Mixed Waste Bin	4	3 Yard	5	10 Months
	Mixed Waste Bin	4	3 Yard	2	June-July
Sandburg School 819 W Bennett Ave	Mixed Waste Bin	3	3 Yard	5	10 Months
	Mixed Waste Bin	3	3 Yard	2	June-July
Sandburg School - BASEBALL 819 W Bennett Ave	Mixed Waste Bin	2	3 Yard	5	10 Months
	Mixed Waste Bin	2	3 Yard	1	June-July
LaFetra School 547 W Bennett Ave	Mixed Waste Bin	2	3 Yard	5	10 Months
	Mixed Waste Bin	2	3 Yard	2	June-July
Cullen School 440 N Live Oak Ave	Mixed Waste Bin	3	3 Yard	5	10 Months
	Mixed Waste Bin	3	3 Yard	2	June-July
Sutherland School 1330 Amelia Ave	Mixed Waste Bin	3	3 Yard	5	10 Months
	Mixed Waste Bin	3	3 Yard	2	June-July
Glendora High School 1600 E Foothill	Mixed Waste Bin	5	3 Yard	5	10 Months
	Mixed Waste Bin	5	3 Yard	2	June-July
Whitcomb- Center Campus 350 W Mauna Loa Ave	Mixed Waste Bin	1	3 Yard	5	10 Months
	Mixed Waste Bin	1	3 Yard	2	June-July
Whitcomb - Woodshop 350 W Mauna Loa Ave	Mixed Waste Bin	1	3 Yard	5	10 Months
	Mixed Waste Bin	1	1.5 Yard	1	June-July
Glendora USD - Warehouse 517 E Lemon	Mixed Waste Bin	2	3 Yard	5	10 Months
	Mixed Waste Bin	2	3 Yard	3	June-July
Glendora USD - Maintenance 521 E Lemon	Mixed Waste Bin	1	3 Yard	5	10 Months
	Mixed Waste Bin	1	3 Yard	3	June-July
Williams School 301 S Loraine	Mixed Waste Bin	1	3 Yard	5	10 Months
	Mixed Waste Bin	1	3 Yard	2	June-July
Stanton School 725 S Vecino	Mixed Waste Bin	2	3 Yard	5	10 Months
	Mixed Waste Bin	2	3 Yard	2	June-July

Charter Oak Unified School District

Location / Address	Equipment Type	Equipment Quantity	Equipment Size	Service Frequency	Period
Sunflower Campus 1505 Sunflower Ave	Mixed Waste Bin	2	3 Yard	5	12 Months
Washington School 325 W Gladstone	Mixed Waste Bin	1	2 Yard	5	12 Months
	Mixed Waste Bin	1	3 Yard	5	12 Months
Willow School 1427 S Willow Ave	Mixed Waste Bin	1	3 Yard	5	12 Months

Azusa Unified School District

Location / Address	Equipment Type	Equipment Quantity	Equipment Size	Service Frequency	Period
Sierra High School 1134 S Barranca Ave	Mixed Waste Bin	3	3 Yard	5	12 Months
	Mixed Waste Roll-off	1	40 Yard	On Call	12 Months