

ORDINANCE NO. 3138

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, FINDING THAT THE HEREIN ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPTING AMENDMENT NO. 2 TO AN EXCLUSIVE FRANCHISE AGREEMENT FOR THE PROVISION OF SOLID WASTE AND RECYCLING SERVICES WITH ARAKELIAN ENTERPRISES (dba ATHENS SERVICES) (A17-161) ADOPTED BY ORDINANCE NO. 3076

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939) (California Public Resources Code Section 40000, et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for Solid Waste handling within their jurisdictions;

WHEREAS, the State of California has found and declared that the amount of Solid Waste generated in California, coupled with diminishing Disposal capacity and interest in minimizing potential environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of AB 939 and subsequent related legislation including, but not limited to: the Jobs and Recycling Act of 2011 (AB 341), the Event and Venue Recycling Act of 2004 (AB 2176), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), directed the responsible State agency, and all local agencies, to promote a reduction in Landfill Disposal and to maximize the use of feasible waste reduction, Reuse, Recycling, and composting options in order to reduce the amount of material that must be Disposed;

WHEREAS, SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets;

WHEREAS, SB 1383 regulations require jurisdiction to implement collection programs, meet processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements;

WHEREAS, Ordinance No. 3076 was adopted by City Council on September 26, 2017, granting Arakelian Enterprises Inc. (dba Athens Services) an exclusive franchise agreement for the provision of solid waste and recycling services, servicing a certain service zone in the City;

WHEREAS, the City of Whittier has chosen to delegate some of its responsibilities to Athens Services, acting as the City's designee, through this Amendment No. 2 to An Exclusive Franchise Agreement for the Provision of Solid Waste and Recycling Services (A17-161); and

WHEREAS, a public hearing was duly noticed and held on June 14, 2022, at 6:00 p.m. to consider objections to Amendment No. 2 to An Exclusive Franchise Agreement for the Provision of Solid Waste and Recycling Services (A17-161).

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. That the City Council hereby finds this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) because no possibility exists that the proposed ordinance, related to complying with SB 1383 regulatory requirements, will have a significant effect on the environment.

SECTION 3. The City Council hereby adopts Amendment No. 2 to An Exclusive Franchise Agreement for the Provision of Solid Waste and Recycling Services between the City of Whittier and Arakelian Enterprises, Inc. dba Athens Services, attached hereto as Exhibit 1 and incorporated herein.

SECTION 4. Any provision of the Whittier Municipal Code or appendices thereto inconsistent with the provisions of the ordinance, to the extent of such inconsistencies and no further, are repealed or modified to that extent necessary to affect the provisions of this ordinance.

SECTION 5. 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 6. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall prepare and cause a summary of this Ordinance to be published once in the official newspaper and the full text of this Ordinance to be posted in the City Clerk's Office, both within 15 days after the adoption of the ordinance. The Ordinance shall become effective 30 days from its adoption.

APPROVED AND ADOPTED this 14th day of June 2022.

JOSEPH A. VINATIERI, Mayor

ATTEST:

RIGOBERTO GARCIA JR., City Clerk
(seal)

Date: _____

Exhibit 1 – Amendment No. 2
Exhibit 2 – Maximum Service Rates

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 3138 was introduced on the 24th day of May 2022, and was adopted by the City Council of the City of Whittier at the regular meeting held on the 14th day of June 2022, by the following vote:

AYES: 5 Council Members: Vinatieri, J. Martinez, Dutra, Warner, O. Martinez
NOES: 0
ABSTAIN: 0
ABSENT: 0

RIGOBERTO GARCIA JR., City Clerk
(seal)

EXHIBIT 1

AMENDMENT NO. 2 TO THE EXCLUSIVE FRANCHISE
AGREEMENT FOR THE PROVISION OF SOLID WASTE AND
RECYCLING SERVICES BY AND BETWEEN THE CITY OF
WHITTIER AND ARAKELIAN ENTERPRISES, INC. DBA ATHENS
SERVICES

This Second Amendment ("Amendment") to the Exclusive Agreement for the Provision of Solid Waste and Recycling Services is entered into as of May 24, 2022, by and between the City of Whittier, a California municipal corporation (the "City") and Arakelian Enterprises, Inc., a California corporation d/b/a/ Athens Services ("Contractor") (collectively, the "Parties").

RECITALS

A. WHEREAS, City and Contractor previously entered into the Exclusive Franchise Agreement for the Provision of Solid Waste and Recycling Services dated September 26, 2017 (the "Agreement");

B. WHEREAS, the Legislature of the State of California, by enactment of California Public Resources Code § 40000 et seq., declares that it is within the public interest to authorize and require local agencies to make adequate provision for solid waste handling within their jurisdictions;

C. WHEREAS, the Legislature of the State of California has enacted certain new laws pertaining or relating to solid waste handling with which the City must comply, including AB 341, AB 901, AB 1594, AB 1826, and SB 1383, creating the need for the City to improve efforts to divert solid waste from landfills, including recyclable materials and organic waste; and

D. WHEREAS, the foregoing changes in law necessitate certain modified. or additional services in order to bring the City into compliance with applicable law; as a result, the cost of collecting, disposing of, and diverting solid waste, recyclables, yard waste, and organic waste to Contractor is anticipated to increase; and the City and Contractor have agreed to implement certain operational changes pertaining to the provision of services in the City in accordance with this Amendment.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the above recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree to amend the Agreement as follows:

AGREEMENT

1. **Effective Date.** This Amendment shall be effective as of August 1, 2022
2. **New Definitions.** Article 1 of the Agreement is hereby amended to add Sections 1.81 through 1.89 as follows:

1.81 COMMERCIAL EDIBLE FOOD GENERATORS

"Commercial Edible Food Generators" includes Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section 18982(a)(7).

1.82 CONTAMINATION

"Contamination" means any of the following: (i) discarded materials placed in any container intended for Recyclable Materials that are not identified as acceptable Recyclable Materials for such container; (ii) discarded materials placed in any container intended for Green Waste or Organic Waste that are not identified as acceptable for Green Waste or Organic Waste for such container; (iii) discarded materials placed any container intended for garbage are not identified as acceptable for garbage; and (iv) any other items or substances that are not garbage, Recyclable Materials, or Organic Waste placed in any container not designated for such use. Contamination shall be determined by Contractor's visual or digital inspection.

1.83 EDIBLE FOOD

"Edible Food" means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the

food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply.

1.84 FOOD RECOVERY

"Food Recovery" means actions to collect and distribute Edible Food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

1.85 FOOD RECOVERY ORGANIZATION

"Food Recovery Organization" means an entity that primarily engages in the collection or receipt of Edible Food from commercial edible food generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including: (i) a food bank as defined in Section 113783 of the Health and Safety Code; (ii) a nonprofit charitable organization; and (iii) a nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code. If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply.

1.86 FOOD RECOVERY SERVICE

"Food Recovery Service" means a person or entity that collects and transports Edible Food from a commercial edible food generator to a Food Recovery Organization or other entities for Food Recovery; or as otherwise defined in 14 CCR Section 18982(a)(26).

1.87 ORGANIC WASTE PROCESSING FACILITY

"Organic Waste Processing Facility" means a commercial facility permitted by the State of California selected by Contractor which accepts and processes, by composting or other permissible methods, Organic Waste for diversion from landfill disposal.

1.88 TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR

"Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- a) Supermarket.
- b) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- c) Food Service Provider.
- d) Food Distributor.
- e) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Agreement.

1.89 TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR

"Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- a) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- b) Hotel with an on-site food facility and 200 or more rooms.
- c) Health facility with an on-site food facility and 100 or more beds.
- d) Large Venue.
- e) Large Event
- f) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- g) A local education agency with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Agreement.

3. **Green Waste.** The term Green Waste is used in the following Sections of the Agreement: 1.34, 1.48, 1.76, 4.02.1, 4.02.2, 4.04.1, 4.04.3, 4.04.5, 4.08, 6.03.1, 6.03.2, 7.03.3, 7.03.4, 7.03.6, 7.03.7, 7.03.8, 7.06 and its subparts, 10.02.6, and 10.06.7. The term Organic Waste as defined in the Agreement is hereby deemed to replace each instance in these specified Sections where the term Green Waste appears.

4. **Edible Food Exempted from Franchise Exclusivity.** Section 3.02 of the Agreement is hereby amended to add subsection 3.02(n) as follows:

- n) Edible Food that is collected, transported, processed, picked-up, or removed from Edible Food Generators by

Food Recovery Organizations, charitable pantries, or other Food Recovery Services for the purposes of Food Recovery as those terms are defined in 14 CCR Sections 18982(a)(18), (24), (25), and (26).

5. **Residential Food Waste Diversion Program.** Section 4.04.2 of the Agreement shall be deleted in its entirety and replaced with the following:

4.04.2 Residential Food Waste Diversion Program

Residential Food Waste Collection and Processing

Contractor will permit customers receiving Residential Cart-only service to commingle source-separated Green Waste, Food Waste, food-soiled paper products, clean wood, and lumber only in Carts designated for Green Waste will process such waste at an Organic Waste Processing Facility that complies with SB 1383.

6. **Bulky Waste.** Section 4.05.6 of the Agreement shall be deleted in its entirety and replaced with the following:

4.05.6 Maximum Reuse and Recycling

Bulky Waste Collected by Contractor collected under this Agreement, may not be landfilled or disposed of until the following hierarchy of diversion efforts has been followed by Contractor:

- a) Reuse as is;
- b) Disassemble for reuse or Recycling;
- c) Transport Bulky Waste to a contractor-selected facility approved for transfer and disposal, for reuse or processing;
- d) Transport Yard Waste to a contractor-selected Organic Waste Processing Facility approved for transfer and disposal, for processing;
- e) Transport paper products to a contractor-selected MRF approved for transfer and disposal, for processing; and
- f) Disposal.

Contractor shall ensure that Bulky Waste containing freon, such as refrigerators, freezers and dehumidifiers, are safely

dismantled, and hazardous/toxic materials are disposed at an appropriate approved facility.

7. **Organic Waste Program Components.** Article 4 of the Agreement is hereby amended to add Section 4.17 as follows:

4.17. Organic Waste Program Components.

City and Contractor will undertake reasonable business efforts to support City compliance with SB 1383 in the Service Area. Contractor shall be deemed in compliance hereunder, provided that it provides the following on behalf of the City:

- a) Education and Outreach. On a quarterly basis, Contractor shall provide educational material by mail or electronically to Customers providing information concerning proper recycling, the use of Containers for Organic Waste, composting, preventing Contamination, and proper Container placement. Further, Contractor shall provide in-person outreach to Customers as necessary under the "Contamination Protocols" specified in Section 4.18.
- b) Waste Characterization Studies. On a quarterly basis, Contractor shall conduct generation and disposal characterization studies in accordance with 14 CCR Section 18984.5(c), provided such waste is delivered to a Contractor-owned or controlled facility.
- c) Route Audits. On a quarterly basis, Contractor shall conduct route audits designed to monitor, observe, and if necessary, recommend route changes or service adjustments to reduce Contamination in Containers provided to Customers. To the extent Contractor conducts route reviews hereunder, such reviews shall also be consistent with 14 CCR Section 18984.5(b).
- d) Provision of Recovered Organic Waste Products. With respect to the Service Area only, Contractor shall procure and provide to City sufficient quantities of compost, mulch, and/or Renewable Natural Gas (RNG) to meet Contractor's required portion of the City's per capita annual Organic Waste product requirement contained in SB 1383 (14 CCR Section 18993.1). Contractor may meet this obligation by one or a combination of the following activities, as determined by Contractor:

- i. Bulk Compost and/or Mulch - Contractor shall make available to City bulk Compost and Mulch that meet requirements defined in SB 1383, and shall Transport such material to City upon request, for City use in City parks and facilities at no cost to the City.
- ii. Compost Giveaway as described in Section 6.09.
- iii. Use of Renewable Natural Gas in Collection vehicles.

Contractor shall ensure any such products procured hereunder comply with 14 CCR Section 18993.1.

- e) Reporting (Organic Waste). Contractor will provide an annual report of the following (i) the average daily gross tons of Organic Waste collected by route in the Service Area with map of routes; (ii) the total number of Residential Premises, Multi-Family Premises, and Commercial businesses in the Service Area that receive Organic Waste collection service provided by the Contractor; (iii) number of Organic Waste collection containers distributed by size and customer type; (iv) the material type, annual totals of Organic Waste processed including facility name and location, average cost or price received per ton and total organics cost or revenue received for the year; totals and location for residue disposed; and (v) the number of route reviews conducted for prohibited contaminants and the number of non-collection notices provided to customers due to Contamination.
- f) Container Color and Labelling. Notwithstanding any provision in this Agreement to the contrary, no later than January 1, 2036, all Containers provided to Customers must comply with the color and labeling requirements included below or 14 CCR Section 18982. Colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation, and the lids and bodies shall be uniform for each Container type, as follows:
 - Recyclable Materials Container bodies and/or lids shall be blue;
 - Organic Waste Container bodies and/or lids shall be green; and,

- Solid Waste Container bodies and/or lids shall be black or grey.

Hardware such as hinges and wheels on the Containers may be a different color than specified above. All Containers shall comply with these color requirements, including Split-Bins. Each section of the Split-Bin shall be painted in accordance with the color requirements in this Section for the applicable Solid Waste type intended for that segregated section of the Bin (e.g., a Split-Bin for Solid Waste and Recyclable Materials would be half gray and half blue, respectively).

- g) Organic Waste Processing Facility. Contractor shall designate an Organic Waste Processing Facility for use by Contractor hereunder. Contractor shall notify City within thirty (30) days if Contractor changes the Organic Waste Processing Facility. Notwithstanding the foregoing, City reserves the right to direct waste to City-selected facilities, in accordance with Section 5.08, Flow Control. Nothing in this Agreement shall be construed as obligating Contractor to redesignate any Organic Waste Processing Facility prior to City and Contractor having first agreed in writing to a reasonable change in compensation.
- h) Program Changes. In the event of any changes to SB 1383 that impact the duties and obligations of the City or Contractor under such law, Contractor and City shall meet and confer in good faith to negotiate and implement any necessary programmatic compliance. Nothing in this Agreement shall be construed as obligating Contractor to provide additional or modified services prior to City and Contractor having first agreed in writing to any such change.

8. **Contamination Monitoring**. Article 4 of the Agreement is hereby amended to add Section 4.18 as follows:

4.18 Contamination Monitoring

In order to prevent Contamination in Customer Containers, Contractor shall implement the Contamination Protocols, as specified herein.

- a) Upon the first and second discoveries of Contamination within a given calendar year starting January 1, Contractor will collect the contaminated waste if safe to

do so, treat the waste as garbage for handling and billing purposes, and affix a "Contamination Violation Notice" using a form approved by the City, to any Customer Containers with Contamination. The Contamination Violation Notice will contain instructions on the proper procedures for sorting waste, and Contractor must notify the customer by phone, by U.S. mail, by email, in person, or by tag, of the following: (i) for the third and subsequent occurrences of Contamination, the customer may be charged a contamination fee for each contaminated Customer Container, and (ii) for the fifth and subsequent occurrences of Contamination, Contractor may charge a contamination fee and increase the size of the Customer's Containers or require additional Customer Container(s). Contractor must also contact the customer by phone, by U.S. mail, by email, in person, or by tag, to ensure that the Customer has the appropriate level of service for proper collection of waste.

- b) Upon each of the third and fourth discoveries of Contamination within a given calendar year starting January 1, Contractor will collect the waste in the contaminated Customer Container(s) if safe to do so, treat the waste as garbage for handling and billing purposes, and affix a Contamination Violation Notice to the contaminated Customer Containers. Contractor may also elect to charge a contamination fee for each occurrence of Contamination. For any assessed contamination fee, Contractor must provide digital/visual documentation of Contractor's discovery of Contamination.
- c) Upon each of the fifth and any subsequent discoveries of Contamination within a given calendar year starting January 1, Contractor will collect the waste in the contaminated Customer Container(s) if safe to do so, treat the waste as garbage for handling and billing purposes, and charge a contamination fee for each occurrence of Contamination. For any assessed contamination fee, Contractor must provide digital/visual documentation of Contractor's discovery of Contamination. Further, upon five (5) business days' notice to City and customer, Contractor may (i) increase Customer Container size, require additional Containers, or increase collection frequency, or (ii) impose contamination fees for a period of six (6) months or until

the customer has demonstrated no Contamination for a period of three (3) consecutive months. City will consult with Contractor and consider, and City will pursue as applicable, appropriate legal remedies against offending customers in order to secure discontinuance of the Contamination. Contractor may recover from the offending Customer(s) the costs of such City actions. All unpaid amounts due to Contractor hereunder shall be subject to the delinquent payment procedures specified in Article 6.01.

9. **Solid Waste Disposal.** Section 5.01 of the Agreement shall be deleted in its entirety and replaced with the following:

5.01 Transfer and Processing Standards

Contractor warrants that all facilities selected by Contractor for the transfer and processing of Solid Waste will be authorized and permitted to accept and process Solid Waste in accordance with 15 C.C.R. Article 6.2, as applicable. Notwithstanding the foregoing, to the extent a facility is not owned or operated by Contractor, Contractor shall be in compliance with this Section 5.01 if, as directed by City, Contractor requests a certified statement from the owner or operator of a facility that it is authorized and permitted to accept, process, and dispose waste in accordance with 15 C.C.R. Article 6.2.

10. **Food Recovery Assistance Program.** Article 6 of the Agreement is hereby amended to add Section 6.10 as follows:

6.10 Food Recovery Assistance

A. Identification of Edible Food Generators. No later than November 1, 2022, Contractor shall identify customers in the Service Area that meet the definition of Tier One and Tier Two Commercial Edible Food Generators, and provide to the City a list of such customers, which shall include: Customer name; service address; contact information; Tier One or Tier Two classification; and type of business.

B. Assessment. Commencing November 1, 2022, and annually thereafter, Contractor shall assist City with contacting Tier One Commercial Edible Food Generators, Food Recovery Organizations, and Food Recovery Services in the Service Area and assist City with assessment of compliance with the requirements of 14 CCR Chapter 12 Article 10. Commencing January 1, 2024, and at least annually thereafter, Contractor

shall expand its annual assessment to include Tier Two Commercial Edible Food Generators in the Service Area.

C. Education and Outreach. Commencing November 1, 2022, and annually thereafter, Contractor shall provide Commercial Edible Food Generators in the Service Area with the following information: (i) information about the Contractor's and/or City's Edible Food Recovery program; (ii) information about the Commercial Edible Food Generator requirements under 14 CCR Chapter 12 Article 10; (iii) information about Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and (iv) information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste. Contractor may provide the education information required by this section by including it with regularly scheduled notices, education materials, billing inserts, or other information disseminated to Customers.

11. **SB 1383 Guarantee.** A new Section 12.08 of the Agreement is hereby amended to add the following:

12.07 SB 1383 Guarantee

Contractor will develop and maintain its Organic Waste program as required in this Agreement in a manner designed to assist City and Customers in achieving and maintaining compliance with SB 1383 within the Service Area. Contractor shall be deemed in non-compliance hereunder if CalRecycle determines that the requirements of SB 1383 are not met within the Service Area and the such failure is: (i) due to the sole failure of Contractor to meet its obligations under this Agreement; or, (ii) due to Contractor's sole delay in providing information relating to the Service Area that prevents City from submitting reports to CalRecycle in a timely manner. In the event of non-compliance hereunder, Contractor shall be liable to City with respect to any penalties assessed against, or costs incurred by City arising therefrom.

12. **Liquidated Damages.** Section 13.06 the Agreement is hereby amended to add the following additional liquidated damages:

| | | |
|-----|---|---|
| 34. | Failure to comply with Container labeling and colors within Service Area as specified in this Agreement as it relates to SB 1383. | \$50/Service Area per Day Note: For the avoidance of doubt, this is the maximum penalty that can be assessed for all occurrences of non- |
|-----|---|---|

| | | |
|-----|---|-------------------------------------|
| | | compliance within the Service Area. |
| 35. | Failure to conduct route audits and contamination monitoring as required by this Agreement as it relates to SB 1383. | \$50/Audit/Day |
| 36. | Failure to issue contamination notices as required by this Agreement as it relates to SB 1383. | \$50/Audit/Day |
| 37. | Failure to provide adequate primary and alternate capacity to accept and Process Recyclable Materials or Organic Waste. | \$500/day |

13. **Service Rates.** Exhibit 2 to the Agreement is hereby amended and replaced in its entirety with a newly revised Exhibit 2, incorporated herein as Attachment 1 of this Amendment.

14. **City Clerk.** The City Clerk is hereby directed to attach this Amendment to the Agreement.

15. **Due Execution.** The person(s) executing this Amendment on behalf of the Parties hereto warrant(s) that (i) such Party is duly organized and existing, (ii) such person(s) are duly authorized to execute and deliver this Amendment on behalf of said Party, (iii) by so executing this Amendment, such Party is formally bound to the provisions of this Amendment, and (iv) entering into this Amendment does not violate any provision of any other agreement to which said Party is bound.

16. **Entire Amendment.** This Amendment contains the entire agreement and understanding between the Parties with respect to the subject matter of this Amendment, and supersedes any and all prior or contemporaneous oral and written representations, warranties, agreements, and understandings between the Parties concerning the subject matter of this Amendment. To the extent the provisions of this Amendment are in conflict with the Agreement, as amended previously, and such provisions of the Agreement cannot be reasonably harmonized with the terms hereof pursuant to legal rules of contract and statutory interpretation, the provisions of this Amendment shall control.

17. **Full Force and Effect.** Other than as set forth in this Amendment, the terms of the Agreement shall remain unchanged and in full force and effect. In the event of any conflict between the Agreement and this Amendment, this Amendment shall apply.

18. **Counterparts.** This Amendment may be executed in counterparts, each of which shall be considered an original.


[Signatures page follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first set forth below.

CITY OF WHITTIER

ARAKELIAN ENTERPRISES,
INC., a California corporation

Brian Saeki
City Manager


Ron Arakelian III
Executive Officer

Date

_____05/19/2022_____
Date

ATTEST:

Rigoberto Garcia Jr.
City Clerk

Date

APPROVED AS TO FORM

Richard D. Jones
City Attorney

Date

AMENDMENT ATTACHMENT 1

AGREEMENT EXHIBIT 2

MAXIMUM SERVICE RATES

EFFECTIVE AUGUST 1, 2022

EXHIBIT 2A - RESIDENTIAL SERVICES

Maximum Residential Service Rates Effective August 1, 2022

| Residential Premises - CORE SERVICES | | MAXIMUM RATE | |
|--------------------------------------|---|--------------|---------------------------|
| A. | SFD CART SERVICE - One 64-gallon refuse, one 96-gallon recycling, and one 96-gallon green waste carts - weekly collection*. | \$ 27.01 | Per Month |
| Al. | Street Sweeping Fee | \$ 1.84 | Per Month |
| B. | Utility User's Tax Exemption Discount | \$ (5.00) | Per Month |
| C. | Additional Refuse Cart(s) - each. | \$ 8.27 | Per Month |
| D. | Additional Green Waste Carts - each after first two (2). | \$ 8.27 | Per Month |
| E. | All additional Recycling Carts will be free of charge | No Charge | |
| F. | Cart Delivery (addition, removal or exchange) beyond three (3) per customer per Agreement Year. | \$ 46.42 | Per Trip |
| G. | Cart Replacement due to customer damage. | \$ 87.04 | Per Event |
| H. | On-Call Bulky Waste / E-Waste beyond four (4) pickups per Agreement Year, 3 items per pickup (Single and Multi-Family) | \$ 63.82 | Per item |
| I. | Annual Holiday Tree Collection | No Charge | |
| J. | Cart Roll-Out Service - Incremental Charge (in addition to base charge in line A). | \$ 27.22 | Per Month |
| K. | Cart Roll-Out Service for Residents with Disabilities - Incremental Charge (in addition to base charge in line A) | No Charge | |
| L. | Low Income Senior and Active Military Discount | (10%) | Monthly Fees & Billings |
| M. | Additional Special Overage Pickup for Automated Cart Customers (in excess of two pickups per year) | \$ 5.80 | Per Pickup |
| N. | Residential Go-Back | \$ 27.62 | Per Event |
| O. | Residential Contamination Fee (Recycling/Organics) | \$ 25.00 | Per Event |

* 64-gallon refuse cart may be replaced with up to two 32-gallon refuse carts at customer request at the same charge. [The SFD Cart Service rate applies to those accounts where customer-owned barrel use has been previously approved.](#)

EXHIBIT 2B - COMMERCIAL SERVICES
Effective August 1, 2022

| Commercial & Multi-Family Refuse Service Rates | | | | | | | |
|---|-----------------------------|----------------|----------------|----------------|-----------------|-----------------|-------------------|
| Container Size | Pickups 1>er week | | | | | | Extra Dump |
| | 1xwk | 2xwk | 3xwk | 4xwk | 5xwk | 6xwk | |
| 1 Cubic Yard | \$67.01 | \$129.20 | \$191.23 | \$252.42 | \$313.00 | \$374.67 | \$63.62 |
| 1.5 Cubic Yards | \$97.77 | \$188.56 | \$279.36 | \$370.17 | \$460.96 | \$551.76 | \$63.62 |
| 2 Cubic Yards | \$128.03 | \$243.44 | \$358.83 | \$474.24 | \$589.65 | \$705.04 | \$63.62 |
| 3 Cubic Yards | \$186.10 | \$350.71 | \$515.32 | \$679.93 | \$844.53 | \$1009.16 | \$63.62 |
| 4 Cubic Yards | \$305.81 | \$432.17 | \$624.24 | \$823.74 | \$1023.22 | \$1222.69 | \$63.62 |
| 6 Cubic Yards | \$473.37 | \$669.85 | \$860.92 | \$1191.05 | \$1516.51 | \$1844.15 | \$63.62 |
| 96 Gal Cart | \$32.50 | \$74.09 | \$115.67 | \$157.26 | \$198.87 | \$240.46 | \$63.62 |
| 300 Gal Cart | \$97.77 | \$188.56 | \$279.36 | \$370.17 | \$460.96 | \$551.76 | \$63.62 |
| 64 Gal Cart | \$21.66 | \$46.62 | \$71.58 | \$96.53 | \$121.48 | \$146.44 | \$63.62 |
| Street Sweeping Fee (1st Container Only) | \$1.84 | \$1.84 | \$1.84 | \$1.84 | \$1.84 | \$1.84 | |

| Commercial & Multi-Family Source-Separated Single Stream Rec Service Rates* | | | | | | | |
|--|-------------------------|---------------|----------------|---------------|----------------|-----------------|-------------------|
| Container Size | Pickups per week | | | | | | Extra Dump |
| | 1xwk | 2xwk | 3xwk | 4xwk | 5xwk | 6xwk | |
| 1 Cubic Yard | <u>50.26</u> | <u>96.90</u> | <u>143.42</u> | <u>189.31</u> | <u>234.76</u> | <u>281.00</u> | <u>52.06</u> |
| 2 Cubic Yards | <u>96.03</u> | <u>182.58</u> | <u>269.13</u> | <u>355.68</u> | <u>515.78</u> | <u>528.78</u> | <u>52.06</u> |
| 3 Cubic Yards | <u>139.57</u> | <u>263.05</u> | <u>386.50</u> | <u>509.95</u> | <u>633.40</u> | <u>756.88</u> | <u>52.06</u> |
| 4 Cubic Yards | <u>229.34</u> | <u>324.12</u> | <u>468.18</u> | <u>617.80</u> | <u>767.42</u> | <u>917.01</u> | <u>52.06</u> |
| 96 Gal Cart | <u>24.38</u> | <u>55.57</u> | <u>86.74</u> | <u>117.95</u> | <u>149.15</u> | <u>176.22</u> | <u>52.06</u> |
| 64 Gal Cart | \$16.25 | 37.04 | \$57.83 | 78.63 | \$99.41 | \$120.19 | \$52.06 |

* Commercial Source-Separated Single Stream Recycling Bin shall not exceed 75% of the corresponding Refuse Bin Service Rate.

| Commercial & Multi-Family Green Waste Service Rates | | | | | | | |
|--|-------------------------|-------------|-------------|-------------|-------------|-------------|------------------|
| Container Size | Pickups per week | | | | | | Extra Dum |
| | 1xwk | 2xwk | 3xwk | 4xwk | 5xwk | 6xwk | |
| 1 Cubic Yard | 63.51 | 121.72 | 179.92 | 238.12 | 296.32 | 354.52 | 40.49 |
| 2 Cubic Yards | 114.57 | 216.05 | 317.50 | 418.96 | 520.43 | 621.88 | 40.49 |
| 3 Cubic Yards | 165.64 | 310.36 | 455.09 | 599.81 | 744.52 | 889.24 | 40.49 |
| 4 Cubic Yards | 259.94 | 410.47 | 603.24 | 796.01 | 988.79 | 1181.59 | 40.49 |
| 6 Cubic Yards | 402.38 | 569.37 | 819.15 | 1079.66 | 1340.15 | 1600.65 | 40.49 |
| 96 Gal Cart | 51.24 | \$110.66 | 170.07 | \$229.49 | 288.88 | 348.31 | \$40.49 |

EXHIBIT 2B - COMMERCIAL SERVICES (continued)
Effective August 1, 2022

| Commercial & Multi-Family Organics Rates | | | | | | | |
|---|-------------------------|-------------|-------------|-------------|-------------|-------------|------------------|
| Container Size | Pickups per week | | | | | 6xwk | Extra Dum |
| | 1xwk | 2xwk | 3xwk | 4xwk | 5xwk | | |
| 64 Gal Cart | 48.76 | 96.21 | 143.65 | 191.10 | 238.53 | 285.97 | 40.49 |
| 96 Gal Cart | 58.23 | 116.46 | 174.69 | 232.93 | 291.17 | 349.40 | 44.26 |
| 1 Cubic Yard | 77.64 | 155.29 | 232.92 | 310.57 | 388.21 | 465.85 | 52.07 |
| 2 Cubic Yards | \$155.28 | 310.57 | 465.84 | \$621.14 | \$776.41 | 931.70 | \$69.42 |
| 3 Cubic Yards | \$232.93 | \$465.84 | \$698.78 | \$931.70 | \$1164.62 | \$1397.54 | \$86.75 |

| Locking Bin and Roll-Out/Scout Service | | | | | | |
|---|-----------------------------|-------------|-------------|-------------|-------------|-------------|
| Service | Pickups 1>er week | | | | | |
| | 1xwk | 2xwk | 3xwk | 4xwk | 5xwk | 6xwk |
| Locking Bin | \$5.79 | \$11.57 | \$17.36 | \$23.14 | \$28.91 | \$34.70 |
| Roll-Out Service | \$63.62 | \$63.62 | \$86.75 | \$115.68 | \$144.61 | \$173.53 |

| Compactor Service Rates* | | | | | | |
|---------------------------------|-----------------------------|-------------|-------------|-------------|-------------|-------------|
| Container Size | Pickups 1>er week | | | | | |
| | 1xwk | 2xwk | 3xwk | 4xwk | 5xwk | 6xwk |
| 2 Cubic Yards | \$356.74 | \$558.88 | \$821.37 | \$1083.84 | \$1346.33 | \$1608.80 |
| 3 Cubic Yards | \$428.49 | \$802.90 | \$1177.28 | \$1551.70 | \$1926.09 | \$2300.48 |
| Locking Bin | \$5.79 | \$11.57 | \$17.36 | \$23.14 | \$28.91 | \$34.70 |

* Compactor Service for Commercial or Multi-Family Premises.

| Commercial Temporary Bin Service Rates | | |
|---|---|---------------------|
| ITEM | TEMPORARY BIN SERVICE | MAXIMUM RATE |
| A. | 3-Yard Bin: Delivery and Removal ^ 1 st Dump | \$115.68 |
| B. | 3-Yard Bin: Each additional dump | \$80.97 |
| C. | 3-Yard Bin Dead run - Temporary service | \$98.33 |
| D. | 3-Yard Bin Daily Rental a er 7 days with no dump | \$34.70 |

EXHIBIT 2C - ROLL-OFF SERVICES
Effective August 1, 2022

| Regular Roll-Off & Compactor Roll-Off Service Rates | | |
|--|---|---|
| ITEM | SERVICE | MAXIMUM RATE |
| A. | Per Pull - Any Size (regular, C&D and clean inerts) | \$344.49 |
| B. | Per Ton - Roll-Off Landfill Disposal Fee (1) | \$65.33 |
| C. | Per Ton - C&D MRF | \$80.05 |
| D. | Clean Inert C&D - 10 Yard, per ton fee | Actual gate fee, grossed up for franchise fee (2) |
| E. | Daily Rental (after 7 days with no dump) | \$28.58 |
| F. | Dead Run | \$171.54 |
| G. | Roll-top Box Cover (Monthly) | \$72.24 |
| H. | Compactor Wash Out (Per Request) | \$69.62 |
| I. | Compactor Rental (Monthly) | \$348.15 |

(1) Landfill fee grossed up for 18% franchise fee: $\$53.55 \text{ Landfill Fee} + 0.82 = \65.33

(2) Formula to gross up for 18% franchise fee: $\text{Actual Gate Rate Per Ton} + 0.82$

EXHIBIT 2D - OTHER SERVICES
Effective August 1, 2022

| Rates - Other Services | | | |
|-------------------------------|--|--------------------------------|-----------|
| | OTHER SERVICES | MAXIMUM RATE | |
| A. | On-Call Bulky Waste (Commercial) | \$57.18 | Per Item |
| B. | Emergency Service | \$142.94 | Per Hour |
| C. | Late Fee | 1.5% | Per Month |
| D. | Bin Washing Service beyond once per year | \$57.18 | Per Bin |
| E. | On-Call U-Waste and E-Waste Collection (Commercial) | Rates negotiated with customer | |
| F. | Special Cleanup Events beyond 48 Cleanups per Agreement Year | \$114.35 | Per Event |
| G. | Additional Porter Service - in excess of 50 hours per week, if requested by City | \$114.35 | Per Hour |
| H. | Bin Go-Back | \$77.07 | Per Trip |
| I. | Roll-Off Relocation (not associated with dump) | \$122.34 | Per Item |
| J. | Commercial Overage (documented with photos) | \$72.36 | Per Event |
| J. | Commercial Contamination Fee (Recycling/Organics) | \$70.00 | Per Event |