

HOST FEE AGREEMENT
Between
CITY OF PARAMOUNT
A California Municipal Corporation
And
ARAKELIAN ENTERPRISES INC., DBA ATHENS SERVICES

HOST FEE AGREEMENT

This Amended and Restated Host Fee Agreement ("Agreement") is entered into on _____, 2024 by and between the CITY OF PARAMOUNT ("City") and ARAKELIAN ENTERPRISES INC., DBA ATHENS SERVICES, ("Athens"), both of which are sometimes individually referred to as "Party" and collectively as "Parties."

RECITALS

WHEREAS, on or about May 2015, the City's Planning Commission approved an amendment to Conditional Use Permit ("CUP") No. 445, allowing the Paramount Resource Recycling Facility to receive, process, and transfer up to 570 tons per day of construction and demolition debris, green waste, and self-haul waste at 7230 Petterson Lane ("PRR Property"); and

WHEREAS, on or about May 2015, the City's Planning Commission also approved CUP No. 721, allowing the operation the Royal Recycling and Transfer Facility at 14001 Garfield Avenue ("RRT Property"). CUP No. 721 allows for the receipt, processing, and transfer of up to 2,450 tons per day of source separated recyclables, residential curbside recycling materials, and municipal solid waste (MSW); and

WHEREAS, Athens applied for a CUP that would consolidate CUP Nos. 445 and 721 into a single CUP ("CUP 955") to allow a facility that processes source separated recyclables, residential curbside recycling materials, municipal solid waste (MSW), construction and demolition debris, green waste, and self-haul waste (collectively, "Waste Materials") with a combined processing allowance of 3,020 tons per day of such materials ("Daily Tonnage") at 7230 Petterson Lane and 14001 Garfield Avenue ("Combined Properties"); and

WHEREAS, should CUP 955 be approved, the total tonnage allowed under CUP Nos. 445 and 721 will neither be affected nor increased as a result of the consolidation of CUPs; and

WHEREAS, the City on the one hand, and Royal Recycling and Transfer, LLC and Paramount Resource Recycling, Inc., predecessors in interest to Athens, were parties to those certain Host Fee Agreements dated March 15, 2017 and March 21, 2017, respectively ("Prior Agreements"), and the City and Athens have agreed to amend and restate those agreements into this Agreement whereby Athens agrees to pay a certain sum of money to City as specified in the Agreement.

NOW, THEREFORE, in consideration of the covenants, promises, and agreements hereafter set forth, City and Athens do mutually agree as follows:

AGREEMENT

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to establish certain obligations between the Parties and their successor(s), including an obligation of Athens to pay City a "Host Fee" as specified in Section 7 of this Agreement upon the commencement of operations pursuant to CUP 955 permitting combined processing of 3,020 tons per day of Waste Materials at the Combined Properties for so as long as the Combined Properties are operating pursuant to CUP 955.

2. EFFECTIVE DATE

This Agreement is hereby deemed effective ("Effective Date") when all of the following have occurred: (i) this Agreement has been executed and delivered on behalf of the person or persons authorized to bind Athens hereto; (ii) this Agreement has been executed and delivered on behalf of the City by the person or persons authorized to enter this Agreement on the City's behalf; (iii) approval of the Agreement by the City Council; (iv) approval of that certain Amendment No. 2 to the Agreement for Solid Waste Collection Services dated June 18, 2019 ("Collections Agreement") and execution by City and Athens thereof; (v) approval of CUP 955 by the City's Planning Commission, permitting combined processing of 3,020 tons per day of Waste Materials at the Combined Properties; (vi) the City Attorney indicates in writing its approval of this Agreement as to form; and (v) Athens has begun to receive any amount of Waste Materials pursuant to CUP 955 at the Combined Properties.

3. TERM

This Agreement shall commence upon the Effective Date and shall remain in full effect thereafter so long as CUP 955 remains valid ("Term"). Notwithstanding the foregoing, the unexcused and/or uncured material breach of this Agreement shall give rise to the right, in favor of City, for earlier termination for cause in accordance with the procedures specified Article 12.

4. DEFINITIONS

Whenever any capitalized term used in this Agreement has been defined by the City of Paramount Municipal Code or Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in the Municipal Code or Public Resources Code shall apply unless the term(s) is otherwise defined in this Agreement.

5. COMPLIANCE WITH LAWS AND REGULATIONS

Athens warrants that it will comply with all applicable laws and regulations as they, from time to time, may be amended, specifically including, but not limited to all applicable laws, ordinances of the City and Federal and State regulations as they apply to the Combined Properties and with all conditions of approval of CUP 955.

6. EQUIPMENT

Athens shall provide an adequate number of vehicles and equipment for the services for which it performs. All equipment shall conform to the highest industry standards, shall be maintained in a clean and efficient condition and shall comply with all measures and procedures promulgated by all agencies with jurisdiction.

7. USE FEE; HOST CAP

A. Beginning as of July 1, 2024, Athens shall pay a fee of \$1.9205 per ton of Waste Materials received at the Combined Properties per month ("Use Fee"), with total payments not to exceed One Million Five Hundred (\$1,500,000) per fiscal year ("Host Cap"). If the total Use Fees paid in a given quarter are less than \$375,000, Athens shall be responsible for a supplemental fee in an amount equal to \$375,000 less the actual Use Fees paid in that quarter ("Quarterly True-up").

- B. Use Fees are payable monthly and Quarterly True-Ups are payable quarterly. Payment is due no later than thirty (30) days following the end of each month or quarter, as applicable, in which Waste Materials are received at the Combined Properties, provided the first Quarterly True-up, if any, will apply to the quarter beginning July 1, 2024 and ending September 30, 2024.
- C. Athens shall receive a one-time credit in the amount of \$246,021 to be applied evenly against amounts due in connection with the first and second Quarterly True-up under this Agreement (“Credit Period”), or if not fully expended during the Credit Period, the third Quarterly True-up until the credit is expended in full. If the Effective Date occurs after July 1, 2024, Athens shall receive an additional credit equal to \$1.9205 per ton of Waste Materials received during the period starting July 1, 2024 and ending on the Effective Date, and such amounts will be applied during the Credit Period until the credit is expended in full.
- D. Upon (i) receipt of a “Notice of Effective Wind-Down” as provided in Section 2.5 of the Collections Agreement, and/or (ii) the full build-out of the project permitted pursuant to CUP 955, if permitted (each, an “Adjustment Event”), Quarterly True-up payments shall cease, and Athens will only be required to pay the Use Fee based on actual tons received at the Combined Properties. Further, within thirty (30) days of an Adjustment Event, either City or Athens may request to meet and confer to adjust the Use Fee using a then-existing market rate. The adjustment will be determined based on the average of fees substantially similar to the Use Fee made by Athens in connection with substantially similar agreements with the cities of Downey, Irwindale, and Industry at the time of the Adjustment Event. If, at the time of any Adjustment Event, Athens is no longer subject to those agreements, the agreements will not be considered in establishing the adjustment. Any adjustment must be agreed upon in writing by City and Athens prior to implementation. The adjusted Use Fee could be a tiered calculation based on tonnage received at the Combined Properties and the parties may, upon mutual agreement, reinstate Quarterly True-ups, and modify the Host Cap.

8. BOOKS, REPORTS, AND RECORDS; AUDITS

- A. Accounting; Monthly Tonnages. Athens shall submit to City an accounting of payments made to the City. Such accounting shall consist of, at a minimum, the official monthly tonnages as reported to the County of Los Angeles Department of Public Health, Solid Waste Management Program.
- B. Interest; Unpaid Amounts. Interest shall accrue at two percent (2%) per annum. Failure to make undisputed payment in full shall be a material breach of this Agreement subject to damages and/or remedies as described herein, including suspension or revocation of CUP 955.
- C. Review of Tonnage Records. In addition to the record retention requirements set forth below, Athens shall maintain all tonnage records relating to this Agreement, including, but not limited to, facility weight tickets, bills of lading, recyclable shipments, landfill records, and self-monitoring reports for a minimum of three (3) years after each receipt of Waste Materials at the Combined Properties. The City shall have the right, upon reasonable advance notice, to inspect, audit and copy all records referred to above relating to this Agreement to verify tonnage received. In the absence of extraordinary circumstances, seven (7) days’ notice shall be

considered reasonable. Such records shall be made available to City at Athens' corporate offices.

- D. Audit. The books, records, and accounts relating to tonnage received at the Combined Properties shall be audited by a certified public accountant at the end of each calendar year, upon request by City. The report and all work papers utilized in the preparation of such audit shall be submitted to the City Manager. The City Manager or his designee shall review the work and work papers and may require further information from Athens. If any such audit discloses a deviation of greater than 2% with respect to the actual annual tonnage reported by Athens for the period of such audit, the cost of the audit shall be paid to the City by Athens. Otherwise, the cost of such audit shall be borne by the City.
- E. Audit Adjustments. The City shall notify Athens in writing of the findings resulting from any audit or review of tonnage received at the Combined Properties pursuant to this Agreement. Should the audit or review reveal an underpayment to the City by Athens, the amount of the underpayment, plus interest compounded daily at the rate specified in Section 8(b) of this Agreement, shall be paid to City within thirty (30) days from receipt of written notice of the findings. Should Athens dispute the findings, it may appeal said findings in writing to the City Manager within thirty (30) days of the written notification. The City Manager or his designee shall then hold a hearing on the matter within fifteen (15) days. At the hearing, the City Manager or his designee shall take into account all reports submitted by Athens, the report and other information submitted by the auditor, and any other such information Athens may wish to submit. Evidence may be submitted either orally or in writing. The City Manager or his designee shall issue a written decision within fifteen (15) days of the close of the hearing which decision shall be final.
- F. City's Right to Request Information. Athens shall provide to City additional information reasonable and directly pertaining to this Agreement on an "as- needed" basis.
- G. Certification. All reports pursuant to this Agreement shall be signed under penalty of perjury, by the responsible corporate official, attesting that the report is true and correct.
- H. Submission of Reports. Any reports and/or other communications required or requested per this Agreement shall be submitted to:

City Manager
City of Paramount
16400 Colorado Avenue
Paramount, CA 90723-5012

9. INDEMNIFICATION

Indemnification of City: That Athens agrees to defend, indemnify and hold harmless the City, its elected officials, officers, employees, volunteers, agents, assigns and any successor or successors to City's interest from any claim, action or proceeding against the City or its elected officials, officers, employees, volunteers, agents, assigns and any successor or successors to City's interest to attack, set aside, void or annul an approval of the City or any

of its City Council, commissions, committees or boards arising from or in any way related to Athens or any actions or operations conducted pursuant thereto. Should the City, its elected officials, officers, employees, volunteers, agents, assigns and any successor or successors to City's interest receive notice of any such claim, action or proceeding, the City shall promptly notify Athens of such claim, action or proceeding, and shall cooperate fully in the defense and all costs associated thereof.

10. INSURANCE

Athens shall procure and maintain during the entire time that this Agreement is effective the following types of insurance, and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Athens' operations of Athens or the actions or inactions of any of Athens' officers, agents, representatives, employees, or subcontractors in connection with Athens' operations of Athens under this Agreement. The insurance requirements hereunder in no way limit Athens' various defense and indemnification obligations, or any other obligations as set forth under this Agreement.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. The most recent editions of Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 00 01).
2. The most recent editions of Insurance Services Office form number CA 00 1 covering Automobile Liability, code 1 "any auto" and endorsement CA 00 25.
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

B. Minimum Limits of Insurance. Athens shall maintain in force for the term of this Agreement limits no less than:

1. Comprehensive General Liability: Seven Million Dollars (\$7,000,000) limit aggregate and Seven Million Dollars (\$7,000,000) limit per occurrence for bodily injury, Personal injury and property damage.
2. Automobile Liability: Seven Million Dollars (\$7,000,000) limit aggregate and Two Million Dollars (\$2,000,000) single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California (or provide evidence of State approval to be self-insured).

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention's as respects City, its elected officials, appointed boards, commissions, officers, employees, volunteers, agents, assigns and any successor or successors to City's interest; or Athens shall procure a bond guaranteeing payment of losses and related

investigations, claim administration and defense expenses.

D. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- (a) City its elective and appointive boards, commissions, officials, employees, agents and volunteers are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Athens; products and completed operations of Athens; Premises owned, leased or used by Athens; or vehicles owned, leased, hired or borrowed by Athens. The coverage shall contain no special limitations on the scope of protection afforded to City, its elective and appointive boards, commissions, officials, employees, agents or volunteers.
- (b) Athens' insurance coverage shall be primary insurance as respects City, its elective and appointive boards, commissions, officials, employees, agents and volunteers. Any insurance or self- insurance maintained by City, its officials, elective and appointive boards, commissions, employees, agents or volunteers shall be excess of Athens' insurance and shall not contribute with it.
- (c) Any failure by Athens Services to comply with reporting provisions of the policies shall not affect coverage provided to City, its elected officials, officers, employees, volunteers, agents, assigns and any successor or successors to City's interest. Coverage shall state that Athens' insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage - The insurer shall agree to waive all rights of subrogation against City, its officials, elective and appointive boards, commissions, employees, agents and volunteers for losses arising from work performed by Athens for City.

3. All Coverages - Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

E. Acceptability of Insurers. The insurance policies required by this section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A or better.

F. Verification of Coverage. Athens shall cause its insurance carrier(s) to furnish City by direct mail with certificate(s) of insurance showing that such insurance is in full force

and effect, and City, its elective and appointive boards, commissions, officials, employees, agents and volunteers are named as additional insured with respect to this Agreement as described above and the obligations of Agreement hereunder. Further, the certificate(s) shall contain the covenant of the insurance carrier(s) that thirty (30) calendar days written notice (ten [10] calendar days in the event of cancellation for non-payment) shall be given to City prior to modification, cancellation or reduction in coverage of such insurance. In the event of any such modification, cancellation or reduction in coverage and on the effective date thereof, this Agreement shall terminate forthwith, unless City receives prior to such effective date another certificate from an insurance carrier that the insurance required herein is in full force and effect. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies, and shall have all required endorsements. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to the City Attorney and are to be received and approved by City before work commences. City reserves the right to require complete, certified copies of all required insurance policies at any time.

Renewal certificates will be furnished periodically to City to demonstrate maintenance of the required coverage throughout the Term.

G. Companies and Subcontractors. Athens shall include all companies, including contract trucking companies but not subhaulers and third party facility operators (“companies”) as insureds under its policies or shall furnish separate certificates and endorsements for each contractor. All coverages for companies shall be subject to all of the requirements stated herein.

H. Required Endorsements

1. The Workers' Compensation policy shall contain an endorsement in substantially the following form:

"Thirty (30) days (or ten [10] days in the event of cancellation for non-payment) prior written notice by certified mail, return receipt requested, shall be given to City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

City Manager
City of Paramount 16400 Colorado Ave.
Paramount, CA 90723

2. The Public Liability policy shall contain endorsements in substantially the following form:

a) "Thirty (30) days (or ten [10] days in the event of cancellation for non-payment) prior written notice shall be given to City in the event of cancellation, reduction in coverage, or nonrenewal of this policy." Such notice shall be sent to:

City Manager
City of Paramount 16400 Colorado Ave.

Paramount, CA 90723

- b) Athens agrees to endorse the third party general liability coverage required herein to include as additional insureds City, its elective and appointive boards, commissions, officials, employees, agents and volunteers, using standard ISO endorsement No. CB 2010 with an edition date of 1985, or equivalent provisions as determined acceptable by the Office of the City Attorney for the City of Paramount in its sole discretion. Athens also agrees to require all contractors, subcontractors and anyone else involved in any way with the project contemplated by this agreement, to do likewise."
- c) "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by City, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."
- d) "Inclusion of City as an additional insured shall not affect City's rights as respects any claim, demand, suit or judgment brought or recovered against Athens. This policy shall protect Athens and City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase Athens' liability as set forth in the policy beyond the amount shown or to which Athens would have been liable if only one party had been named as an insured."

I. Other Insurance Requirements

1. In the event any services are delegated to another company or subcontractor, including subsidiary companies, Athens shall require such company or subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the company's or subcontractor's employees engaged in the work in accordance with this Section. The liability insurance required by this Section shall cover all companies or subcontractors or the companies or subcontractors must furnish evidence of insurance provided by it meeting all of the requirements of this Section.
2. Athens shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Athens of any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third Person against Athens or any company or subcontractor on account of any occurrence related to this Agreement, Athens shall promptly report the facts in writing to the insurance carrier and to City.

Athens fails to procure and maintain any insurance required by this Agreement, City may take out and maintain, at Athens' expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due Athens.

11. ASSIGNMENT; CITY CONSENT

- A. Except as provided below, this Agreement may not be assigned by either party, without the written consent of the other, which may not be withheld unreasonably and is not required with respect to an assignment by Athens to an affiliate.
- B. If this Agreement is assigned, it shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

12. REMEDIES; IMPOSITION OF DAMAGES; TERMINATION

A. **Termination.** All terms and provisions of this Agreement are material and binding and failure of Athens to perform any provision hereof shall be a material breach of this Agreement, which may lead to both termination of this Agreement and suspension or revocation of CUP 955.

B. **Notice; Response; Resolution; Appeal**

1. **Notice of Deficiencies: Response.** If City determines that Athens has breached any provision of this Agreement, City shall advise Athens in writing within thirty (30) days of City's discovery of such deficiencies, specifying the deficiency or deficiencies in reasonable detail and setting forth a reasonable time, not less than thirty (30) days, within which Athens is to cure such breach. Unless the circumstances necessitate correction and response within a shorter period of time or unless a shorter period of time is required by this Agreement, Athens shall respond to the written Notification of Deficiencies within thirty (30) days from the receipt by Athens of such written notice. Athens may request additional time in writing to correct deficiencies; provided, such requests will not be unreasonably denied, however, for the avoidance of doubt, City is not required to grant any such request for additional time to cure said deficiencies.

2. **Review by City Manager: Notice of Appeal**

a) The City Manager shall review any written response from Athens and decide the matter. If the City Manager's decision is adverse to Athens, the City Manager may order remedial actions to cure any deficiencies or invoke any other remedy in accordance with this Agreement, including termination. The City Manager shall promptly inform Athens in writing of his/her decision. In the event the decision is adverse to Athens, the City Manager shall inform Athens of the specific facts found, and include any relevant affidavits, documents, photographs and videotapes and any other evidence relied on, and the legal basis in provisions of the Agreement or other laws for the decision and any remedial action taken or ordered. An adverse decision by the City Manager shall be final and binding on Athens unless Athens files a "Notice of Appeal" with the City Clerk within thirty (30) days of receipt of the notification of the adverse decision to the City Council.

b) In any "Notice of Appeal," Athens shall state all its factual contentions and include any relevant affidavits, documents, photographs and videotapes which Athens may choose to submit. In addition, Athens

shall include all its legal contentions, citing provisions of the Agreement or other laws to support its contentions.

3. **City Council Hearing.** If a matter is appealed to the City Council by Athens, the City Council will set the matter for an administrative hearing and act on the matter. The City Clerk shall give Athens a minimum of fifteen (15) days prior written notice of the time and place of the administrative hearing. At the hearing, the City Council shall consider the administrative record. No new legal issues may be raised, or new evidence submitted by Athens at this or any further point in the proceedings, absent a showing of good cause. Athens' representative and other interested persons shall have a reasonable opportunity to be heard.
4. **City Council Determination.** Based on the administrative record, the City Council shall determine by resolution whether the decision or order of the City Manager should be upheld. A tie vote of the City Council shall be regarded as upholding the decision of the City Manager. If, based upon the administrative record, the City Council determines that the performance of Athens is in breach of any term of this Agreement, the City Council, in the exercise of its discretion, may order Athens to take remedial actions to cure the breach or impose any other remedy in accordance with this Agreement, including termination of the Agreement. The decision or order of the City Council shall be final and binding.
5. **Continued Performance.** Athens' performance under the Agreement is not excused during the period of time prior to a final determination as to whether or not Athens' performance is in breach of this Agreement.

C. **Cumulative Rights.** City's rights of termination are in addition to any other rights of City upon a failure of Athens to perform its obligations under this Agreement.

13. **GENERAL PROVISIONS**

- A. **Independent Status.** Athens is an independent entity and not an officer, agent, servant or employee of City. Athens is solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any, including trucking contractors. Parties acknowledge and agree that Athens is not and shall not become, solely by virtue of this Agreement, a contractor or subcontractor to City. Nothing in this Agreement shall be construed as creating a partnership or joint venture between City and Athens. Neither Athens nor its officers, employee, agents or subcontractors shall obtain any rights to retirement or other benefits which accrue to City employees.
- B. **Governing Laws; Venue.** This Agreement shall be governed by the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in U. S. District Court, exclusive venue shall lie in the Central District of California.
- C. **Amendments.** Amendments must be in writing, duly executed by both parties.
- D. **Notices.** All notices required or permitted to be given under this Agreement shall be in

writing and deemed to have been sufficiently given when delivered in person, by registered or certified U.S. Mail, postage prepaid, return receipt requested, by facsimile, or by overnight delivery service requesting evidence of receipt as a part of its service, to the address of the respective party below:

To CITY:
City Manager
City of Paramount 16400 Colorado Avenue
Paramount, CA 90723-5012

To ATHENS SERVICES:

Gary M. Clifford II
Arakelian Enterprises Inc. dba Athens Services
14048 E. Valley Boulevard
City of Industry, CA 91746

Or to such other address as either party may from time to time designate by notice to the other given in accordance with this Section.

- E. **Severability.** If any provision of this Agreement is or becomes or is deemed invalid, illegal or unenforceable under the applicable laws or regulations of any jurisdiction, such provision will be deemed amended to the extent necessary to conform to applicable laws or regulations or, if it cannot be so amended without materially altering the intention of the parties, it will be stricken, and the remainder of this Agreement will remain in full force and effect. Notwithstanding the foregoing, in the event this Agreement, CUP 955, or Amendment No. 2 of the Collections Agreement becomes or is deemed invalid, illegal or unenforceable under the applicable laws or regulations of any jurisdiction in whole or part, any amounts paid hereunder pursuant to Article 7 shall be returned to Contractor within thirty (30) days of such determination.
- F. **Use of City Name.** Athens shall not use the words "CITY OF PARAMOUNT" or "CITY" or like words in its corporate names, style of business, or in/on its equipment, nor Athens utilize the stated words in any publication, promotion, program, etc., without the prior expressed written consent of City.
- G. **Force Majeure.** In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to causes beyond the control of and without the fault of such party, including war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, Acts of God, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, unusually severe weather, inability to secure necessary labor or supplies, materials or tools, or acts of the other party. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause.
- H. **Headings.** The headings in this Agreement are intended for convenience and identification only, are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision hereof, and are to be disregarded in the construction and enforcement of this Agreement.

- I. **Construction.** Each of the parties hereto agree and acknowledge that each party has reviewed and has had the opportunity to revise this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed to the interpretation of this Agreement, or any amendment.

- J. **Entire Agreement.** This Agreement amends and restates, and as a result, supersedes and replaces in its entirety the Prior Agreements, which are hereby null, void and of no further force or effect. The Agreement represents the entire understanding and agreement between the parties hereto relating to the subject matter hereof and supersedes any and all prior agreements, whether written or oral, that may exist between the parties regarding the same.

- K. **Counterparts.** This Agreement may be executed in any number of counterparts, and each counterpart is deemed to be an original instrument, but all such counterparts constitute but one instrument.

SIGNATURE PAGE BELOW

WITNESS the execution of this fourteen (14) page Agreement on the day and year first written above.

DATED: _____

DATED: _____

Arakelian Enterprises Inc., dba Athens Services

By: _____

INSERT

By _____ Mayor _____

[Title]

Approved as to form:

By: _____

John E. Cavanaugh

By _____ City Attorney _____

[Title]

ATTEST:

Heidi Luce , City Clerk