

**Solid Waste Collection Franchise Agreement
Frequently Asked Questions
February 29, 2016**

Who currently provides solid waste collection and recycling services in the City of Whittier?

The west side of the City is serviced by City crews for trash and the City has a service agreement with Consolidated Disposal Service (a subsidiary of Republic Services) to pick up recycling (Blue container) and green waste (Green container) there. The east side of the City is serviced through a franchise agreement with Consolidated Disposal to pick up trash, recycling and green waste. A small portion of the City near Lambert Road and Leffingwell Road is serviced through a franchise agreement with Waste Management to pick up trash, recycling and green waste.

Why do we need a new solid waste collection franchise agreement?

The current franchise agreements with Consolidated Disposal Service (a subsidiary of Republic Services) and Waste Management expire on June 30, 2016. The terms of the original agreements were for ten years (July 1, 2001-July 1, 2011) and allowed for a one-time five-year extension which has already been exercised.

Why did the City Council go out to bid for a new franchise agreement?

Several months ago, the City received an unsolicited proposal from Athens Services for an exclusive franchise agreement. However, the City Council determined that the City should instead pursue a competitive procurement process. Other providers of solid waste management services had also expressed interest in bidding on the City's solid waste collection service. At the May 12, 2015 meeting, the City Council received a report outlining a solid waste collection procurement process and approved issuing a request for proposals (RFP).

Was the City required to go out to bid for a new franchise agreement?

No. The California Public Resources Code (PRC) Sections 40000 et seq. gives cities broad authority over solid waste matters, including issues like frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services. In addition, a local agency can provide solid waste services by means of non-exclusive franchise, exclusive franchise, contract, license, permit or otherwise. The Whittier Municipal Code (Section 8.12.100.C) authorizes the City Council to enter into contracts, with or without competitive bidding, for solid waste collection services. The City Council opted to go out to bid to insure the City received the best proposals.

What companies were invited to bid?

On June 3, 2015 RFPs were issued to five highly qualified solid waste collectors (both publicly traded and privately held) of sufficient size and financial strength with good track records in the region that could meet the City's long term needs. Those collectors were Republic, Waste Management, Burrtec/EDCO, CR&R and Athens. All but one of

the collectors submitted responsive proposals by the deadline of July 28, 2015. Waste Management did not submit a proposal.

Who evaluated the proposals and on what basis were they compared?

After the City Council decided to pursue a competitive procurement process, they directed staff to retain expert consulting service to assist in the process. In response, Sloan-Vazquez, a consulting firm specializing in solid waste collection, was retained by the City Attorney's office to assist in the procurement process. Sloan-Vazquez has extensive experience in managing municipal solid waste procurement processes for local cities. Some of these cities include Cypress, Los Alamitos and La Mirada.

As was explained in the Request for Proposals, Sloan-Vazquez evaluated the four proposals on several criteria, including responsiveness to the RFP, experience, customer service, programs, price proposal, service enhancements, legal and regulatory disclosures, financial information and requirements, exceptions to the draft agreement, and options. All four proposals scored well with Athens scoring the highest ranking (97.8%); Burrtec (96.5%); CR&R (96.0%); and Republic (93.5%).

Who voted to approve Ordinance No. 3047 (franchise agreement with Athens)?

On October 13, 2015 the City Council considered the four proposals at length but did not come to a consensus to select a firm for negotiations. The City Council continued the meeting to October 20, 2015 to further consider the item. At the October 20, 2015 Mayor Dutra, Mayor Pro Tem Vinatieri, and Council Member Henderson voted in favor of approving the Ordinance. Council Member Newcomer voted against the Ordinance. Council Member Warner had previously recused herself and did not participate in the discussions and the vote to select Athens and award the franchise agreement.

What is Ordinance No. 3047?

Ordinance No. 3047 is the legal document granting an exclusive franchise to provide solid waste collection and recycling services to Athens. The franchise agreement is an attachment to Ordinance No. 3047.

I heard one of the Council Members has adult children that work for Athens. Is that true?

True. Council Member Cathy Warner has an adult son and an adult daughter that work for Athens. State political ethics law does not consider that relationship to be a conflict of interest because her children do not support her financially and are not dependent children. However, because of these family relationships, Council Member Warner had previously recused herself from discussion related to the solid waste collection franchise and did not vote on the issue.

I read several bad reviews about Athens on the internet. Has anyone checked their references?

City staff and elected officials were also aware of several negative reviews posted on the internet regarding Athens. Knowing that not everything posted on the internet can be trusted, staff checked references and the Mayor personally took the time to contact

seven local cities served by Athens. He spoke to a mixture of City Managers, Council Members and residents. He found that all seven cities consistently said that Athens stuck to their word and provided the services they said they would. Some of the cities that Athens serves include Glendora, San Gabriel, South Pasadena, Hermosa Beach, Redondo Beach and Rowland Heights through the County of Los Angeles Public Works Department.

I heard that Athens goes into other communities with a low bid and then increases the cost for services dramatically over the term of the agreement. Can they do that here?

The franchise agreement with Athens allows for annual rate increases based only on a specified formula detailed in the franchise agreement. The formula is made up of several components including the Consumer Price Index, disposal costs at the City-owned landfill and disposal costs for green waste. There is also a “not to exceed” percentage amount for each component. For example, the Collection Component Index can’t exceed 3.5% for any rate period. This formula has been found to be a fair way to allow a hauler to recover increases in the cost of doing business while protecting the customer from excessive increases. In addition, any increase in the fees will be the subject of a public hearing. The existing franchise agreements with Consolidated Disposal (Republic) and Waste Management include similar formulas.

The franchise agreement with Athens will initially decrease solid collection fees for all customers about 3% from current fees during the first year of service.

What are the benefits of entering in a franchise agreement instead of just a contract to provide solid waste collection and recycling services?

A franchise agreement requires franchise fees to be paid to the City. The existing agreements with Consolidated Disposal Service and Waste Management provide for franchise fees of 10% of gross revenues on residential service and 13% of gross revenues on commercial services. The same franchise fee percentages are written into the proposed franchise agreement with Athens. The franchise fees collected are a source of revenue for the City’s general fund to pay for parks, libraries, police, roads, and other necessary community programs.

How does the franchise agreement with Athens differ from existing trash services provided by the City, Consolidated Disposal Service and Waste Management?

The franchise agreement with Athens includes the following:

- 3% decrease in fees for both residential and commercial customers
- 10% discount for active military and seniors at least 62 years of age and are head of household
- Free roll-out service for residents with disabilities

The franchise agreement will provide these enhanced services that are not now provided:

- Larger black trash cart (increased from current 64-gallon to a 96-gallon cart)
- Free service to City facilities and City-sponsored events

- Free service to bus stop and public containers
- Free annual cleaning of bins for commercial customers
- One compost giveaway annually
- Four Reuse Workshops and Repair Cafes annually hosted by the Whittier Free Store
- Four bulky waste & E-waste collection events annually for residential and multi-family premises
- Twelve bulky item or e-waste collection pickups annually from residential and multi-family premises (we now offer 4 pickups annually with a maximum 2 items per pickup)
- Free residential and multi-family sharps discard program
- Free pickup of abandoned bulky waste and other solid waste from the public right-of-way
- Organic recycling program to meet standards required under AB 1826

The franchise agreement includes these one-time payments to the City:

- Procurement reimbursement payment to help cover the cost of consultants hired to manage the procurement process - \$150,000
- Signing fee to purchase the City's solid waste collection enterprise - \$5 million
- Equipment procurement to purchase the City solid waste collection vehicles and equipment - \$1.2 million

The franchise agreement includes the following annual payments to the City:

- Franchise Fee Payment (10% of Gross Receipts for Residential; 13% Commercial - approximately \$1 million annually)
- Solid waste collection program fee to cover ongoing City expenses that were previously covered by the solid waste collection enterprise revenue - \$900,000 annually
- Recyclables materials payment - \$73,397 annually

The franchise agreement includes the following annual community contributions:

- City's Social Services Commission to fund non-profit organizations - \$25,000
- Whittier City Employees Association - \$5,000
- Contribution to the Community Engagement Fund - \$20,000
- Scholarships to Whittier students - \$5,000

How was the public notified about the franchise agreement process?

City Council agendas are posted at City Hall, both City Libraries and online at least 72 hours prior to the City Council meetings. A public hearing notice was posted in the Whittier Daily News on December 22, 2015 for the hearing held on January 12, 2016. In addition, several articles appeared in the Whittier Daily News. These articles appeared on May 14, 2015; July 20, 2015; October 12, 2015; October 15, 2015; December 10, 2015; January 14, 2016; and January 26, 2016.

What is this referendum I've heard mentioned?

The City Charter allows for a voter referendum if a petition that includes 10% (about 4,500) of Whittier registered voters is submitted. Petitions have been submitted to the City Clerk's office and the Los Angeles County Registrar is now verifying signatures. If enough verified signatures have been submitted, the City Council may repeal the ordinance that adopts the franchise agreement or submit it to the voters. A majority of the voters would determine whether the referendum passes or fails.

Proponents of the referendum have alleged the City has established a new “trash tax” – is this true?

No, the City has not established a new trash tax and customers will not pay a new tax under the franchise agreement. The City has negotiated with Athens to assure that solid waste collection rates cover the cost of all current services and new enhanced services as outlined above. Current services that must continue to be provided by the City (and not Athens) include removal hazardous waste from the public right-of-way, State mandated solid waste reporting, alley improvement and repair program, electrical service for trash compactors, ongoing employee costs, consulting services, and the National Pollutant Discharge Elimination System. These costs total approximately \$900,000 per year and Athens would remit this amount of money to the City to cover these costs. Even with this payment for ongoing City services customers would continue to see a net reduction in rates of approximately 3% in the first year.

The proposed franchise agreement with Athens includes a \$900,000 solid waste collection program annual fee paid to the City. What is the purpose of that fee?

This fee will cover ongoing City expenses that were previously covered by solid waste collection enterprise revenue. Some of these ongoing expenses include:

- Alley improvement & repair programs – repair alleys damaged by heavy solid waste collection vehicles.
- Electrical service – electrical service for Uptown trash compactors
- National Pollutant Discharge Elimination System (NPDES) – a Federal Program to control of water pollution by regulating point sources that discharge pollutants into waters. Pollutants include, rock, sand, dirt, agricultural, industrial and municipal waste. Expenses include NPDES permit fees, dues for Coalition for Practical Regulation and consulting services to aid City in complying with the permit.
- Employee costs – Ongoing employee costs to administer the franchise agreement, continue to prepare recycling reports required by the State, code enforcement regarding solid waste issues, and customer service calls.
- Consulting services – Perform service audits and performance evaluations to verify contractor is complying with the terms of the franchise agreement.

Where can I find more information about the proposed franchise agreement with Athens?

All documents related to the solid waste collection franchise can be found on the City website: <http://www.cityofwhittier.org> under the “Headlines” section on the homepage. Questions can be addressed to Vicki Smith, Public Works Manager, at (562) 567-9506 or vsmith@cityofwhittier.org.

