

SECOND AMENDATORY AGREEMENT

This **SECOND AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **WASTE MANAGEMENT OF COLORADO, INC.**, a Colorado corporation with its principal office address located at 1001 Fannin Street, Houston, TX 77002, doing business in Colorado at 7700 East Arapahoe Road, Suite 220, Centennial, Colorado 80112-1268 (the “Contractor”), jointly (the “Parties”).

RECITALS:

A. The Parties entered into an Agreement dated August 7, 2018, and a First Amendatory Agreement dated December 17, 2020 (the “Agreement”) to support Trash collection services Citywide, excluding DEN.

B. The Parties wish to amend the Agreement to extend the term and extend American Rescue Plan Act-Federal Provision Funding terms.

NOW THEREFORE, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. Section 36 of the Agreement entitled “**CARES ACT FUNDING**” is hereby deleted and replaced in its entirety as follows:

“36. CARES ACT FUNDING:

a. The Contractor agrees and acknowledges that some or all of the funds encumbered by the City to pay for the services described herein have been provided in accordance with Sections 601(b) and (d) of the Social Security Act, as added by Section 5001 of the Coronavirus Aid, Relief, and Economic Security Act of 2020, Public Law No. 116-136, Division A, Title V (March 27, 2020), and as amended by Section 1001 of the Consolidated Appropriations Act, 2021, H.R. 133, Division N, Title X (December 27, 2020), collectively, (the “CARES Act”). The Parties acknowledge that all funding from the CARES Act (collectively, “CRF Funds”) may only be used to cover those costs that:

(1) Are necessary expenditures incurred due to the public health emergency with the respect to the Coronavirus Disease 2019 (“COVID-19”);

(2) Were not accounted for in the budget most recently approved by the City as of March 27, 2020; and

(3) Were incurred for the period that begins on March 1, 2020 and ends on December 31, 2021.

b. The Contractor shall only utilize CRF Funds for the purposes described in the Scope of Services attached as **Exhibit A**. The Contractor agrees and acknowledges that, as a condition to receiving the CRF Funds, it shall strictly follow the Federal Provisions attached hereto and incorporated herein as **Exhibit F and Exhibit G**. All invoices submitted by the Contractor to the City pursuant to this Agreement shall use “COVID-19” or “Coronavirus” as a descriptor for those costs that are paid by CRF Funds to facilitate the tracking of Agreement-related spending related to COVID-19. The Contractor shall segregate and specifically identify the time and expenditures billed to the City on each invoice to allow for future review and analysis of COVID-19 related expenses. To avoid an unlawful duplication of federal benefits, the Parties agree and acknowledge that the services and/or goods provided by the Contractor for which CRF Funds are used shall not, to the extent that CRF Funds are used, also be paid for or reimbursed by monies provided under any other federal program.

c. The Contractor agrees and acknowledges that all services performed and/or goods provided by the Contractor using CRF Funds must be performed and/or provided by the Contractor no later than December 31, 2021. Further, the Contractor agrees and acknowledges that payment for all services performed and/or goods provided by the Contractor using CRF Funds must be provided by the City to the Contractor no later than March 30, 2022. As such, the Contractor shall invoice the City not later than February 28, 2022 for all work performed pursuant to this Agreement for which CRF Funds will be used to enable sufficient time for the City to review, process, and pay such invoice by the March 30, 2022 deadline prescribed in the CARES Act (the “Invoice Deadline Date”). Any invoice submitted by the Contractor after the Invoice Deadline Date for services performed and/or goods provided on or prior to December 31, 2021 may not be eligible to be paid by CRF Funds, and, to the extent that CRF Funds are not available to pay such invoice, partially or in total, such invoice shall only be paid subject to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this Agreement.

2. Section 3 of the Agreement entitled “**TERM**” is hereby deleted in its entirety and replaced with:

“3. **TERM**: The Agreement will commence on **January 1, 2019**, and will expire on **July 31, 2022** (the “Term”). The term of the Agreement may be extended on the same terms and conditions, for an additional two (2) one (1) year renewal terms, upon written amendment to this Agreement prior to expiration of the current term. In addition, nothing contained herein shall obligate the City to extend the Agreement beyond the initial term.”

3. As herein amended, the Agreement is affirmed and ratified in each and every particular.

4. This Second Amendatory Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

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Contract Control Number:
Contractor Name:

GENRL-202159217-02 [GENL-201842725-02]
WASTE MANAGEMENT OF COLORADO, INC.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

GENRL-202159217-02 [GENRL-201842725-02]
WASTE MANAGEMENT OF COLORADO, INC.

By: Jack Cella

Name: Jack Cella
(please print)

Title: Area Sales Director
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)