

## THIRD AMENDATORY AGREEMENT

This **THIRD AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **CLEAR SELECTIONS GROUP, INC. DBA LIBERTY WASTE MANAGEMENT**, a Delaware Foreign Corporation whose address is 2555 South Santa Fe Drive, Unit J, Denver, Colorado 80223 (the “Contractor”), jointly (“the Parties”).

### RECITALS:

**A.** The Parties entered into an Agreement dated April 6, 2020, an Amendatory Agreement dated July 30, 2020, and a Second Amendatory Agreement dated October 7, 2020, collectively (the “Agreement”) to provide the services required by this Agreement.

**B.** The Parties wish to amend the Agreement to add required CARES language to the contract .

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

**2.** Section 4 of the Agreement entitled “**COMPENSATION AND PAYMENT**” is amended to add Sub-paragraph f. entitled “**Coronavirus Aid, Relief, and Economic Security Act of 2020 Funds**” as follows:

“**f. Coronavirus Aid, Relief, and Economic Security Act of 2020 Funds:** 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:

- a. Are necessary expenditures incurred due to the public health emergency with the respect to the Coronavirus Disease 2019 (“COVID-19”);
- b. Were not accounted for in the budget most recently approved by the City as of March 27, 2020; and
- c. Were incurred for the period that begins on March 1, 2020 and ends on December 31, 2021.

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**. 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.

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.”

3. Section 7 of the Agreement entitled “**EXAMINATION OF RECORDS AND AUDITS**” is amended to read as follows:

“7. **EXAMINATION OF RECORDS AND AUDITS**: The Contractor shall maintain records of the documentation supporting the use of CRF Funds in an auditable format, for the later of five (5) years after final payment on this Agreement or the expiration of the applicable statute of limitations. Any authorized agent of the City, including the City Auditor or his or her representative, and for CRF Funds any authorized agent of the Federal government, including the Special Inspector General for Pandemic Recovery (“Inspector General”) have the right to access, and the right to examine, copy and retain copies, at the official’s election in paper or electronic form, any pertinent books, documents, papers and records related to the Contractor’s use of CRF Funds pursuant to this Agreement. The Contractor shall cooperate with Federal and City representatives and such representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of five (5) years after the final payment under the Agreement or expiration of the applicable statute of

limitations. When conducting an audit of the use of CRF Funds, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this section shall require the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276.

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

5. This Third 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:** GENRL-202157879-03 [GENRL-202053133-03]  
**Contractor Name:** LIBERTY WASTE MANAGEMENT

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-202157879-03 [GENRL-202053133-03]  
LIBERTY WASTE MANAGEMENT

By:  7633625BCBA2475...

Name: Jeff Frey  
(please print)

Title: General Manager  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)