



AGREEMENT

THIS AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a home rule and municipal corporation of the State of Colorado (the “City”), and **CLAYTON EARLY LEARNING, TRUSTEE, GEORGE W. CLAYTON TRUST**, a Colorado nonprofit corporation, whose address is 3801 Martin Luther King Boulevard, Denver, Colorado 80205 (the “Recipient”) (together, the “Parties”).

RECITALS

WHEREAS, there are public purposes for installing distributed energy resources (“DERs”) at buildings occupied by non-profit human service providers, including reducing greenhouse gas emissions to protect City residents and visitors from the adverse public health impacts associated with climate change and increasing the resiliency of operations for human service providers.

WHEREAS, the public purposes above will be furthered to a greater extent by buildings that install DERs than buildings that rely solely on electricity from the electric grid;

WHEREAS, incentives are needed to encourage building owners to install DERs to further the public purposes above;

WHEREAS, the Recipient is willing to install at its building, which is located within the City and County of Denver, DERs partly due to the availability of certain incentives provided by the City, as further described in this Agreement;

WHEREAS, this Agreement, and the installation at Recipient’s building of DERs within the City will advance the valid and valuable public purposes set forth above by reducing greenhouse gas emissions, increasing safety and increasing the resiliency of operations, as a result of the incentives described herein; and

WHEREAS, for these reasons, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **RECIPIENT OBLIGATIONS**. This Agreement and the City’s obligations hereunder are conditioned upon the following Recipient installing at its building located at 3801 Martin Luther King Jr Blvd., Denver, Colorado 80205 (the “Building”) the DERs as set forth in **Exhibit A, the Scope of Work**.

2. **TERM**. The term of this Agreement shall commence on **December 15, 2023**, and shall terminate on **December 15, 2025**; provided, however, that this Agreement shall automatically terminate when the City’s



payment(s) hereunder equal the Maximum Contract Amount. Subject to the Executive Director's prior written authorization, the Recipient may complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director.

3. **INCENTIVE PAYMENTS.** Subject to the terms hereof, the City agrees to make incentive payments to the Recipient payable as follows:

a. **Budget.** The City shall reimburse Recipient for documented costs directly incurred by Recipient and allocable to the installation at the Building of DERs upon completion of each milestone of the Building's conversion as further detailed in **Exhibit B, the Budget**. Recipient's costs shall not exceed the line item amounts set forth in **Exhibit B**.

b. **Maximum Contract Amount.**
 (1) Notwithstanding any other provision of the Agreement, the City's maximum incentive payment obligation shall not exceed **FIVE HUNDRED TWENTY THOUSAND DOLLARS AND NO CENTS (\$520,000.00)** (the "**Maximum Contract Amount**").

(2) The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for purposes of the Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple fiscal year direct or indirect debt or financial obligation of the City.

c. **Petitions for Payment.** To receive an incentive payment hereunder, the Recipient shall petition the Executive Director of Climate Action, Sustainability, and Resiliency or her designee (the "Executive Director").

(1) The petition for incentive payment shall contain the Recipient's supporting documentation evidencing eligible expenses as set forth in **Exhibit B**, and the Recipient's satisfaction of the requirements contained in Section 1 above. To receive an incentive payment, the Recipient must petition the Executive Director at least forty-five (45) days before the expiration of the Term.

(2) The Recipient shall supply whatever additional information the City requests in order to substantiate the Recipient's petition for incentive payments. The City may withhold incentive payments for which it has been petitioned by the Recipient if it reasonably determines that the petition is not substantiated by the supporting documentation submitted by the Recipient. Such determination shall be provided to the Recipient in writing and shall be appealable to the Executive Director.

(3) Upon receipt of documentation satisfying the requirements of this Section 2.c., the City shall verify the Recipient's petition and issue proper incentive payment consistent with the City's Prompt Payment Ordinance, D.R.M.C. §§ 20-107-118.



4. **EXAMINATION OF RECORDS AND AUDITS.** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Recipient's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Recipient shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, 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 paragraph shall require Recipient to make disclosures in violation of state or federal privacy laws. Recipient shall at all times comply with D.R.M.C. 20-276.

5. **WHEN RIGHTS AND REMEDIES NOT WAIVED.** In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Recipient. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

6. **ASSIGNMENT AND SUBCONTRACTING.** The City is not obligated or liable under this Agreement to any party other than the Recipient. The Contractor shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the City.

7. **INSURANCE.**

a. **General Conditions:** The Recipient agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. The Recipient shall keep the required insurance coverage in force at all times during the term of the Agreement, including any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-VIII" or better. Each policy shall require notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, the Recipient shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail,



return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. The Recipient shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Recipient. The Recipient shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

b. Proof of Insurance: The Recipient may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. The Recipient certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the certificate of insurance. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of the Recipient's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

c. Additional Insureds: For Commercial General Liability, Auto Liability, Professional Liability (E&O), and Excess Liability/Umbrella (if required), the Recipient and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

d. Waiver of Subrogation: For all coverages required under this Agreement, with the exception of Professional Liability, the Recipient's insurer shall waive subrogation rights against the City.

e. Subcontractors and Subconsultants: The Recipient shall confirm and document that all subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Recipient and appropriate to their respective primary business risks considering the nature and scope of services provided.

f. Workers' Compensation and Employer's Liability Insurance: The Recipient shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

g. Commercial General Liability: The Recipient shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate.

h. Automobile Liability: The Recipient shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.



i. **Professional Liability (Errors & Omissions):** The Recipient shall maintain minimum limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. The policy shall be kept in force, or a Tail policy placed, for three (3) years for all contracts except construction contracts for which the policy or Tail shall be kept in place for eight (8) years.

8. **DEFENSE AND INDEMNIFICATION:**

a. The Recipient hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the Recipient or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

b. The Recipient’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. The Recipient’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

c. The Recipient will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

d. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Recipient under the terms of this indemnification obligation. The Recipient shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

e. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

9. **COLORADO GOVERNMENTAL IMMUNITY ACT.** In relation to the Agreement, the City is relying upon and has not waived the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, C.R.S. § 24-10-101, et seq.

10. **TAXES, CHARGES AND PENALTIES:** The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City’s prompt



payment ordinance D.R.M.C. § 20-107, *et seq.* The Recipient shall promptly pay when due, all taxes, bills, debts and obligations it incurs from installing DERs at the Building and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

11. INUREMENT: The rights and obligations of the Parties to the Agreement inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

12. NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance of work under this Agreement, the Recipient may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Recipient shall insert the foregoing provision in all subcontracts.

13. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS. This Agreement is intended as the complete integration of all understandings between the Parties. No prior, contemporaneous or subsequent addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing, and executed in the same manner as this Agreement.

14. GOVERNING LAW; VENUE. The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

15. LEGAL AUTHORITY.

a. The Recipient lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

b. The Recipient represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

c. The person or persons signing and executing this Agreement on behalf of the Recipient do hereby represent and warrant that he/she or they have been fully authorized by the Recipient to execute this Agreement on behalf of the Recipient and to validly and legally bind the Recipient to all the terms, performances and provisions herein set forth.

d. The City shall have the right, at its option, to temporarily suspend or permanently terminate this Agreement, if there is a dispute that the legal authority of either the Recipient or the person signing this Agreement on the



Recipient's behalf is not sufficient to enter into this Agreement. The City shall not be obligated to the Recipient for any performance of the provisions of this Agreement in the event that the City has suspended or terminated this Agreement as provided in this Section.

16. NO THIRD PARTY BENEFICIARY. Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in this Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Recipient receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

17. SEVERABILITY. Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

18. CONFLICT OF INTEREST.

a. No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Recipient shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

b. The Recipient shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Recipient represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Recipient by placing the Recipient's own interests, or the interests of any party with whom the Recipient has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement if it determines a conflict exists, after it has given the Recipient written notice describing the conflict.

19. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS. The Recipient consents to the use of electronic signatures by the City. This Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

20. COMPLIANCE WITH ALL LAWS. The Recipient shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.



21. **NOTICES.** All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to the Recipient at the address first above written, and if to the City at:

Executive Director of the Office of Climate Action, Sustainability & Resiliency or Designee
201 West Colfax Avenue, Dept. 704
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

22. **DISPUTES.** All disputes between the City and the Recipient arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Executive Director as defined in this Agreement.

23. **NO CONSTRUCTION AGAINST DRAFTING PARTY.** The Parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

24. **ORDER OF PRECEDENCE.** In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

25. **SURVIVAL OF CERTAIN PROVISIONS.** The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Recipient's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

26. **ADVERTISING AND PUBLIC DISCLOSURE.** The Recipient shall not include any reference to the Agreement or to incentives paid pursuant to the Agreement in any of the Recipient's advertising or public relations materials without first obtaining the written approval of the Executive Director. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Recipient



shall notify the Executive Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

27. **CITY EXECUTION OF AGREEMENT.** The 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.

28. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS.** The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

29. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Recipient consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the Agreement, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

List of Exhibits

Exhibit A – Scope of Work.

Exhibit B – Budget.

Exhibit C – Certificate of Insurance.

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Contract Control Number: CASR-202371734-00
Contractor Name: Clayton Early Learning, Trustee, George W. Clayton Trust

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:

CASR-202371734-00
Clayton Early Learning, Trustee, George W. Clayton Trust

DocuSigned by:
William Browning
By: 69EA1176E7DE43B...

Name: William Browning
(please print)

Title: President and CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Renewables and Resilience Incentive Program for Human Service Providers

EXHIBIT A – SCOPE OF WORK

1. Summary

The City has established the goal of reducing the electricity-associated greenhouse gas emissions from each human service provider (“HSP”) funded by this program by at least 20% as compared to the emissions of the estimated average annual operations without the investments provided by this program. The City intends to meet this goal by offering a financial incentive encouraging HSPs to install distributed energy resources (“DER”) such as solar, battery storage system, and EV charging equipment.

The City has selected Clayton Early Learning (“Recipient”), a Colorado Nonprofit Organization, as a recipient of a financial incentive for a DER Project installation at 3801 Martin Luther King Jr Blvd, Denver CO 80205.

2. PROJECT DESCRIPTION

2.1. System. Recipient will oversee the installation of the following DER infrastructure (collectively referred to as the “System”).

2.1.1. Solar PV. The Project consists of the installation of approximately 250.0 (kW-dc) of solar photovoltaics.

2.1.2. EV Charging. The Project consists of the installation of one dual-port Level 2 electric vehicle charging station.

2.1.3. The City may consider and approve changes to the System that meet or advance the intent of the Project to optimally deploy renewable energy and EV charging equipment for the Recipient.

2.2. Responsibilities. Recipient shall be responsible for the completion of the work and to provide required documentation to the City as specified herein. Recipient will own and maintain all improvements and a contractor will be hired to complete the Work.

2.2.1. Recipient agrees to cooperate with the City to submit applications for supportive funding and/or resources from relevant sources including but not limited to utility and grant programs.

2.2.2. Enacted by the Inflation Reduction Act of 2022, § 6417 of the Internal Revenue Code allows applicable entities to elect to receive certain tax credits, including but not limited to the clean electricity investment credit determined under § 48E as a direct payment. Recipient agrees to cooperate with the City to submit an application pursuant to § 6417 for direct payment, adhering to all applicable guidance and deadlines imposed by the Treasury Department and Internal Revenue Service. If for some reason an application is not possible, Recipient must receive written confirmation from the City waiving this requirement.

Renewables and Resilience Incentive Program for Human Service Providers

- 2.2.3. Recipient agrees to participate in and receive rebates from applicable Xcel Energy electric vehicle supply infrastructure and Solar*Rewards programs, as well as apply to the Charge Ahead Colorado program. If for some reason program participation is not possible, Recipient must receive written confirmation from the City waiving this requirement.
- 2.2.4. A contract for the purchase or acquisition of materials, equipment, or vehicles shall be awarded by Recipient to a qualified vendor or firm.
- 2.2.5. During a period of ten (10) years following the date of closeout of the Project by the City, the Recipient may not change the ownership of the equipment. If the Recipient decides to change the ownership of the equipment to an entity which the City determines does not qualify in meeting the original intent of the Project, the Recipient must reimburse to the City an amount equal to the current fair market value of the equipment, less any portion of the value attributable to expenditures of non-City funds for acquisition of and improvements to, the equipment. At the end of the ten (10) year period following the date of completion and thereafter, no City restrictions on ownership of the equipment shall be in effect.

3. DEFINITIONS

- 3.1. "Commenced Installation" shall be defined as Project materials being delivered on-site and work of a physical nature has begun.
- 3.2. "Commercial Operation" Commercial Operation is achieved when: (a) 100% of the nameplate capacity of the System is installed; (b) the System has operated without experiencing any abnormal or unsafe operating conditions; (c) all permits necessary to authorize the production and, if applicable, delivery to Xcel Energy of photovoltaic energy generated by the System have been obtained; (d) the System has been interconnected with Xcel Energy's electric distribution system; and (e) the System is authorized to operate by Xcel Energy.
- 3.3. "Mechanical Completion" means the system is mechanically assembled.
- 3.4. "Permit" means any license, approval, consent, permit, authorization, registration, notification, waiver, exemption, variance, franchise or similar order from any Authority Having Jurisdiction.
- 3.5. "System" shall be defined as the DER infrastructure described in section 2 of this scope of work.
- 3.6. "Substantial Completion" means the work is sufficiently complete in accordance with the Agreement so it can be utilized for its intended purpose without undue interference. The Recipient has provided the City with proof of passed inspection(s).

Renewables and Resilience Incentive Program for Human Service Providers

4. DELIVERABLES

4.1. Outcome. The final outcome of this Agreement is completed installation of the System.

4.2. Performance Measures. Recipient shall comply with the following performance measures:

Performance Measure/Recipient will:	By:
Award and finalize subcontract(s).	Within 90 days after the Effective Date of this Agreement.
Submit Milestone Payment Requests and Project Status Reports	See §4.3 below
Submit Project Final Report	Within 24 months after the Effective Date of this Agreement

4.3. Installation Progress Payments and Project Status Reports. The Recipient shall submit invoices setting forth a detailed description and provide documentation of the amounts and types of reimbursable expenses. Invoices and Project status reports are due within 30 days of the attainment of each milestone but may be submitted more frequently at the discretion of the Recipient. The City shall pay the Recipient upon the achievement of the Milestones per the following milestone payment schedule:

Milestone:	% of Award Value:
Permits Received	25%
Commenced Installation	35%
Mechanical Completion	25%
Substantial Completion	10%
Final Acceptance/Commercial Operation	5%

4.4. Recapture of Advanced Funds. To maximize the use of City funds, the City shall evaluate Recipient's expenditure of the incentive funds for timeliness and compliance with the terms of this Agreement. The City reserves the right to recapture advanced incentive funds when Recipient has not or is not complying with the terms of this Agreement.

4.4.1. If upon completion the Total Project Cost ("Completed Project Cost") is less than the Award Value, City shall reduce the Final Acceptance payment accordingly. Recipient shall refund to the City any awarded amount in excess of the Completed Project Cost.

Renewables and Resilience Incentive Program for Human Service Providers

4.4.2. Upon receipt of direct payment pursuant to § 6417 of the Internal Revenue Code, Recipient shall first refund their own organization for any organizational funds spent on the Project. Any remaining funds will be refunded to the City.

4.5. City Acknowledgement. The Recipient agrees to acknowledge the City and more specifically the Office of Climate Action, Sustainability, and Resiliency and the Climate Protection Fund in any and all materials or events designed to promote or educate the public about the work and the Project, including but not limited to: press releases, newspaper articles, op-ed pieces, press conferences, presentations and brochures/pamphlets.

5. ADMINISTRATIVE REQUIREMENTS

5.1. Reporting. Recipient shall submit the following reports to the City. The City may withhold payment(s) if such reports are not submitted timely.

5.1.1. Project Status Reports shall be submitted to the City in accordance with §4.3 of this Exhibit.

5.1.2. Within 90 days after the completion of the Project, Recipient shall submit the final Pay Request and Status Report to the City. The final Project Status Report should include the Community Engagement and Workforce Program Assessment in accordance with §6.3 of this Exhibit.

5.2. Monitoring. City shall monitor this work on an as-needed basis. The City may choose to audit the records for activities performed under this Agreement. Recipient shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Agreement. Such books and records shall contain documentation of the Recipient's pertinent activity under this Agreement in accordance with generally accepted accounting principles.

5.2.1. Recipient shall monitor its subcontractors, if any, during the term of this Agreement. Results of such monitoring shall be documented by Recipient and maintained on file.

5.2.2. Copies of any and all contracts entered into by the Recipient in order to accomplish this Project shall be submitted to the City upon request, and any and all contracts entered into by the Recipient or any of its subcontractors shall comply with all applicable federal and state laws and shall be governed by the laws of the State of Colorado.

5.3. System Performance and Building Energy Data.

5.3.1. Recipient is required to complete an "Xcel Energy: Consent to Disclose Utility Customer Data" form for the timeframe associated with the 5 years prior to and after equipment installation.

Renewables and Resilience Incentive Program for Human Service Providers

- 5.3.2. Recipient is required to provide data and information upon request to demonstrate the efficacy of the System and/or to inform an assessment of greenhouse gas reduction at the building.

6. COMMUNITY ENGAGEMENT PLAN

During the construction phase of the Project, the Recipient will provide community engagement that includes, but is not limited to:

- 6.1. Community Engagement.** The Recipient will support the City with stakeholder engagement as relevant to communicate the benefits of the Project and City programs to local residents and community-members served by the Recipient.
- 6.2. Community Engagement Assessment.** Recipient will include a community engagement assessment in the final Project Status Report that details all community engagement activities.

7. WORKFORCE PLAN

During the construction phase of the Project, the Recipient is eligible for up to \$50,000.00 from CASR's Green Workforce Program to reimburse up to 100% of the costs associated with providing paid training to under-resourced individuals or trainees of an approved green workforce training providers.

- 7.1. APPROVED GREEN WORKFORCE TRAINING PROVIDERS.** To facilitate the paid training, we suggest the recipient sub-contract with (a) a contractor with a, or a sponsor of, a registered electrical/solar technician apprenticeship, or (b) an approved green workforce training program.

7.1.1. List of Approved Green Workforce Training Programs:

- GRID Alternatives
- Mile High Youth Corps Energy & Water Program
- WORKNOW
- Denver Public Schools: Renewable Energy Academy
- Groundwork Denver Green Infrastructure Training Program.

7.2. REIMBURSEABLE GREEN WORKFORCE COSTS.

- \$20-25/hour training stipend, per trainee
- \$150 per trainee to provide wrap around services like transportation or training equipment
- \$100 per trainee for technical training fees (i.e. industry recognized credentials)
- 20% of administrative costs to support implement the training

- 7.3. PROJECT PROPOSAL AND APPROVAL.** Interested recipients will submit a project and budget proposal to Green Workforce Program Manager jessmine.anderson@denvergov.org for approval. We're here to support, engage, and co-create workforce programming. Recipient should reach out with questions. Project plans must: (1) describe method to provide paid training during install,

Renewables and Resilience Incentive Program for Human Service Providers

including name and contact information of sub-contractors; (2) use provided budget template with proposal submission.

- 7.4. GREEN WORKFORCE PROJECT EVALUATION.** Recipient will complete a Green Workforce Project Evaluation Report within three months of project completion that details the number and type of training opportunities provided, hours of training, few demographic data, credentials received, supportive services provided, photos/testimonials, and outcomes.

Renewables and Resilience Incentive Program for Human Service Providers

EXHIBIT B – BUDGET & INVOICING

- 1. Budget.** The City will award up to \$520,000 (“Maximum Contract Amount”) to the Recipient. Up to \$470,000 will be awarded for documented costs of the Building’s DER installation as further detailed in this Exhibit. If approved, up to \$50,000 will be awarded for documented costs of providing hands-on training during construction.
- 1.1. Activities for the Award are set forth in Exhibit A, Scope of Work (“SOW”)
- 1.2. Recipient confirms that prices quoted for the defined SOW and timeline shown in §3 of this Exhibit of \$463,240 (“Award”) are firm and fixed, provided that the project is able to move forward in a timely manner. Significant delays in the project moving forward may require adjustments to account for fluctuations in the availability and price of solar components.
- 1.3. Recipient may increase the total project cost or contribute to the project “Other Funds” (e.g., non-City award) secured and provided by the Recipient and such change does not require an amendment. City will verify the Recipient’s contribution of Other Funds and compliance with this section at Project Closeout.
- 1.3.1. Project Cost Breakdown:
- DER Installation Costs: \$463,240
 - Workforce: \$50,000
 - Additional Services/Expenses: \$6,760
 - Maximum Contract Amount: \$520,000
- 2. Installation Progress Payments and Project Status Reports.** The Recipient shall submit invoices setting forth a detailed description and provide documentation of the amounts and types of reimbursable expenses. Invoices and project status reports are due within 30 days of the attainment of each milestone but may be submitted more frequently at the discretion of the Recipient. Line items for Contingency costs will be delineated separately from the Milestone payment schedule. The City shall pay the Recipient upon the achievement of the Milestones per the following milestone payment schedule:

Milestone:	% of Award Value:	Expected Milestone Payment
Permits Received	25%	\$110,810.00
Commenced Installation	35%	\$155,134.00
Mechanical Completion	25%	\$110,810.00
Substantial Completion	10%	\$44,324.00
Final Acceptance/ Commercial Operation	5%	\$22,162.00

Renewables and Resilience Incentive Program for Human Service Providers

Invoices for Green Workforce Training may be submitted separately from construction invoices, and in a cadence agreed upon by the Recipient and the Green Workforce Program Manager.

- 2.1. **Recapture of Advanced Funds.** To maximize the use of City funds, the City shall evaluate Recipient's expenditure of the incentive funds for timeliness and compliance with the terms of this Agreement. The City reserves the right to recapture advanced incentive funds when Recipient has not or is not complying with the terms of this Agreement.
- 2.1.1. If upon completion the project cost is less than the Award Value, City shall reduce the Final Acceptance payment accordingly. Recipient shall refund to the City any awarded amount in excess of the completed project cost.
- 2.1.2. Upon receipt of direct payment pursuant to § 6417 of the Internal Revenue Code, Recipient shall first refund their own organization for any organizational funds spent on the Project. Any remaining funds will be refunded to the City.

3. Project Quote



Proposal for William Browning

Payment Option

Payment Option: Commercial Payment

581 x MSE430SX9Z 430 Watt Panels (Mission Solar Energy) 1 x SE100KUS, 1 x SE100KUS [480V] (SolarEdge Technologies Ltd.) 291 x P1101, 1 x Production Monitoring, 1 x Flat Roof Mounting, 1 x Asphalt/Metal Roof Mount, 1 x Animal Fencing/Screening	
Total System Price	\$663,240.00
Purchase Price	\$663,240.00
Deposit Payable	\$99,486.00

Additional Incentives

Xcel Commercial RECs	\$282,071.64
Net System Cost	\$381,168.36

This proposal is valid until Sep 01 2023.

Payment Milestones

Contract Signing 15% Due at Contract Signing	99,486.00
Permit Application 25% When Permit Applied For	165,810.00
Materials Delivered 40% Due On Materials Delivery	265,296.00
Final Inspection 20% due at Final Inspection (Final Payment is Due Upon the Completion of your City's Final Inspection. Your Meter Will be Installed 4-5 Weeks Later by the Utility Company)	132,648.00
Total	663,240.00

Recipient has agreed to contribute \$200,000 in match funding.

Renewables and Resilience Incentive Program for Human Service Providers

4. Example Budget Table – Workforce Funding Only

The budget for the proposed Scope of Work should not exceed \$50,000 over the construction phase. Please use the provided budget template with your proposal submission:

BUDGET TEMPLATE

Administrative Support Staff (List titles not names)	Description of Duties	Hourly Rate / Salary (Include fringe in salary estimates)	Staff Cost to Project (20% reimbursable)
Program Costs	Description		Cost to Project
Training Stipends	Include # trainees and # training hours to project		
Wrap-around services			
Technical Training Costs			
Other Costs	Description		Cost to Project
Total Proposed Budget			\$

Note: The City is not liable for any costs or expenses arising out of preparation of this proposal and if selected, may not include any of these costs or expenses as part of its fee, rates, or charges for performing work under the Contract.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/18/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CCIg 155 Inverness Drive West Englewood CO 80112 License#: 45339 CLAYEAR-01	CONTACT NAME: Edward Medina PHONE (A/C, No, Ext): 303-799-0110 E-MAIL ADDRESS: edward.medina@thinkccig.com	FAX (A/C, No): 303-799-0156	
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED Clayton Early Learning, Trustee, George W. Clayton Trust 3801 Martin Luther King Blvd. Denver CO 80205	INSURER A: Philadelphia Indemnity Insuran		18058
	INSURER B: Pinnacol Assurance		41190
	INSURER C:		
	INSURER D:		
	INSURER E:		

COVERAGES **CERTIFICATE NUMBER: 85118320** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:		Y	PHPK2572956	7/1/2023	7/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	PHPK2572956	7/1/2023	7/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y	Y	PHUB871048	7/1/2023	7/1/2024	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		Y	4058502	7/1/2023	7/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Cyber Liability			PHSD1808304	7/1/2023	7/1/2024	Limit \$1,000,000
A	Sexual Abuse Physical Abuse and Molestation Coverage			PHPK2572956	7/1/2023	7/1/2024	Per Occurrence \$1,000,000 Limit \$3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 PROFESSIONAL LIABILITY | PHPK2572956 | 7/1/2023 to 7/1/2024 | LIMIT \$1,000,000
 As required by written contract or written agreement, the City and County of Denver, its elected and appointed officials, employees and volunteers are included as Additional Insured for ongoing operations under General Liability, Automobile Liability, and Excess Liability. As required by written contract or written agreement, a Waiver of Subrogation in favor of the City and County of Denver, its elected and appointed officials, employees and volunteers applies to General Liability, Automobile Liability, Excess Liability, and Workers' Compensation.

CERTIFICATE HOLDER City of Denver Office of Climate Action, Sustainability, and Resiliency - Department #704 201 W Colfax Ave Denver CO 80202	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/18/2023

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PRODUCER Conexus Insurance Partners 3030 W. 81st Ave Westminster CO 80031	CONTACT NAME: Julie Cooper PHONE (A/C. No. Ext): 303-429-3501 FAX (A/C. No): 303-427-0611 E-MAIL ADDRESS: JCooper@conexusins.com
INSURER(S) AFFORDING COVERAGE	
INSURER A : Tokio Marine	
INSURER B : Ohio Casualty Insurance Compan	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 863944189 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____	Y		EG00032705	5/1/2023	5/1/2024	<table style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$ 100,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$ 10,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$ 2,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$ 2,000,000</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000	MED EXP (Any one person)	\$ 10,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS - COMP/OP AGG	\$ 2,000,000		\$
EACH OCCURRENCE	\$ 1,000,000																				
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A A B	Professional Liability Pollution Equipment Floater			EG00032705 EG00032705 BMO62244448	5/1/2023 5/1/2023 10/29/2023	5/1/2024 5/1/2024 10/29/2024	<table style="width: 100%; border-collapse: collapse;"> <tr><td>Aggregate Limit</td><td style="text-align: right;">2,000,000</td></tr> <tr><td>Per Contain/Aggregate</td><td style="text-align: right;">\$1M/\$2M</td></tr> <tr><td>Rented/Leased</td><td style="text-align: right;">50,000</td></tr> </table>	Aggregate Limit	2,000,000	Per Contain/Aggregate	\$1M/\$2M	Rented/Leased	50,000								
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Rented/Leased	50,000																				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Clayton Early Learning Center is included as additional insured regarding General Liability Insurance

CERTIFICATE HOLDER Clayton Early Learning Center 3751 Martin Luther King Jr. Blvd Denver CO 80205	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**GENERAL LIABILITY DELUXE ENDORSEMENT:
HUMAN SERVICES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

Coverage Applicable	Limit of Insurance	Page #
Extended Property Damage	Included	2
Limited Rental Lease Agreement Contractual Liability	\$50,000 limit	2
Non-Owned Watercraft	Less than 58 feet	2
Damage to Property You Own, Rent, or Occupy	\$30,000 limit	2
Damage to Premises Rented to You	\$1,000,000	3
HIPAA	Clarification	4
Medical Payments	\$20,000	5
Medical Payments – Extended Reporting Period	3 years	5
Athletic Activities	Amended	5
Supplementary Payments – Bail Bonds	\$5,000	5
Supplementary Payment – Loss of Earnings	\$1,000 per day	5
Employee Indemnification Defense Coverage	\$25,000	5
Key and Lock Replacement – Janitorial Services Client Coverage	\$10,000 limit	6
Additional Insured – Newly Acquired Time Period	Amended	6
Additional Insured – Medical Directors and Administrators	Included	7
Additional Insured – Managers and Supervisors (with Fellow Employee Coverage)	Included	7
Additional Insured – Broadened Named Insured	Included	7
Additional Insured – Funding Source	Included	7
Additional Insured – Home Care Providers	Included	7
Additional Insured – Managers, Landlords, or Lessors of Premises	Included	7
Additional Insured – Lessor of Leased Equipment	Included	7
Additional Insured – Grantor of Permits	Included	8
Additional Insured – Vendor	Included	8
Additional Insured – Franchisor	Included	9
Additional Insured – When Required by Contract	Included	9
Additional Insured – Owners, Lessees, or Contractors	Included	9
Additional Insured – State or Political Subdivisions	Included	10

Duties in the Event of Occurrence, Claim or Suit	Included	10
Unintentional Failure to Disclose Hazards	Included	10
Transfer of Rights of Recovery Against Others To Us	Clarification	10
Liberalization	Included	11
Bodily Injury – includes Mental Anguish	Included	11
Personal and Advertising Injury – includes Abuse of Process, Discrimination	Included	11

A. Extended Property Damage

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions**, Paragraph **a.** is deleted in its entirety and replaced by the following:

a. Expected or Intended Injury

“Bodily injury” or property damage” expected or intended from the standpoint of the insured. This exclusion does not apply to “bodily injury” or “property damage” resulting from the use of reasonable force to protect persons or property.

B. Limited Rental Lease Agreement Contractual Liability

SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions**, Paragraph **b. Contractual Liability** is amended to include the following:

- (3) Based on the named insured’s request at the time of claim, we agree to indemnify the named insured for their liability assumed in a contract or agreement regarding the rental or lease of a premises on behalf of their client, up to \$50,000. This coverage extension only applies to rental lease agreements. This coverage is excess over any renter’s liability insurance of the client.

C. Non-Owned Watercraft

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions**, Paragraph **g. (2)** is deleted in its entirety and replaced by the following:

- (2) A watercraft you do not own that is:
- (a) Less than 58 feet long; and
 - (b) Not being used to carry persons or property for a charge;

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

D. Damage to Property You Own, Rent or Occupy

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE

LIABILITY, Subsection **2. Exclusions**, Paragraph **j. Damage to Property**, Item **(1)** is deleted in its entirety and replaced with the following:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a \$30,000 limit. A client is defined as a person under your direct care and supervision.

E. Damage to Premises Rented to You

1. If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the word "fire" is changed to "fire, lightning, explosion, smoke, or leakage from automatic fire protective systems" where it appears in:

- a. The last paragraph of **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**; is deleted in its entirety and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III – LIMITS OF INSURANCE**.

- b. **SECTION III – LIMITS OF INSURANCE**, Paragraph 6. is deleted in its entirety and replaced by the following:

Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems while rented to you or temporarily occupied by you with permission of the owner.

- c. **SECTION V – DEFINITIONS**, Paragraph 9.a., is deleted in its entirety and replaced by the following:

A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

2. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection **4. Other Insurance**, Paragraph **b. Excess Insurance**, **(1) (a) (ii)** is deleted in its entirety and replaced by the following:

That is insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems for premises rented to you or temporarily occupied by you with permission of the owner;

3. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

- a. \$1,000,000; or
- b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof.

F. HIPAA

SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, is amended as follows:

1. Paragraph **1. Insuring Agreement** is amended to include the following:

We will pay those sums that the insured becomes legally obligated to pay as damages because of a "violation(s)" of the Health Insurance Portability and Accountability Act (HIPAA). We have the right and the duty to defend the insured against any "suit," "investigation," or "civil proceeding" seeking these damages. However, we will have no duty to defend the insured against any "suit" seeking damages, "investigation," or "civil proceeding" to which this insurance does not apply.

2. Paragraph **2. Exclusions** is amended to include the following additional exclusions:

This insurance does not apply to:

- a. **Intentional, Willful, or Deliberate Violations**

Any willful, intentional, or deliberate "violation(s)" by any insured.

- b. **Criminal Acts**

Any "violation" which results in any criminal penalties under the HIPAA.

- c. **Other Remedies**

Any remedy other than monetary damages for penalties assessed.

- d. **Compliance Reviews or Audits**

Any compliance reviews by the Department of Health and Human Services.

3. **SECTION V – DEFINITIONS** is amended to include the following additional definitions:

- a. "Civil proceeding" means an action by the Department of Health and Human Services (HHS) arising out of "violations."
- b. "Investigation" means an examination of an actual or alleged "violation(s)" by HHS. However, "investigation" does not include a Compliance Review.
- c. "Violation" means the actual or alleged failure to comply with the regulations included in the HIPAA.

G. Medical Payments – Limit Increased to \$20,000, Extended Reporting Period

If **COVERAGE C MEDICAL PAYMENTS** is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit is changed subject to all of the terms of **SECTION III - LIMITS OF INSURANCE** to the greater of:

- a. \$20,000; or
- b. The Medical Expense Limit shown in the Declarations of this Coverage Part.

2. **SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS**, Subsection 1. **Insuring Agreement**, a. (3) (b) is deleted in its entirety and replaced by the following:

- (b) The expenses are incurred and reported to us within three years of the date of the accident.

H. Athletic Activities

SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS, Subsection 2. **Exclusions**, Paragraph e. **Athletic Activities** is deleted in its entirety and replaced with the following:

e. Athletic Activities

To a person injured while taking part in athletics.

I. Supplementary Payments

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGE A AND B are amended as follows:

1. b. is deleted in its entirety and replaced by the following:

1. b. Up to \$5000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these.

- 1.d. is deleted in its entirety and replaced by the following:

1. d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

J. Employee Indemnification Defense Coverage

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B the following is added:

We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding occurring in the course of employment.

The most we will pay for any "employee" who is alleged to be directly involved in a criminal proceeding is \$25,000 regardless of the numbers of "employees," claims or "suits" brought or persons or organizations making claims or bringing "suits."

K. Key and Lock Replacement – Janitorial Services Client Coverage

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B is amended to include the following:

We will pay for the cost to replace keys and locks at the “clients” premises due to theft or other loss to keys entrusted to you by your “client,” up to a \$10,000 limit per occurrence and \$10,000 policy aggregate.

We will not pay for loss or damage resulting from theft or any other dishonest or criminal act that you or any of your partners, members, officers, “employees”, “managers”, directors, trustees, authorized representatives or any one to whom you entrust the keys of a “client” for any purpose commit, whether acting alone or in collusion with other persons.

The following, when used on this coverage, are defined as follows:

- a. "Client" means an individual, company or organization with whom you have a written contract or work order for your services for a described premises and have billed for your services.
- b. "Employee" means:
 - (1) Any natural person:
 - (a) While in your service or for 30 days after termination of service;
 - (b) Who you compensate directly by salary, wages or commissions; and
 - (c) Who you have the right to direct and control while performing services for you; or
 - (2) Any natural person who is furnished temporarily to you:
 - (a) To substitute for a permanent "employee" as defined in Paragraph (1) above, who is on leave; or
 - (b) To meet seasonal or short-term workload conditions;
 while that person is subject to your direction and control and performing services for you.
 - (3) "Employee" does not mean:
 - (a) Any agent, broker, person leased to you by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
 - (b) Any "manager," director or trustee except while performing acts coming within the scope of the usual duties of an "employee."
- c. "Manager" means a person serving in a directorial capacity for a limited liability company.

L. Additional Insureds

SECTION II – WHO IS AN INSURED is amended as follows:

1. If coverage for newly acquired or formed organizations is not otherwise excluded from this

Coverage Part, Paragraph **3.a.** is deleted in its entirety and replaced by the following:

- a. Coverage under this provision is afforded until the end of the policy period.
2. Each of the following is also an insured:
- a. **Medical Directors and Administrators** – Your medical directors and administrators, but only while acting within the scope of and during the course of their duties as such. Such duties do not include the furnishing or failure to furnish professional services of any physician or psychiatrist in the treatment of a patient.
 - b. **Managers and Supervisors** – Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your “employees” are also insureds for “bodily injury” to a co-“employee” while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

- c. **Broadened Named Insured** – Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.
- d. **Funding Source** – Any person or organization with respect to their liability arising out of:
 - (1) Their financial control of you; or
 - (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

- e. **Home Care Providers** – At the first Named Insured's option, any person or organization under your direct supervision and control while providing for you private home respite or foster home care for the developmentally disabled.
- f. **Managers, Landlords, or Lessors of Premises** – Any person or organization with respect to their liability arising out of the ownership, maintenance or use of that part of the premises leased or rented to you subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any “occurrence” which takes place after you cease to be a tenant in that premises; or
 - (2) Structural alterations, new construction or demolition operations performed by or on behalf of that person or organization.
- g. **Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You** – Any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is to be added as an additional insured on your policy. Such person or

organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- h. Grantors of Permits** – Any state or political subdivision granting you a permit in connection with your premises subject to the following additional provision:
- (1)** This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with the premises you own, rent or control and to which this insurance applies:
 - (a)** The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
 - (b)** The construction, erection, or removal of elevators; or
 - (c)** The ownership, maintenance, or use of any elevators covered by this insurance.
- i. Vendors** – Only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:
- (1)** The insurance afforded the vendor does not apply to:
 - (a)** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - (b)** Any express warranty unauthorized by you;
 - (c)** Any physical or chemical change in the product made intentionally by the vendor;
 - (d)** Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - (e)** Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - (f)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (i) The exceptions contained in Sub-paragraphs (d) or (f); or
 - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing.
- j. **Franchisor** – Any person or organization with respect to their liability as the grantor of a franchise to you.
- k. **As Required by Contract** – Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations
- i. **Owners, Lessees or Contractors** – Any person or organization, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:
 - (1) Your acts or omissions; or
 - (2) The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured when required by a contract.

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- (a) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (b) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

m. State or Political Subdivisions – Any state or political subdivision as required, subject to the following provisions:

- (1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit, and is required by contract.
- (2) This insurance does not apply to:
 - (a) "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
 - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

M. Duties in the Event of Occurrence, Claim or Suit

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph 2. is amended as follows:

a. is amended to include:

This condition applies only when the "occurrence" or offense is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

b. is amended to include:

This condition will not be considered breached unless the breach occurs after such claim or "suit" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

N. Unintentional Failure To Disclose Hazards

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 6. Representations is amended to include the following:

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

O. Transfer of Rights of Recovery Against Others To Us

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 8. Transfer of Rights of

Recovery Against Others To Us is deleted in its entirety and replaced by the following:

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

P. Liberalization

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, is amended to include the following:

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

Q. Bodily Injury – Mental Anguish

SECTION V – DEFINITIONS, Paragraph 3. Is deleted in its entirety and replaced by the following:

"Bodily injury" means:

- a. Bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
- b. Except for mental anguish, includes death resulting from the foregoing (Item a. above) at any time.

R. Personal and Advertising Injury – Abuse of Process, Discrimination

If **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE** is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

1. **SECTION V – DEFINITIONS**, Paragraph 14.b. is deleted in its entirety and replaced by the following:

- b. Malicious prosecution or abuse of process;

2. **SECTION V – DEFINITIONS**, Paragraph 14. is amended by adding the following:

Discrimination based on race, color, religion, sex, age or national origin, except when:

- a. Done intentionally by or at the direction of, or with the knowledge or consent of:
 - (1) Any insured; or
 - (2) Any executive officer, director, stockholder, partner or member of the insured;
- b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured;

- c.** Directly or indirectly related to the sale, rental, lease or sublease or prospective sales, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or
- d.** Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.



7501 E. Lowry Blvd.
Denver, CO 80230-7006
303.361.4000 / 800.873.7242
Pinnacol.com

NCCI #: WC000313B
Policy #: 4058502

Clayton Early Learning
Trustee, George W Clayton Trust
3801 E Martin Luther King Blvd
Denver, CO 80205

CCIG
155 Inverness Drive West
Englewood, CO 80112
(303) 799-0110

ENDORSEMENT: Blanket Waiver of Subrogation

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

To any person or organization when agreed to under a written contract or agreement, as defined above and with the insured, which is in effect and executed prior to any loss.

Effective Date: July 1, 2023 Expires on: July 1, 2024
Pinnacol Assurance has issued this endorsement July 3, 2023