

FIRST AMENDMENT TO FUNDING AND ASSIGNMENT AGREEMENT

THIS FIRST AMENDMENT TO FUNDING AND ASSIGNMENT AGREEMENT (“**First Amendment**”) is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “**City**”) and **VOLUNTEERS OF AMERICA**, a Colorado nonprofit corporation with an address of 2660 Larimer Street, Denver, Colorado 80205 (“**VOA**”), individually a “**Party**” and collectively the “**Parties**.”

RECITALS:

A. The Parties entered into that Funding and Assignment Agreement executed on or about October 24, 2023 (the “**Original Agreement**”) for the performance of certain work as set forth in the Original Agreement and the exhibits incorporated therein; and

B. The City is in the midst of a homelessness crisis and the City’s provision of the “**Proceeds**,” as that term is defined in the second Recital of the Original Agreement, to VOA in exchange for VOA’s undertaking and operation of the “**Project**,” as that term is defined in the second Recital of the Original Agreement, shall serve an important public purpose in helping to benefit and secure the health, safety, and welfare of the City’s residents.

C. Since the execution of the Original Agreement, costs associated with the Project have increased, and the City wishes to add an additional Four Hundred and Thirty-Four Thousand, Five Hundred and Sixty-One Dollars and One Cent (\$434,561.01) to the Proceeds to offset those costs and help ensure the success of the Project.

D. The Parties desire to revise the terms and conditions to: 1) increase the amount of the Proceeds by Four Hundred and Thirty-Four Thousand, Five Hundred and Sixty-One Dollars and One Cent (\$434,561.01); 2) replace **Exhibit A-1** to the Original Agreement with the updated **Exhibit A-1A** attached hereto and incorporated herein; 3) replace **Exhibit B-1** to the Original Agreement with the updated **Exhibit B-1A** attached hereto and incorporated herein; 4) replace **Exhibit C** to the Original Agreement with the updated **Exhibit C-1** attached hereto and incorporated herein; and 5) make such other amendments to the Original Agreement to bring it into conformance with current Denver Revised Municipal Code requirements and City contracting requirements, all for the purpose of business continuity.

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

1. All capitalized terms otherwise undefined in this First Amendment shall have the meaning ascribed to them in the Original Agreement.

2. The second Recital of the Original Agreement is hereby deleted and replaced in its entirety with the following:

“**WHEREAS**, VOA intends to complete the construction of a shelter structure comprising of at least sixty (60) non-congregate shelter units located at 4855 East Colfax, Denver, Colorado (the “**Property**”) and the City desires to make a part of the proceeds, totaling an amount not to exceed Thirteen Million, Six Hundred and Sixty-Nine Thousand, Nine Hundred and Ninety-Four Dollars and One Cent (\$13,669,994.01) of the Bonds (the “**Proceeds**”), available to fund costs associated with the above-stated improvements to the buildings and grounds all as more fully described below and in **Exhibit A**, as attached hereto and incorporated herein (the “**Project**”), in accordance with the terms and conditions of this Agreement; and”.

3. **Exhibit A-1**, as attached to the Original Agreement, shall be replaced in its entirety with the updated **Exhibit A-1A**, as attached hereto and incorporated herein by reference. All references to **Exhibit A-1** in the Original Agreement shall be automatically changed to instead reference **Exhibit A-1A**.

4. **Exhibit B-1**, the Shelter Operating Agreement form attached to the Original Agreement, shall be replaced in its entirety with the updated **Exhibit B-1A**, in substantially-final form as attached hereto and incorporated herein by reference. All references to **Exhibit B-1** in the Original Agreement shall be automatically changed to instead reference **Exhibit B-1A**. It shall be an express condition precedent to the City's delivery of the additional Four Hundred and Thirty-Four Thousand, Five Hundred and Sixty-One Dollars and One Cent (\$434,561.01) of Proceeds described herein that the City and VOA shall mutually execute the Amended and Restated Shelter Operating Agreement, subject to any non-material revisions as may be mutually agreed upon, attached as **Exhibit B-1A**.

5. **Exhibit C**, as attached to the Original Agreement, shall be replaced in its entirety with the updated **Exhibit C-1**, as attached hereto and incorporated herein by reference. All references to **Exhibit C** in the Original Agreement shall be automatically changed to instead reference **Exhibit C-1**.

6. A new Section 37 shall be incorporated into the Original Agreement with the following:

“37. **Compliance with Denver Wage Laws.** To the extent applicable to VOA’s provision of services hereunder, VOA shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City’s Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. sections. By executing this Agreement, VOA expressly acknowledges that VOA is aware of the requirements of the City’s Minimum Wage and Civil Wage Theft Ordinances and that any failure by VOA, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. sections shall result in the penalties and other remedies authorized therein. VOA shall insert the foregoing provision in all subcontracts.”

7. Except as herein amended, the Original Agreement continues in effect, and is affirmed and ratified in each and every particular.

8. This First Amendment 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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[SIGNATURE PAGES TO FOLLOW]

Contract Control Number:
Contractor Name:

HOST-202579851-01 / HOST-202370324-00
VOLUNTEERS OF AMERICA OF COLORADO

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:

Attorney for the City and County of Denver

By: _____

REGISTERED AND COUNTERSIGNED:

By: _____

By: _____

Contract Control Number:
Contractor Name:

HOST-202579851-01 / HOST-202370324-00
VOLUNTEERS OF AMERICA OF COLORADO

By: _____

Signed by:

David Schunk

67245E521A9A403...

Name: _____

David Schunk

(please print)

Title: _____

President and CEO

(please print)

ATTEST: [if required]

By: _____

Name: _____

(please print)

Title: _____

(please print)

EXHIBIT A-1A

SOURCES AND USES BUDGET

PROJECT NAME: -Theodora Family Hotel
 PROJECT LOCATION: Denver, Colorado
 TOTAL # OF UNITS: 60

A. SOURCE OF FUNDS

Item	Status Code	TOTAL COSTS	% of Total	PER UNIT
A. EQUITY		\$0	0%	
B. CITY OF DENVER		\$18,169,994.01	64%	\$302,833
GO Bonds	EST	\$13,669,994.01	48%	\$227,833
Community Development Block Grant		\$4,500,000	16%	\$75,000
C. OTHER		\$9,732,744	36%	\$162,212
State Division of Housing		\$7,000,000	25%	\$116,667
VOACO Equity or other Grants	EST	\$1,942,744	8%	\$32,379
VOACO Land Donation	EST	\$790,000	3%	\$13,167
D. DEFERRED FEES/TRANSFERS		\$0	0%	\$0
	EST	\$0	0%	\$0
E. SOURCES GAP		\$0	0%	\$0
TOTAL		\$27,902,738.01	100%	\$465,045
		\$0		

SOURCES AND USES BUDGET

PROJECT NAME:	-Theodora Family Hotel
PROJECT LOCATION:	Denver, Colorado
TOTAL # OF UNITS:	60

B. USE OF FUNDS

Item	Status Code	TOTAL COSTS	UPDATED BUDGET COSTS 9.13.24	PER UNIT	GO BOND ELIGIBLE COSTS
GC CONTRACT TOTAL (INC. CONT.):		\$23,421,819			
A. CONSTRUCTION COSTS		\$27,468,177	\$27,468,177	\$444,129	
Hard Costs:		\$24,316,327			
Construction Costs	EST	\$20,159,128		\$335,985	\$24,316,327
Playground Shortfall	EST		\$134,561.01	\$2,243	
General Conditions & Requirements	EST	\$1,201,401		\$20,023	
Builder's Profit and Overhead	EST	\$750,492		\$12,508	
Payment & Performance Bond	EST	\$144,255		\$2,404	
GC GL & BR Insurance	EST	\$500,749		\$8,346	
General Contractor Contingency	EST	\$665,794		\$11,097	
Owner Construction Contingency	PDV	\$894,508		\$14,908	
Total Contingency (GC & Owner)		6.9%			
Soft Costs:		\$1,149,850			\$1,149,850
Architect and Engineering Fees	EST	\$875,850		\$14,598	
Building Permits - incl in GC costs	EST	\$0		\$0	
Impact and Tap Fees	EST	\$163,000		\$2,717	
Survey	EST	\$6,000		\$100	
Geotechnical Study	EST	\$5,000		\$83	
Environmental Studies	EST	\$15,000		\$250	
Soft Cost Contingency	EST	\$85,000		\$1,417	
Financing:		\$0			
	EST	\$0		\$0	
	EST	\$0		\$0	
Other:		\$747,000			
Relocation to Temp Facility	EST	\$25,000		\$417	
Workforce Development	EST	\$25,000		\$417	
FFE - Units	EST	\$166,000		\$2,767	
FFE - Common Areas	EST	\$166,000		\$2,767	
FFE Shortfall	EST		\$300,000	\$5,000	
City of Denver Public Artwork (1% of TDC)	EST	\$275,000		\$4,583	
Owners Liability Insurance	EST	\$45,000		\$750	
Materials Testing	EST	\$45,000		\$750	
B. PERMANENT FINANCING		\$0		\$0	
	EST	\$0		\$0	
C. ORGANIZATIONAL COSTS:		\$85,000		\$1,417	
Accounting Costs	EST	\$30,000		\$500	
Legal - Entity & Other	EST	\$55,000		\$917	
Miscellaneous	EST	\$0		\$0	
	EST	\$0		\$0	
D. ACQUISITION COSTS:		\$817,500		\$13,625	
Abatement & Demolition - included in GC costs	EST	\$0		\$0	
Appraisal	EST	\$2,500		\$42	
Land	EST	\$790,000		\$13,167	
Title and Recording	EST	\$25,000		\$417	
	EST	\$0		\$0	
E. MARKETING AND RELOCATION COSTS:		\$25,000		\$417	
Start-Up Costs	EST	\$25,000		\$417	
	EST	\$0		\$0	
F. OTHER COSTS:		\$257,500		\$4,292	
Financial Consulting	EST	\$7,500		\$125	
Project Management	EST	\$250,000		\$4,167	
	EST	\$0		\$0	
G. RESERVES:		\$70,000		\$1,167	
Replacement Reserve	EST	\$30,000		\$500	
Operating Reserve	EST	\$40,000		\$667	
	EST	\$0		\$0	

H. DEVELOPMENT AND OTHER FEES: <hr/>		\$0		\$0	
	EST	\$0		\$0	
TOTAL USES OF FUNDS		\$27,468,177	\$27,902,738.01	\$457,803	\$25,466,177

EXHIBIT B-1A

AMENDED AND RESTATED SHELTER OPERATING AGREEMENT

THIS SHELTER OPERATING AGREEMENT (“Agreement”) is entered and made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **VOLUNTEERS OF AMERICA OF COLORADO**, a Colorado nonprofit corporation, whose address is 2660 Larimer Street, Denver, Colorado 80205 (the “Operator”), collectively the “Parties” and each individually a “Party.”

RECITALS

WHEREAS, the qualified and registered voters of the City approved referred question 2B on November 2, 2021, approving the issuance of general obligation bonds (the “**Bonds**”) by the City in the aggregate principal amount of \$38,600,000.00 for the purpose of financing the cost of repairs and improvements to the City’s housing and sheltering system.

WHEREAS, the Parties have entered into (i) a Funding and Assignment Agreement dated October 24, 2023 (the “**Original FAA**”); and (ii) a Grant Agreement PF&I Program dated October 24, 2023 (the “**Grant Agreement**”). Pursuant to the Original FAA, the City agreed to provide a part of the Bonds proceeds, originally totaling an amount not to exceed Thirteen Million Two Hundred Thirty-Five Thousand Four Hundred Thirty-Three Dollars and No Cents (\$13,235,433.00). Pursuant to the Grant Agreement, the City agreed to provide Community Development Block Grant (“CDBG”) funding in the amount of Four Million Five Hundred Thousand and No Cents (\$4,500,000.00) (the “CDBG Funding”), to complete the construction of a shelter structure comprising of at least sixty (60) congregate shelter units (the “**Project**”) located at 4905 West Colfax Avenue, Denver, Colorado (the “**Property**”).

WHEREAS, subsequent to the execution of the Original FAA, (i) the Parties entered into a Shelter Operating Agreement dated November 9, 2023 (“**Original Shelter OA**”) to memorialize certain operating, maintenance and administration requirements for the Shelter Facility required by the City; and (ii) the Operator executed and recorded a Declaration of Restrictive Covenant to restrict the use of the Property for a term of sixty (60) years (“**Covenant**”), in accordance with the terms of said Covenant.

WHEREAS, the Parties have agreed to amend the Original FAA to increase the funding amount by Four Hundred and Thirty-Four Thousand, Five Hundred and Sixty-One Dollars and One Cent (\$434,561.01) (the “**Amended FAA**”), for a total amount not to exceed Thirteen Million, Six Hundred and Sixty-Nine Thousand, Nine Hundred and Ninety-Four Dollars and One Cent (\$13,669,994.01) (the “**Bond Proceeds**,” and together with the CDBG Funding, the “**Proceeds**”). Collectively, the Original FAA and the Amended FAA shall be referred to herein as the “**FAA**.”

WHEREAS, as a condition of receiving the additional Four Hundred and Thirty-Four Thousand, Five Hundred and Sixty-One Dollars and One Cent (\$434,561.01), the Parties must execute an Amended and Restated Shelter Operating Agreement to document the increase in the Proceeds.

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NOW THEREFORE, in consideration of the mutual covenants, undertakings and conditions set forth below, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Standard of Performance.** Operator must (i) operate, maintain, and manage the Project in a lawful, satisfactory, and proper manner and (ii) perform or comply with the obligations set forth in this Agreement. Operator must faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature.

2. **Term.** This Agreement will commence and become effective as of the date the Project is placed into service after Operator receives a certificate of occupancy (or its equivalent) from the City and remain in effect until the earlier of (a) the expiration or earlier termination of the Covenant, or (b) the time in which the Property is converted to affordable housing pursuant to the Covenant (the “**Term**”).

3. **Availability of Shelter Rooms.**

3.1 The Property must be utilized and operated as shelter the entire duration of the Term. At least sixty (60) rooms at the Property must be used for non-congregate shelter.

3.2 Operator must make a minimum of eighty percent (80%) of the non-congregate shelter rooms available for shelter guests. “Available” means that a room is operational and not otherwise unavailable for occupancy due to repairs, maintenance, or similar activities. Rooms that are being cleaned or turned over when a guest vacates the room will be considered “available” so long as they can be occupied by another guest within forty-eight (48) hours of the guest vacating the room.

3.3 Operator must obtain the written approval from the Executive Director of the City’s Department of Housing Stability (“**HOST**”) prior to converting any room being used as non-congregate or congregate shelter to another use.

4. **Staffing Requirements.**

4.1 Operator must have two (2) staff members on site during working hours and two (2) staff during overnight hours.

4.2 Operator must employ staff that assists shelter guests with rehousing. Staff satisfying this requirement may include case managers, housing advocates, or other similar positions so long as the staff member’s responsibilities include assisting guests with rehousing. Operator must have a minimum ratio of staff focusing on rehousing at the Project as follows: if the Project serves individuals, there must be a minimum of 1:50 staff-to-guest ratio; if the Project serves families, there must be a minimum of 1:30 staff-to-household ratio; and if the Project serves minors and transitional aged youth, there must be a minimum of 1:30 staff-to-guest ratio.

5. **Regular Reporting in Homelessness Management Information System.**

5.1 Operator must report data and information on shelter utilization and shelter outcomes in the Homeless Management Information System (“**HMIS**”). HOST may modify the data reporting requirements that Operator must submit into the HMIS. HOST will provide

EXHIBIT B-1A

Operator with written notice at least thirty (30) days prior to modifying any HMIS reporting requirements.

5.2. It is HOST's policy, in alignment with adopted plans, to require the use of the HMIS and OneHome for all federally and locally funded projects that have a goal of addressing the needs of residents experiencing homelessness. Metro Denver Homeless Initiative ("MDHI") is the implementing organization for the HMIS.

5.2.1 Operator agrees to fully comply with the rules and regulations, as may be amended, required by the U.S. Department of Housing and Urban Development ("HUD") which govern the HMIS.

5.2.2 Operator, in addition to the HUD requirements, must conform to the HMIS policies and procedures established and adopted, and as may amended or updated, by the MDHI Continuum of Care. The current policies and procedures are outlined in the COHMIS Policies and Procedures,¹ and the COHMIS Security, Privacy and Data Quality Plan.²

5.2.3 Operator's aggregate HMIS data may be shared with the funder and the community to improve system performance and assist with monitoring. MDHI will monitor HMIS related compliance and performance on an annual basis through a site visit. HOST will monitor program performance and contract compliance on an annual basis.

5.2.4 Technical assistance and training resources for the HMIS are available to the Operator via the COHMIS Helpdesk.³

5.2.5 HMIS data will be used to monitor this Agreement. HMIS reports may be sent to HOST directly from MDHI. Operator will also have access to all reports generated for this contract. HOST may request aggregate data from MDHI for City related reporting needs.

6. **Annual Reports to HOST.**

6.1 Operator must submit an annual report to HOST on forms provide by HOST by September 1 of each year this Agreement is in effect. The submission must contain a detailed report containing the following:

- 6.1.1 Financial reports for the Operator;
- 6.1.2 Financial reports for the Project;
- 6.1.3 Project status report;
- 6.1.4 Compliance reports; and
- 6.1.5 Any other documentation or information required by the City.

6.2 Operator acknowledges that untimely submissions of annual reports to HOST will cause the City to incur costs not contemplated by this Agreement. Such costs include, but are not limited to, additional staff time for the administration of this Agreement and to ensure compliance with the Bonds and CDBG reporting requirements. If Operator fails to timely submit

¹ <https://cohmis.zendesk.com/hc/en-us/articles/360013991371-Policy-Procedures>

² <https://cohmis.zendesk.com/hc/en-us/articles/360013991371-Policy-Procedures>

³ <https://cohmis.zendesk.com>

EXHIBIT B-1A

a report required under this Agreement, and such failure is not cured within 90 days, a per-violation charge of two hundred fifty dollars and NO/100 (\$250.00) will be imposed upon the Operator, which amount shall be due and payable upon receipt of invoice by the City.

7. **Maintenance of Property; Inspections.**

7.1 Operator must maintain the Property and the Project in accordance with the Covenant and in a manner such that all shelter units are suitable for occupancy, taking into account applicable safety and building codes, and otherwise in a manner reasonably satisfactory to HOST.

7.2 For the purpose of ensuring compliance with this Agreement and the Covenant, HOST shall have the reasonable right of access to the Property, without charges or fees, to conduct an inspection to ensure minimum health and safety standards are being met. Operator must remediate any issues or deficiencies identified by HOST within thirty (30) days of receiving written notice.

8. **Examination of Records.** 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 the Operator's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Operator 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 the Operator to make disclosures in violation of state or federal privacy laws. The Operator shall at all times comply with D.R.M.C. 20-276.

9. **Status of Operator.** Operator is an independent contractor. Neither the Operator nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

10. **Agreement Creates No Payment Obligation.** Notwithstanding any other provision of the Agreement, the City's maximum payment obligation solely under this Agreement will not exceed zero dollars (\$0.00) (the "**Maximum Contract Amount**"). The City is not obligated to execute an agreement or any amendments to this Agreement for any services not specified herein. 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 the purpose of the Agreement. The City does not by this Agreement irrevocably pledge present cash reserves or 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.

EXHIBIT B-1A

11. **No Discrimination in Employment.** In connection with the performance of work under the Agreement, the Operator 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 Operator shall insert the foregoing provision in all subcontracts.

12. INTENTIONALLY OMITTED

13. **Operator's Insurance.**

13.1 **General Conditions:** Operator 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. Operator 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, Operator 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. Operator 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 Operator. The Operator 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.

13.2 **Proof of Insurance:** Operator may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. Operator certifies that the certificate of insurance attached as **Exhibit A**, 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 Operator'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.

13.3 **Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Operator and subcontractor's insurer(s) shall include

EXHIBIT B-1A

the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

13.4 Waiver of Subrogation: For all coverages required under this Agreement, Operator's insurer shall waive subrogation rights against the City.

13.5 Subcontractors and Subconsultants: Operator 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 Operator and appropriate to their respective primary business risks considering the nature and scope of services provided.

13.6 Workers' Compensation and Employer's Liability Insurance: Operator 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.

13.7 Commercial General Liability: Operator 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. Policy shall not contain an exclusion for sexual abuse, molestation or misconduct.

13.8 Automobile Liability: Operator 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.

13.9 Cyber Liability: Operator shall maintain Cyber Liability coverage with minimum limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. If Claims Made, the policy shall be kept in force, or a Tail policy placed, for three (3) years.

13.10 Commercial Crime: Operator shall maintain minimum limits of \$1,000,000 in commercial crime insurance coverage. Coverage shall include theft of City's money, securities or valuable property by Operator's employees, including any extended definition of employee. The City and County of Denver shall be named as Loss Payee as its interest may appear.

14. Indemnification.

14.1 The Operator 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

EXHIBIT B-1A

misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the Operator 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.

14.2 The Operator'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 Operator'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.

14.3 The Operator shall defend any and all Claims which may be brought or threatened against City and shall 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 will be in addition to any other legal remedies available to City and will not be the City's exclusive remedy.

14.4 Insurance coverage requirements specified in this Agreement in no way lessen or limit the liability of the Operator under the terms of this indemnification obligation. The Operator is responsible to obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

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

15. **Termination; Remedies.**

15.1 If Operator is in breach or default of one more material terms or conditions of this Agreement ("**Operator Default**"), the City will give written notice of the Operator Default to the Operator. After Operator's receipt of the written notice, Operator will have sixty (60) calendar days to cure the Operator Default (the "**Cure Period**"). The Cure Period may be extended at the sole discretion of the Executive Director of HOST. If the Operator Default is not cured, or good faith efforts to cure within the Cure Period (as may be extended due to force majeure, supply chain or labor shortages), the Agreement may be terminated at the sole discretion of the Executive Director of HOST. If the Agreement is terminated pursuant to this subsection, the City shall be entitled to recoup all of the Bond Proceeds that the City provided to Operator under the Funding and Assignment Agreement from the Operator upon written demand. To the extent that any portion of the Bond Proceeds are not otherwise voluntarily returned by Operator, the City may collect any amount due and owing to the City in accordance with any remedy available in either law or equity.

15.2 The Operator may not terminate this Agreement while the Bonds are outstanding.

15.3 The Parties may mutually agree in writing to terminate this Agreement.

EXHIBIT B-1A

15.4 If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Operator's possession, custody, or control by whatever method the City deems expedient. The Operator shall deliver all documents in any form that were prepared under the Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Operator shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE."

16. **Notices.** All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, or mailed by certified mail, return receipt requested, at the addresses below:

To the City:

Executive Director, Department of Housing Stability
201 W. Colfax Ave., Dept. 615
Denver, CO 80202

With a copy to:

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

To the Operator:

Dave Schunk
President and CEO
Volunteers of America of Colorado
2660 Larimer Street
Denver, CO 80205
Email: Dschunk@voacolorado.org
Phone: 720 264-3315

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. 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.

17. **Compliance with all Laws.** The Operator 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.

18. **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

EXHIBIT B-1A

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.

19. **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).

20. **Legal Authority.** The Operator 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 the Agreement. Each person signing and executing the Agreement on behalf of the Operator represents and warrants that he has been fully authorized by the Operator to execute the Agreement on behalf of the Operator and to validly and legally bind the Operator to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either the Operator or the person signing the Agreement to enter into the Agreement.

21. **Use, Possession, or Sale of Alcohol of Drugs.** The Operator shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

22. **Agreement as Complete Integration; Amendments.** This Agreement is the complete integration of all understandings between the Parties as to the subject matter of this Agreement. No prior, contemporaneous, or subsequent addition, deletion, or other modification has any force or effect, unless embodied in this Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of this Agreement or any written amendment to this Agreement will have any force or effect or bind the City. This Agreement may be amended without requiring an amendment to the FAA.

23. **City Execution of Agreement.** This 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.

24. **Funding and Assignment Agreement and Covenant.**

24.1 The Parties agree and acknowledge that this Agreement, along with the Covenant, are intended to control the ongoing operation, maintenance and administration of the Project after construction is completed, and the FAA is intended to control the design and construction of the Project. To the greatest extent possible, this Agreement, the Covenant and the

EXHIBIT B-1A

FAA are intended to be interpreted as complementary to one another. Nothing contained herein shall be construed as limiting or waiving any rights or obligations described in the FAA or the Covenant.

24.2 The concurrent approval and mutual execution of the FAA to this Agreement shall be a material consideration for the Parties to enter into this Agreement, and the failure or refusal of the Parties to mutually execute the FAA shall be grounds for terminating this Agreement, in accordance with Section 15, above.

24.3 The Operator's approval, execution and recordation of the Covenant in the real property records shall be a material consideration for the Parties to enter into this Agreement, and the failure or refusal of the Operator to lawfully approve, execute and record the Covenant shall be grounds for terminating this Agreement, in accordance with Section 15, above.

25. INTENTIONALLY OMITTED.

26. **Future Operation Funding.** It is anticipated that Operator may apply to a future notice of funding availability issued by HOST for the provision of funds to support shelter operations for the Project at a future date. Operator acknowledges and agrees that any City funding for an operating gap is not currently budgeted by the City, will not be provided out of any Proceeds, and a future award, if any, will be contingent on Operator's successful competitive bid and the availability of funds. To the extent not provided by the City, any funding needed by Operator for the operating gap shall be the sole responsibility of Operator.

27. **Electronic Signatures and Electronic Documents.** The Operator 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.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

EXHIBIT B-1A

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

CITY

CITY AND COUNTY OF DENVER, a Colorado municipal corporation

By: _____

Title: _____, Department of Housing
Stability

EXHIBIT B-1A

OPERATOR

Volunteers of America of Colorado, a Colorado non-profit corporation

By: _____

Name: David Schunk

Title: President and Chief Executive Officer

EXHIBIT B-1A

EXHIBIT A
Certificate of Insurance



CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
07/01/2024

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.

PRODUCER ISU Insurance Services of Colorado 1950 W Littleton Blvd. Suite 107 Littleton CO 80120	CONTACT NAME: Brenda Crozier PHONE (A/C, No, Ext): (303) 534-2133 FAX (A/C, No): (303) 892-5579 E-MAIL ADDRESS: bcrozier@isuinsurance.com PRODUCER CUSTOMER ID: 00001507														
INSURED Volunteers of America Colorado Branch 2660 Larimer St Denver CO 80205	<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: Hartford Fire Insurance Co</td><td>19682</td></tr><tr><td>INSURER B:</td><td></td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Hartford Fire Insurance Co	19682	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER: 24-25 CRIME

REVISION NUMBER:

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

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	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
	<input type="checkbox"/> PROPERTY				<input type="checkbox"/> BUILDING	\$
	<input type="checkbox"/> CAUSES OF LOSS	<input type="checkbox"/> DEDUCTIBLES			<input type="checkbox"/> PERSONAL PROPERTY	\$
	<input type="checkbox"/> BASIC	<input type="checkbox"/> BUILDING			<input type="checkbox"/> BUSINESS INCOME	\$
	<input type="checkbox"/> BROAD	<input type="checkbox"/> CONTENTS			<input type="checkbox"/> EXTRA EXPENSE	\$
	<input type="checkbox"/> SPECIAL				<input type="checkbox"/> RENTAL VALUE	\$
	<input type="checkbox"/> EARTHQUAKE				<input type="checkbox"/> BLANKET BUILDING	\$
	<input type="checkbox"/> WIND				<input type="checkbox"/> BLANKET PERS PROP	\$
	<input type="checkbox"/> FLOOD				<input type="checkbox"/> BLANKET BLDG & PP	\$
						\$
						\$
	<input type="checkbox"/> INLAND MARINE	TYPE OF POLICY				\$
	<input type="checkbox"/> CAUSES OF LOSS					\$
	<input type="checkbox"/> NAMED PERILS	POLICY NUMBER				\$
						\$
A	<input checked="" type="checkbox"/> CRIME	34BDDHG1107	07/01/2024	07/01/2025	<input checked="" type="checkbox"/> Employee Theft	\$ 1,000,000
	TYPE OF POLICY				<input checked="" type="checkbox"/> Deductible	\$ 10,000
	Deception Fraud Limit \$15,000				<input checked="" type="checkbox"/> 3rd Party Theft	\$ 1,000,000
	<input type="checkbox"/> BOILER & MACHINERY / EQUIPMENT BREAKDOWN					\$
						\$
						\$
						\$

SPECIAL CONDITIONS / OTHER COVERAGES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Theodora Hotel - 4855 W. Colfax, Denver, CO 80204; City and County of Denver is Loss Payee as their interests may appear.

CERTIFICATE HOLDER

CANCELLATION

City and County of Denver

201 W. Colfax Ave.

Denver

CO 80202

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)

04/08/2025

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 ISU Insurance Services of Colorado 1950 W Littleton Blvd. Suite 107 Littleton CO 80120	CONTACT NAME: Brenda Crozier PHONE (A/C, No, Ext): (303) 534-2133 FAX (A/C, No): (303) 892-5579 E-MAIL ADDRESS: bcrozier@isuinsurance.com <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Philadelphia Indemnity Insurance Co.</td> <td>18058</td> </tr> <tr> <td>INSURER B: Pinnacol Assurance Co</td> <td>41190</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Philadelphia Indemnity Insurance Co.	18058	INSURER B: Pinnacol Assurance Co	41190	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															
INSURED Volunteers of America Colorado Branch 2660 Larimer St Denver CO 80205-2219															

COVERAGES**CERTIFICATE NUMBER:** 24-25 LIAB w/25-26 WC**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	Y		PHPK2574068-023	07/01/2024	07/01/2025	EACH OCCURRENCE	\$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
	<input checked="" type="checkbox"/> Sexual Abuse & Molestation						MED EXP (Any one person)	\$ 20,000
	<input type="checkbox"/> \$1,000,000 Ann'l Aggregate						PERSONAL & ADV INJURY	\$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000
	OTHER:							\$
A	AUTOMOBILE LIABILITY			PHPK2574068-023	07/01/2024	07/01/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
								\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB			PHUB871591-023	07/01/2024	07/01/2025	EACH OCCURRENCE	\$ 10,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB						AGGREGATE	\$ 10,000,000
	<input type="checkbox"/> CLAIMS-MADE							\$
	DED <input checked="" type="checkbox"/> RETENTION \$ 10,000							
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A		55212	01/01/2025	01/01/2026	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	\$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
A	Professional Liability for Human Services			PHPK2574068-023	07/01/2024	07/01/2025	Professional Liability	\$1,000,000
							Annual Aggregate	\$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City and County of Denver, its elected and appointed officials, employees, and volunteers are additional insured on the General Liability - Re: Theodora Hotel - 4855 W. Colfax, Denver, CO.

CERTIFICATE HOLDER**CANCELLATION**

City and County of Denver 201 W. Colfax Ave. Denver CO 80202	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p> <p style="text-align: center;"><i>Brenda Crozier</i></p>
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7501 E. Lowry Blvd.
Denver, CO 80230-7006
303.361.4000 / 800.873.7242
Pinnacol.com

NCCI #: WC000313B
Policy #: 55212

Volunteers of America Colorado Branch
2660 Larimer Street
Attn: Accounting
Denver, CO 80205

ISU Insurance Services of Colorado
350 Indiana Street
Suite 750
Golden, CO 80401
(303) 534-2133

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: December 27, 2024 Expires on: January 1, 2026
Pinnacol Assurance has issued this endorsement December 27, 2024