

## SECOND AMENDATORY CONCESSION AGREEMENT

THIS SECOND AMENDATORY CONCESSION AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City” or “Lessee”) and **SUBWAY® REAL ESTATE LLC**, a limited liability company, successor in interest to Subway Real Estate Corporation, formed under the laws of Delaware and authorized to do business in the State of Colorado, with offices located at 325 Bic Drive, Milford, Connecticut 06461 (the “Concessionaire”).

### WITNESSETH:

**WHEREAS**, the City entered into a Build to Suit Lease Purchase Agreement for the Civic Center Office Building dated March 14, 2000, which has been filed with the Denver Clerk and Recorder under City Clerk Filing No. 00-145; which agreement was subsequently amended by an Amended and Restated Build to Suit Lease Purchase Agreement for the Civic Center Office Building dated July 15, 2000, which has been filed with the Denver Clerk and Recorder under City Clerk Filing No. 00-145A (the “Master Lease”), wherein the City leased from Civic Center Office Building Inc. (“the Master Lessor”) certain real property and leasehold improvements situated at 201 West Colfax Avenue in Denver, Colorado (the “Property”); and

**WHEREAS**, the City granted concession rights for the operation of a sandwich shop upon a portion of the Property to the Concessionaire in the Concession Agreement dated November 12, 2002 and amended in an Amendatory Concession Agreement dated November 6, 2007 (the “Agreement”); and

**WHEREAS**, the City now desires to amend the Concession Agreement to extend the term and add rental amounts for subsequent years of the Term to the Concession Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and obligations herein set forth the parties agree as follows:

1. To extend the Term in Article 2, “**TERM**,” such that the third term shall extend from March 1, 2013 to February 28, 2018 (the “New Term”). Concessionaire may

extend the New Term for an additional five year period, at its option, by indicating such in writing at least six months prior to the end of the New Term.

2. That Article 3 of the Lease, entitled “**RENT**,” is amended by adding the following provisions for the New Term:

“The Concessionaire agrees that it shall pay to the City an annual amount in monthly amounts as follows:

For the period extending from March 1, 2013 through February 28, 2014, the monthly amount of \$2,145.00.

For the period extending from March 1, 2014 through February 28, 2015, the monthly amount of \$2,145.00.

For the period extending from March 1, 2015 through February 29, 2016, the monthly amount of \$2,171.81.

For the period extending from March 1, 2016 through February 28, 2017, the monthly amount of 2,198.63.

For the period extending from March 1, 2017 through February 28, 2018, the monthly amount of \$2,225.44.

If the New Term is extended for an additional five years, Concessionaire agrees that it shall pay to the City an annual amount in monthly amounts as follows:

For the period extending from March 1, 2018 through February 28, 2019, the monthly amount of \$2,252.25.

For the period extending from March 1, 2019 through February 28, 2020, the monthly amount of \$2,279.06.

For the period extending from March 1, 2020 through February 28, 2021, the monthly amount of \$2,305.87.

For the period extending from March 1, 2021 through February 28, 2022, the monthly amount of \$2,332.69.

For the period extending from March 1, 2022 through February 28, 2023, the monthly amount of \$2,359.50.”

3. Concessionaire consents to the use of electronic signatures by the City. The 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 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.

4. Except as herein amended, the Lease, as previously amended, is revived, affirmed and ratified in each and every particular.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

**Contract Control Number:**

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:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** FINAN-RC25021-02

**Contractor Name:** Subway Real Estate, L.L.C.

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

**Name:** Ernest A. Oliver, Jr.  
(please print) Manager

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

**ATTEST: [if required]**

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

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

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

