

**REVIVAL AND FIFTH AMENDMENT TO EMERGENCY OCCUPANCY AGREEMENT**

This **REVIVAL AND FIFTH AMENDMENT TO EMERGENCY OCCUPANCY AGREEMENT** (“Revival and Fifth Amendment”) is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation and home rule city of the State of Colorado (the “City” or “Government”) and **JBK HOTELS, LLC**, a Delaware limited liability company (“Owner”).

**WHEREAS**, the parties entered into an Emergency Occupancy Agreement dated May 6, 2020 (City Clerk File No. 202054515-00 ) for the City to use Owner’s hotel facility to provide non-congregate sheltering to members of the public on an expedited, emergency basis due to the COVID-19 pandemic, as amended by that certain Amendment to Emergency Occupancy Agreement dated September 21, 2020 (City Clerk File No. 202055637-01), Second Amendment to Emergency Occupancy Agreement dated January 14, 2021 (City Clerk File No. 202057157-02), Third Amendment to Emergency Occupancy Agreement dated July 2, 2021 (City Clerk File No. 202159069-03) and Revival and Fourth Amendment to Emergency Occupancy Agreement dated November 4, 2021 (City Clerk File No. 202159610) (collectively, the “Agreement”); and

**WHEREAS**, the Agreement expired by its terms on December 31, 2021, and rather than enter into a new agreement, the parties wish to revive and reinstate all terms and conditions of the Agreement as they existed prior to the expiration of the Term and to further amend the Agreement as set forth below.

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

1. Article 1 of the Agreement entitled “**OCCUPANCY**” is amended by deleting the following sentences at the end thereof:

“The City and Owner shall coordinate the vacating of the Occupied Premises according to a staggered schedule of vacating certain floors of the Building with corresponding target exit dates as follows:

Floors 5 and 6 – Target exit date of December 3, 2021  
Floors 4 and 3 – Target exit date of December 17, 2021  
Floors 1 and 2 – Target exit date of December 27, 2021

The foregoing target exit dates are subject to change by mutual agreement of the parties and shall not constitute a breach of the Agreement by the City if the floors are not vacated by such target date(s). During the vacating process, the City or any of its representatives, agents or contractors may enter the Building to visually inspect the Building, including each vacated Room, to document the condition of the Building and such vacated Room(s).”

2. The definition for the term “**Term**” under Article 2 of the Agreement is deleted in its entirety and amended to read as follows:

“2. **TERM:** The term of this Agreement shall begin on the Effective Date, and terminate at 11:59 P.M. on June 30, 2022 (“Term”), *provided, however,* the parties agree that the City may terminate this Agreement at any time upon expiration of the Public Health Emergency, as that term is defined under the Nationwide Emergency Declaration.”

3. The definition for the term “**Maximum Contract Amount**” under Article 3 of the Agreement is deleted in its entirety and amended to read as follows:

“Notwithstanding any other provisions of the Agreement, the City’s maximum payment obligation will not exceed Ten Million Eight Hundred Twenty Thousand Three Hundred dollars (\$10,820,300.00) (the “Maximum Contract Amount”).”

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

5. This Revival and Fifth 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.

**[SIGNATURE PAGES FOLLOW]**

**Contract Control Number:** FINAN-202054515-05/FINAN-202055637-05/ FINAN-202057157-05/FINAN-202159069-05/FINAN-202159610-05/FINAN-202161460-05

**Contractor Name:** JBK HOTELS, LLC

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:** FINAN-202054515-05/FINAN-202055637-05/ FINAN-202057157-05/FINAN-202159069-05/FINAN-202159610-05/FINAN-202161460-05

**Contractor Name:** JBK HOTELS, LLC

By:  (see attached) \_\_\_\_\_

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

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

ATTEST: [if required]

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

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

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

**Contract Control Number:** FINAN-202054515-05/FINAN-202055637-05/ FINAN-202057157-05/FINAN-202159069-05/FINAN-202159610-05/FINAN-202161460-05

**Contractor Name:** JBK HOTELS, LLC

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

Name: Jonathan Gandhi  
(please print)

Title: Manager  
(please print)

ATTEST: [if required]

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

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

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