

SECOND AMENDATORY AGREEMENT

THIS SECOND AMENDATORY AGREEMENT is made and entered into this ____ day of _____, 2010, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, hereinafter referred to as the "CITY", and **SYLVESTER TALLY** doing business as **COFFEE ETCETERA** with an address of 1172G South Zeno Way, Aurora, Colorado 80017, hereinafter referred to as the "CONCESSIONAIRE".

WITNESSETH:

WHEREAS, the City and the Concessionaire previously entered into an Agreement dated August 7, 2003 and a Revival and Amendatory Agreement dated February 18, 2009 (the "Agreement") pursuant to which the Concessionaire was granted the concession by the City to operate a coffee concession in the City and County Building; and

WHEREAS, the parties now wish to further amend the Agreement to temporarily reduce rent due to relocation of courts and construction in the City & County Building;

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

1. That Article 3 of the Agreement is amended to read:

3. **COMPENSATION AND FEES:** The Concessionaire covenants and agree that it shall pay to the City as compensation hereunder for the rights and privileges herein granted a sum equal to Five Hundred Dollars (\$500.00) per month for the portion of the term hereof extending from July 1, 2003 through June 30, 2006; Six Hundred Dollars (\$600.00) per month for the portion of the term hereof extending from July 1, 2006 through June 30, 2008; Six Hundred Twenty Five Dollars (\$625.00) per month for the portion of the term hereof extending from July 1, 2008 through June 30, 2010; Fifty Dollars (\$50.00) per month for the portion of the term hereof extending from July 1, 2010 through December 31, 2010, (the City, by written agreement of the Director of Real Estate, may extend this temporary decrease for an additional three (3) months if construction in the City and County Building is delayed); Six Hundred Fifty Dollars (\$650.00) per month for the portion of the term hereof extending from January 1, 2011 through June 30, 2012; and Six Hundred Seventy Five Dollars (\$675.00) per month for the portion of the term hereof extending from July 1, 2012 through June 30, 2013.

D3-595-B

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

4. This Second Amendatory Amendment may be executed in two (2) counterparts, each of which is an original and constitute the same instrument.

Remainder of page left intentionally blank.

IN WITNESS WHEREOF, the City and the Concessionaire have executed, through their respective lawfully empowered representatives, this Second Amendatory Agreement as of the day and year first above written.

ATTEST:

STEPHANIE Y. O'MALLEY,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

APPROVED AS TO FORM:

DAVID R. FINE
CITY ATTORNEY, City and
County of Denver

By: _____
Assistant City Attorney

CITY AND COUNTY OF DENVER

By: _____
MAYOR

RECOMMENDED AND APPROVED:

By: Claude J. Pomicino
Manager of Finance

By: [Signature]
Director of Real Estate

REGISTERED AND COUNTERSIGNED:

By: _____
Manager of Finance

By: _____
Auditor

Contract Control No. RC35008(2)

"CITY"

Sylvestor Tally
SYLVESTOR TALLY

"CONCESSIONAIRE"