

FIFTH AMENDATORY LEASE AGREEMENT

THIS FIFTH AMENDATORY LEASE AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation and home rule city of the State of Colorado, hereinafter referred to as the “City”, and **HJB CONVENIENCE CORPORATION d/b/a RUSSELL’S CONVENIENCE**, a Colorado corporation, whose address is 8585 W. 14th Avenue, Suite B3, Lakewood, Colorado 80215 (“Concessionaire”). The City and the Concessionaire may each be referred to as a “Party” and collectively as “the Parties”.

RECITALS:

WHEREAS, the City leased certain real property and improvements located at 201 W. Colfax, Denver, Colorado 80202 (the “Property”) to the Concessionaire by a Concession Agreement dated **May 29, 2003**, (City Clerk File No. 03-333), to operate a convenience store, a First Amendment to Concession Agreement and Revival dated **February 6, 2012** (City Clerk File No.03-333-A), a Second Amendment to Concession Agreement and Revival dated **June 29, 2016** (City Clerk File No. RC25022-02), and a Third Amendment to Concession Agreement and Revival dated **June 8, 2020** (City Clerk File No. FINAN-202054752-03), and a Fourth Amendment dated **August 19, 2020** (City Clerk File No. FINAN-202054752-04), (collectively referred to as the “Agreement”); and

WHEREAS, the Mayor declared a state of local disaster emergency on **March 12, 2020**, pursuant to C.R.S. 24-33.5-701, et seq. (“City Emergency Declaration”), due to the spread of COVID-19, as may be amended, the Governor of the State of Colorado declared a Disaster Emergency (D 2020 003) dated **March 11, 2020**, as may be amended, on the same basis, and the President of the United States issued a Declaration of Emergency on **March 13, 2020**, due to the COVID-19 crisis (“Nationwide Emergency Declaration”); and

WHEREAS, the City Council, pursuant to Proclamation No. 20-0350 passed on **April 13, 2020**, urged and supported a moratorium on rent because many people are unable to pay as a result of repercussions from the COVID-19 crisis; and

WHEREAS, the Parties now desire to amend the Agreement to provide for the forgiveness of base rent payments for an additional two months in 2020 and one month in 2021 and to extend the term of the Agreement for three months beyond the current expiration date of the Agreement term.

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

1. **Article 2** of the Agreement, entitled “**TERM**,” is hereby amended in part to read as follows:

“2. **TERM**: **March 1, 2003**, and expire on **January 31, 2022**, unless terminated earlier pursuant to the terms of this Agreement.”

2. **Article 3(a)** of the Agreement, entitled “**RENT AND OPERATING EXPENSES**,” is hereby amended by adding the following to the end of Article 3(a):

“**3(a) RENT AND OPERATING EXPENSES**: The Concessionaire shall be excused from paying its base rent for the months of **November 2020 through January 2021** equal to **\$2,562.50** per month. For the three-month period of the extended Term, Lessee shall pay the City the monthly rent amount due during the last year of the Term equal to **\$2562.50** per month. Any

common area maintenance or utility charge due for **November 2020 through January 2021** shall remain due to the City.”

3. Except as herein amended, the Agreement is revived, affirmed and ratified in each and every particular.
4. This Fifth Amendatory Lease 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.

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SIGNATURE PAGES FOLLOW THIS PAGE

Contract Control Number:
Contractor Name:

FINAN-202054752-05 / ALF RC25022-05
HJB CONVENIENCE CORPORATION

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:

FINAN-202054752-05 / ALF RC25022-05
HJB CONVENIENCE CORPORATION

By: *Please see next page for signature*

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

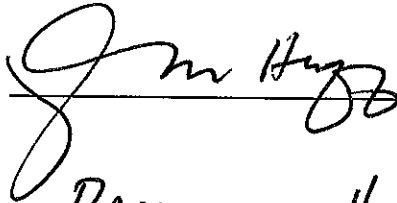
By: _____

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Title: _____
(please print)

Contract Control Number:
Contractor Name:

FINAN-202054752-05 / ALF-RC25022-05
HJB CONVENIENCE CORPORATION

By: 

Name: RAYMOND HUFF
(please print)

Title: PRESIDENT
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)