

SIXTH AMENDATORY LEASE AGREEMENT

Subway Store #27758

THIS SIXTH 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 **SUBWAY REAL ESTATE LLC**, a Delaware Limited Liability Company, whose address is 325 Sub Way, Milford Connecticut 06461 (the “Concessionaire”). The City and the Concessionaire may each be referred to as a “Party” and collectively as “the Parties”.

RECITALS:

WHEREAS, the City granted concession rights for the operation of a sandwich shop upon a portion of the real property and improvements located at Civic Center Office Building, 201 W. Colfax Avenue, Denver, Colorado (“Property”) to the Concessionaire in the Concession Agreement dated **November 12, 2002** (City Clerk File No. 02-949); as amended by an Amendatory Concession Agreement dated **November 6, 2007** (City Clerk File No. 02-949-A); as amended by a Second Amendatory Concession Agreement dated **August 23, 2013** (City Clerk File No. 02-949-B); as amended by a Third Amendatory Concession Agreement dated **June 15, 2020** (City Clerk File No. FINAN-202054772-03); as amended by a Fourth Amendatory Concession Agreement dated **August 27, 2020** (City Clerk File No. FINAN-202054772-04); and as amended by a Fifth Amendatory Agreement dated **January 5, 2021** (City Clerk File No. FINAN-202054772). (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 three months 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:**

- a. The term of this Agreement shall begin on **November 12, 2002** and expire on **February 29, 2024** unless terminated earlier pursuant to the terms of this Agreement.
- b. Notwithstanding the foregoing, the City shall have one (1) option to extend the Term of the Lease (the “Extension Option”) for an additional three (3) months beyond the

then-current expiration date, for a new expiration date of **May 31, 2024** (the “Extended Term”) on the same terms and conditions as set forth in the Agreement except as provided in Article 2 below. The City, through the sole discretion of the Director of the Division of Real Estate, may exercise this Extension Option by providing the Concessionaire with written notice no less than thirty (30) days prior to the expiration of the then-current Term. In the event the City exercises the Extension Option, the monthly rent for the Extended Term shall be as prescribed below in Article 2.”

2. **Article 3** of the Agreement, entitled “**RENT**,” is hereby amended by adding the following to the end of the existing contents of Article 3:

“3. **RENT:**

- a. The Concessionaire shall be excused from paying its base rent for the months of **January 2021 through March 2021**, at a rate of **\$2,305.87** a month for the first two months and at a rate of **\$2,332.69** for the final month, for a total of **\$6,944.43**. Any common area maintenance or utility charge due for **January 2021 through March 2021** shall remain due to the City. For the three-month period of the extended Term, **December 2023 through February 2024**, Concessionaire shall pay the City the monthly rent amount due during the last month of the Term equal to **\$2,359.50** per month.
 - b. In the event the City exercises its Extension Option to further extend the Term as provided above, the rent of **\$2,332.69** per month shall be deferred for the months of **April 2021 through June 2021** and Concessionaire shall then pay **\$2,359.50** per month from **March 2024 through May 2024**. Any common area maintenance or utility charge due for the rent forgiveness and extension periods will remain payable.”
3. Except as herein amended, the Agreement is revived, affirmed and ratified in each and every particular.
 4. This Sixth 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: FINAN-202054772-06
Contractor Name: SUBWAY REAL ESTATE, 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:
Contractor Name:

FINAN-202054772-06
SUBWAY REAL ESTATE, LLC

By:  _____
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Name: Christopher J. Kan
(please print)

Title: Vice President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)