

## FOURTH AMENDMENT TO LEASE AGREEMENT

**THIS FOURTH AMENDMENT TO LEASE AGREEMENT** (this “**Fourth Amendment**”) is dated as of \_\_\_\_\_, 20\_\_ (“**Fourth Amendment Effective Date**”), by and the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado (the “**City**”) and the ARCHDIOCESE OF DENVER, a Colorado corporation sole (“**Archdiocese**”) whose address is 1300 S. Steele Street, Denver, Colorado 80210, as trustee for the benefit of Our Lady of Guadalupe Parish (“**Parish**”), whose address is 1209 W. 36th Avenue, Denver, Colorado (Archdiocese and Parish generally referred to below as “**Lessee**”), City and Lessee are each referred to individually as a “**Party**” and, collectively, as the “**Parties**”.

### RECITALS

**A.** The City and the Lessee entered into that certain Lease and Agreement dated August 23, 1995 and amended November 3, 2000, as further amended by that certain Second Revival and Amendatory Lease Agreement dated April 6, 2010, as further amended by that certain Third Revival and Amendatory Lease Agreement dated August 10, 2020, (collectively, the “**Lease**”) to permit certain city-owned vacant real property located at the southeast corner of 36th Street and Kalamath Street, Denver, Colorado (the “**Leased Property**”), to be used by the Parish as a parking area to accommodate parishioners, guests and other invitees of the Parish for Mass and other Parish events and gatherings;

**B.** The City and Archdiocese as trustee for The Church of All Saints are also parties to that certain Cooperative Agreement dated June 11, 1997 (“**Church Property Lease**”), for certain property owned by Archdiocese as more particularly described therein (the “**Church Property**”);

**C.** The City and the Archdiocese are also parties to that certain Lease Agreement dated \_\_\_\_\_, 2023, (“**Mullen Home Lease**”) for portions of the property located at 3629 W. 29th Street, Denver, Colorado, known commonly as “Mullen Home,” which includes 74,047 square feet of a residential care facility situated on a 359,000 square foot parcel (“**Mullen Home Property**”) in which the City and Archdiocese have agreed that as consideration and in lieu of base rent the City and the Archdiocese will exchange the Leased Property and the Church Property; and

**D.** The City and Archdiocese desire to modify the Lease by providing the mechanisms by which the City shall grant the Leased Property to the Archdiocese and to terminate the Lease, as hereinafter set forth in this Fourth Amendment.

### AGREEMENT

**NOW, THEREFORE**, in consideration of the premises herein contained, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Definitions; Recitals.** The foregoing recitals are deemed to be true and accurate in all respects and are hereby incorporated into and made an integral part of this Fourth Amendment. Capitalized terms used in this Fourth Amendment shall have the same meanings as ascribed to them in the Lease, unless otherwise expressly defined in this Fourth Amendment.

2. **Property Exchange Date.** Upon the date that is six (6) months from the Commencement Date under the Mullen Home Lease (the "**Exchange Date**"), City shall convey to Archdiocese fee simple title to the Leased Property by a quitclaim deed, in a form substantially similar to **Exhibit A** attached hereto and incorporated herein ("**Transfer Deed**"), free and clear of all liens and encumbrances by, through or under the City except for taxes and assessment for the year of the exchange and such other matters as approved by the Archdiocese (the "**Permitted Exceptions**") and shall execute for the benefit of Archdiocese such bills of sale or assignments that are necessary to convey the property rights or other non-real estate portions of the Leased Property including all leases, licenses, and concession agreements. Upon the Exchange Date, City shall present the Transfer Deed to Archdiocese and Archdiocese may record. Upon the recordation of the Transfer Deed, this Lease shall terminate. Notwithstanding the foregoing, in the event the Mullen Home Lease is terminated prior to the Exchange Date this Fourth Amendment shall be null and void. However, the Parties, upon mutual agreement, may elect to proceed with the land exchange in the event of the termination of the Mullen Home Lease.

3. **Diligence.** As part of its due diligence, Archdiocese shall have the right to obtain a survey and a title commitment at Archdiocese's sole cost and expense. The City shall cooperate with Archdiocese in obtaining any reasonable diligence materials with respect to the Leased Property. Thirty (30) days prior to the Exchange Date, City shall notify Archdiocese with respect to all planned easements or rights of way locations, if any. If as a part of the Archdiocese's due diligence, the Archdiocese concludes, in its sole discretion, that the Leased Property is not suitable for its continued use of the Leased Property, this Fourth Amendment shall be null and void.

4. **Exchange Costs.** The City, as grantor, shall pay the cost of: obtaining and recording any releases of any mortgages and the cost of any Owner's Title Policy. Archdiocese, as grantee, shall pay the cost of (a) any stamp, transfer taxes or documentary fee imposed by law, and any transfer fee required under any title documents, (b) recordation of the deed, and (c) any cost of any other title endorsements required by Archdiocese. The Parties shall share equally the escrow fees and closing costs charged by the closing agent for the closing, if any. All other closing costs shall be apportioned according to prevailing local custom in for commercial real estate closings in the metropolitan area where the Leased Property is located. Each party shall pay its own legal fees.

5. **General Provisions.**

a. *No Brokers.* The parties represent and warrant each to the other that no broker or finder has been engaged by either party in connection with the transaction contemplated herein, and no person now claims or will claim any commission, finder's fee or other compensation by, through, under or as a result of any relationship with such party because of such transactions.

b. *Further Instruments.* Each party hereto shall from time to time execute and deliver such further instruments as the other party, the title company (if any) or its counsel may

reasonably request to effectuate the intent of the property exchange contemplated herein.

c. *Headings.* Article and Section headings used in this Fourth Amendment are for convenience of reference only and shall not affect the construction of any provision of this Fourth Amendment.

d. *Negation of Partnership.* Nothing herein contained shall be construed to create a partnership or joint venture or fiduciary status between the parties.

e. *Severability.* If any provision of this Fourth Amendment or the application thereof to any Party or circumstance shall be determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Fourth Amendment or the application of such provision to such person or circumstance, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

f. *Authority.* Each Party represents that its signatory hereto has the authority to execute and deliver this Fourth Amendment on behalf of the Party for which such signatory is acting, and that upon the execution by such signatory, this Fourth Amendment is binding on behalf of the Party for which such signatory is acting and enforceable against such party in accordance with its terms.

g. *Governing Law.* The provisions of the Lease relating to governing law, forum selection and jury trial waiver (if any) are incorporated herein by reference as if fully set forth herein.

h. *Effect of Fourth Amendment.* Except as herein modified, all other terms and conditions of the Lease shall remain unchanged and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Fourth Amendment, the terms and conditions of this Fourth Amendment shall govern and control. Each reference in the Lease to itself shall be deemed also to refer to the Lease as modified by this Fourth Amendment.

i. *Effectiveness.* The submission of this Fourth Amendment shall not constitute an offer, and this Fourth Amendment shall not be effective and binding unless and until fully executed and delivered by every Party hereto.

j. *Defined Terms.* Any capitalized terms used in this Fourth Amendment that are not defined herein, but are defined in the Lease, will have the meanings assigned to such terms in the Lease.

k. *Time is of Essence.* Time is of the essence herein.

l. *Examination of Records.* Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books,

documents, papers and records related to Lessee's performance pursuant to this Lease, provision of any goods or services to the City, and any other transactions related to this Lease (to the extent in the possession or control of Lessor). Lessee shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Lease or expiration of the applicable statute of limitations (provided all documents and information will be subject to Lessor's document retention policies, which will not be modified by this section). When conducting an audit of this Lease, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Lessee to make disclosures in violation of any applicable laws, including state or federal privacy laws. Lessee shall at all times comply with D.R.M.C. 20-276 to the extent applicable to Lessee.

[SIGNATURE PAGE FOLLOWS]

**Contract Control Number:** FINAN-202371935-04| RC45009-04| 202054858-04  
**Contractor Name:** THE ARCHDIOCESE OF DENVER

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-202371935-04| RC45009-04| 202054858-04  
THE ARCHDIOCESE OF DENVER

By: **SEE VENDOR SIGNATURE PAGE ATTACHED**

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

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

ATTEST: [if required]

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

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

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

**IN WITNESS WHEREOF**, the Parties have duly executed this Fourth Amendment to Lease effective on the Fourth Amendment Effective Date.

**ARCHDIOCESE:**

**ARCHDIOCESE OF DENVER**,

a Colorado corporation sole,

By: 

Name: Keith A. Parsons,

Title: Attorney in fact for the Most Reverend Samuel J. Aquila,  
STL Archbishop of Denver

Signature Date: Dec 14, 2023

*[Signatures continue on next page]*

**Exhibit A**

**Form of Quitclaim Deed: Deed from City to Archdiocese**

**QUITCLAIM DEED**

( \_\_\_\_\_ )

THIS QUITCLAIM DEED, is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the CITY AND COUNTY OF DENVER a municipal corporation (“Grantor”), and The Archdiocese of Denver, a Colorado Corporation sole, in its capacity as Trustee under that Declaration of Trust for the Archdiocese of Denver Charitable Trust dated January 25, 2007, whose address is 1300 S. Steele Street, Denver, CO 80210 (“Grantee”).

WITNESS, that Grantor, for and in consideration of the sum of [TEN AND 00/100 DOLLARS (\$10.00)] and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold, conveyed, and QUITCLAIMED, and by these presents does remise, release, sell, convey and Quitclaim unto Grantee, it successors and assigns forever the following real property, together with improvements, if any, situate, lying and being in the said County of Denver, and State of Colorado described as follows:

SEE ATTACHED **EXHIBIT A**

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of Grantor, either in law or equity, to the only proper use, benefit and behoove of Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantor has executed this deed on the date set forth above.



**Exhibit A**

**To a Quitclaim Deed from City to Archdiocese**

**3550 KALAMATH STREET, DENVER, CO 80211**

PARCEL 1:

THE REAR OR EASTERLY 56.8 FEET OF LOT 1 AND THE REAR OR EASTERLY 56.8 FEET OF THE NORTH HALF (N 1/2) OF LOT 2, BLOCK 1, SECOND VIADUCT ADDITION TO DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL 2:

THE WEST 68.2 FEET OF LOT 1, AND THE WEST 68.2 FEET OF THE NORTH 1/2 OF LOT 2, BLOCK 1, SECOND VIADUCT ADDITION TO DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL 3:

THE SOUTH ONE-HALF (S 1/2) OF LOT 2, AND THE NORTH ONE-HALF (N 1/2) OF LOT 3, BLOCK 1, SECOND VIADUCT ADDITION TO DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL 4:

THE NORTH 1/2 OF LOT 4 AND THE SOUTH 1/2 OF LOT 3, SECOND VIADUCT ADDITION TO DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL 5:

LOTS 5 AND 6, AND THE SOUTH 1/2 OF LOT 4, EXCEPT THAT PART DESCRIBED IN BOOK 6685 AT PAGE 378, BLOCK 1, SECOND VIADUCT ADDITION TO DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

**1120 WEST 36TH AVENUE, DENVER, CO 80211**

THOSE PARTS OF LOTS 28 TO 30 INCLUSIVE, BLOCK 1, SECOND VIADUCT ADDITION TO THE CITY OF DENVER, DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTH LINE OF SAID BLOCK 1, AT A POINT THAT IS 22 FEET WEST OF THE NORTHEAST CORNER OF SAID BLOCK, WHICH IS THE TRUE POINT OF BEGINNING; THENCE SOUTHWESTERLY TO THE SOUTHWEST CORNER OF LOT 28, SAID BLOCK 1; THENCE NORTH ALONG THE WEST LINE OF LOTS 28 TO 30 INC., TO THE NORTHWEST CORNER OF LOT 30, SAID BLOCK 1; THENCE EAST ALONG

THE NORTH LINE OF SAID BLOCK 1, A DISTANCE OF 103 FEET TO THE POINT OF BEGINNING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.