

This document prepared by and return to:

King & Spalding LLP
1180 Peachtree Street, NE
Atlanta, GA 30309
Attention: D. Clayton Howell, Esq.

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT (this "Agreement"), is made this ____ day of _____, 2014, by and between the ORLANDO UTILITIES COMMISSION, a Florida statutory commission created as a part of the City of Orlando, Florida, whose address is 100 West Anderson Street, Orlando, Florida 32801 ("OUC), and the CITY OF ORLANDO, a municipal corporation, whose address is 400 S. Orange Avenue, Orlando, Florida 32801, for the use and benefit of the ORLANDO UTILITIES COMMISSION ("City") (OUC and the City shall collectively hereinafter be referred to as the "Orlando Parties") and SKYHOUSE ORLANDO, LLC, a Florida limited liability company, whose address is 817 W. Peachtree Street NW, Suite 400, Atlanta, Georgia 30308 (hereinafter referred to as "SkyHouse Orlando"). The words "Orlando Parties" and "SkyHouse Orlando" to include their respective heirs, legal representatives, successors and assigns where the context requires or permits.

RECITALS

- A. SkyHouse Orlando is the owner of certain real property located in Orange County, Florida and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.
- B. The Orlando Parties and SkyHouse Orlando entered into that certain Water Utility Easement dated August 30, 2012 and recorded on September 14, 2012 in the real property records of Orange County, Florida at Book 10442, Page 4379 (the "Water Easement").
- C. The Orlando Parties and SkyHouse Orlando desire to enter into this Agreement to specifically allow certain improvements comprising a portion of a multi-story parking garage (the "Encroaching Improvements") to encroach on the Easement Area (as defined in the Water Easement).

AGREEMENT

NOW, THEREFORE, in consideration of the agreements set forth herein and for other good and valuable consideration, the Orlando Parties and SkyHouse Orlando agree as follows:

1. Capitalized Terms. All capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Water Easement.
2. Allowed Encroachment. The Orlando Parties hereby acknowledge and agree that,

notwithstanding anything in the Water Easement to the contrary, the Orlando Parties have no objection to the Encroaching Improvements and the Encroaching Improvements are allowed (to the extent that they encroach on the Easement Area as of the date of this Agreement) to be constructed and located on and in, and to continue to be located on and in, the Easement Area as more particularly shown on Exhibit "B" attached hereto.

3. Disclaimer. SkyHouse Orlando acknowledges and agrees that the Orlando Parties shall not be liable for any damage caused by the proximity of the Facilities (as described in the Water Easement) to the Encroaching Improvements, and that the Orlando Parties shall not be liable for any cost(s) or liability that may arise out of the proximity of said Facilities to the Encroaching Improvements or due to any portion of said Facilities that may be under the Encroaching Improvements. In the event said Facilities or any portion thereof is located under the Encroaching Improvements, SkyHouse Orlando shall remain liable for any incremental costs associated with the need to replace that portion of said Facilities under the Encroaching Improvements.

4. Controlling Language. Insofar as the specific terms and provisions of this Encroachment Agreement are in conflict with the specific terms, provisions and exhibits of the Water Easement, the terms and provisions of this Encroachment Agreement shall govern and control; in all other respects, the terms, provisions and exhibits of the Water Easement shall remain unmodified and in full force and effect.

5. Governing Law. This Encroachment Agreement shall be governed by and construed under the laws of the State of Florida.

6. Counterparts. This Encroachment Agreement may be executed in one or more counterparts, all of which original counterparts shall together constitute a single original document.

[signatures appear on following page]

Signed by the Orlando Parties and SkyHouse Orlando this _____ day of _____, 2014.

SKYHOUSE ORLANDO:

Witness 1

SKYHOUSE ORLANDO, LLC,
a Florida limited liability company

Witness Printed Name

By: SkyHouse Orlando Development, LLC, a
Georgia limited liability company, its sole
member and manager

Witness 2

By: _____
James R. Borders
President

Witness Printed Name

State of _____

County of _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorize in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledge before me by James R. Borders, as President of SKYHOUSE ORLANDO DEVELOPMENT, LLC, a Georgia limited liability company, the sole member and manager of SKYHOUSE ORLANDO, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me.

WITNESS my hand an official seal in the County and State last aforesaid the ____ day of _____, 2014.

Notary Public

Printed Name

Commission No: _____

NOTARY SEAL

THE ORLANDO PARTIES:

ORLANDO UTILITIES COMMISSION

Witness 1

Witness Printed Name

By: _____
Name: _____
Title: _____

Witness 2

Witness Printed Name

State of _____

County of _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorize in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledge before me by _____, as _____ of _____, a _____, on behalf of the company. He is personally known to me ___ or has produced _____ as identification.

WITNESS my hand an official seal in the County and State last aforesaid the ____ day of _____, 2014.

Notary Public

Printed Name

Commission No: _____

NOTARY SEAL

CITY OF ORLANDO
JOINDER AND CONSENT

In consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City of Orlando hereby joins in and consents to the foregoing Agreement. The Parties agree that the City's consent herein does not operate to impose any obligation or liability upon the City whatsoever. OUC shall indemnify and hold the City of Orlando harmless against all costs and liability associated with any claim against the City and arising out of the Agreement.

IN WITNESS WHEREOF, this Joinder and Consent is made this ____ day of _____, 201.

Signed, sealed and delivered in the
presence of the following witnesses:

THE CITY OF ORLANDO, a municipal corporation
existing under the laws of the State of Florida

Signature of Witness

By: _____
Mayor/Mayor Pro Tem

Printed Name of Witness

Signature of Witness

Printed Name of Witness

ATTEST:

(MUNICIPAL SEAL)

By: _____
Alana C. Brenner, City Clerk

Approved for form and legality for use and
reliance of the City of Orlando, Florida:

Assistant City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

I HEREBY CERTIFY that on this _____ day of _____, 2014, before me, an officer duly authorized in the state and county aforesaid to take acknowledgments, personally appeared _____ and Alana C. Brenner respectively, the Mayor/Mayor Pro Tem & City Clerk of the CITY OF ORLANDO, a municipal corporation existing under the laws of the State of Florida, to me known to be the individuals and officers described herein and who executed the foregoing instrument on behalf of said CITY OF ORLANDO and severally acknowledged the execution thereof to be their free act and deed as such officers thereunto duly authorized, and that the official seal of CITY OF ORLANDO is duly affixed thereto and the instrument is the act and deed of said City.

NOTARY PUBLIC:

Sign: _____
Print: _____
State of Florida at Large (Seal)
My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

COMMENCE AT THE SOUTHEAST CORNER OF LOT 1 OF SPEIR'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK B, PAGE 124, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN N00°24'02"W ALONG THE EAST LINE OF SAID LOT 1 AND THE EAST LINE OF LOT 8 OF SAID PLAT, A DISTANCE OF 272.13 FEET; THENCE RUN S89°46'52"W ALONG THE SOUTH LINE OF THE NORTH 145.67 FEET OF SAID LOT 8, A DISTANCE OF 25.57 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF ROSALIND AVENUE AND THE POINT OF BEGINNING; THENCE RUN N28°06'47"W ALONG SAID WESTERLY RIGHT OF WAY OF LINE PER OFFICIAL RECORDS BOOK 4176, PAGE 1775, A DISTANCE OF 143.13 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 370.00 FEET; THENCE FROM A RADIAL BEARING OF S48°16'33"W, RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 06°11'39", AN ARC DISTANCE OF 40.00 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 430.00 FEET; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°18'19", AN ARC DISTANCE OF 159.89 FEET; THENCE RUN N88°53'33"W, A DISTANCE OF 156.13 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 537.96 FEET; THENCE FROM A RADIAL BEARING OF S60°47'38"E, RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AND EASTERLY RIGHT OF WAY LINE OF NORTH MAGNOLIA AVENUE AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 7504-275 & 175, DATED 1955, THROUGH A CENTRAL ANGLE OF 27°27'29", AN ARC DISTANCE OF 257.81 FEET; THENCE RUN S89°34'20"E ALONG THE SOUTH LINE OF LOT 10 OF G. TAYLOR'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK C, PAGE 27, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, A DISTANCE OF 241.42 FEET; THENCE RUN S00°23'40"E ALONG THE EAST RIGHT OF WAY LINE OF NORTH PALMETTO AVENUE AND THE WEST LINE OF THE AFORESAID LOT 8 OF SPEIR'S ADDITION TO ORLANDO, A DISTANCE OF 36.92 FEET; THENCE RUN N89°46'52"E ALONG THE AFORESAID SOUTH LINE OF THE NORTH 145.67 FEET OF LOT 8, A DISTANCE OF 174.46 FEET TO THE POINT OF BEGINNING;

CONTAINING 77,218 SQ. FT. OR 1.773 ACRES, MORE OR LESS.

EXHIBIT B

DEPICTION OF ENCROACHING IMPROVEMENTS

SKETCH OF DESCRIPTION

PROJECT: SKYHOUSE ORLANDO

PURPOSE: ENCROACHMENT AGREEMENT

THIS IS NOT A BOUNDARY SURVEY
NOT VALID WITHOUT SHEET 2

DESCRIPTION:

COMMENCE AT THE SOUTHWEST CORNER OF SKYHOUSE ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 80, PAGES 105 THROUGH 107, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN S89°34'20"E ALONG THE SOUTH LINE OF SAID PLAT, A DISTANCE OF 241.42 FEET; THENCE RUN S00°23'40"E ALONG THE WESTERLY LINE OF SAID PLAT OF SKYHOUSE ORLANDO, A DISTANCE OF 7.09 FEET; THENCE RUN N89°36'20"E, A DISTANCE OF 11.86 FEET TO A POINT ON THE FACE OF A MULTI-STORY GARAGE AND THE POINT OF BEGINNING; THENCE CONTINUE N89°36'20"E, A DISTANCE OF 1.14 FEET; THENCE RUN S00°23'40"E, A DISTANCE OF 1.20 FEET TO A POINT ON SAID FACE OF MULTI-STORY GARAGE; THENCE RUN N43°48'32"W ALONG SAID FACE OF MULTI-STORY GARAGE, A DISTANCE OF 1.65 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.0 SQUARE FEET, MORE OR LESS.

SURVEYORS NOTES

1. Bearings based on the South line of the plat of Skyhouse Orlando, Plat Book 80, Pages 105 through 107 as being S89°34'20"E.
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Minimum Technical Standards for Land Surveying in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.
3. Not valid without the signature and raised seal of a Florida Licensed Surveyor and Mapper.

SHANNON SURVEYING, INC.
499 NORTH S.R. 434 - SUITE 2153
ALTAMONTE SPRINGS, FLORIDA, 32714
(407) 774-8372 LB # 6898

DATE OF SURVEY: 04/03/2014

DRAWN BY: BP SCALE: 1" = 60'

JAMES R. SHANNON JR., P.L.S. #4671
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SKYHOUSE ENCROACHMENT AGREEMENT

SHEET 1 OF 2

