

Prepared by and after recording return to:

Roy K. Payne, Esq.
Chief Assistant City Attorney
City Attorney's Office
City of Orlando
400 S. Orange Ave.
Orlando, FL 32801

ASSIGNMENT AND AGREEMENT
REGARDING PEDESTRIAN BRIDGE EASEMENT AND AGREEMENT
(Church Street Station)

THIS ASSIGNMENT AND AGREEMENT REGARDING PEDESTRIAN BRIDGE EASEMENT AND AGREEMENT (the "**Assignment**") is made as of this ____ day of _____, 2017, by and between **TSLF CHURCH STREET RETAIL, LLC**, a Delaware limited liability company ("**Assignor**"), and **CHURCH GARLAND RETAIL, LLC**, a Delaware limited liability company ("**Assignee**"), as joined into by the City of Orlando with respect to the matters ascribed to it herein.

W I T N E S S E T H:

WHEREAS, Assignor has, on the date hereof, conveyed to Assignee that certain property located on the north side of Church Street in Orlando, Orange County, Florida, more particularly described on **Exhibit "A"** attached hereto and made a part hereof (the "**Rosie's Parcel**"); and

WHEREAS, Assignor is the owner of that certain property located on the south side of Church Street in Orlando, Orange County, Florida, more particularly described on **Exhibit "B"** attached hereto and made a part hereof (the "**Cheyenne Parcel**");

WHEREAS, the Rosie's Parcel and the Cheyenne Parcel constitute all of the property subject to that certain Agreement and Easement recorded September 20, 1984 in Official Records Book 3556, Page 1325, as modified, conveyed and/or assigned by the following: (a) Assignment of Easement Rights recorded May 25, 1989 in Official Records Book 4083, Page 2000; (b) Assignment of Easement Rights recorded August 25, 1989 in Official Records Book 4109, Page 3388; (c) Assignment of Easement Rights recorded August 25, 1989 in Official Records Book 4109, Page 3411; (d) Assignment of Easement Rights recorded April 19, 1999 in Official Records Book 5730, Page 2473; (e) Special Warranty Deed recorded July 2, 2001 in Official Records Book 6293, Page 6086; (f) Special Warranty Deed recorded June 19, 2007 in Official Records Book 9310, Page 1560; (g) Amendment to Agreement and Easement recorded July 20, 2007 in Official Records Book 9360, Page 2814; (h) Certificate of Title recorded May 14, 2009 in Official Records Book 9872, Page 3169; (i) Special Warranty Deed recorded June 3, 2009 in Official Records Book 9881, Page 5283, all of the Public Records of Orange County, Florida (collectively, the "**Bridge Agreement**"), which Bridge Agreement relates to the existing elevated pedestrian bridge over Church Street, which provides elevated pedestrian access to and from the Rosie's Parcel and the Cheyenne Parcel (the "**Bridge**").

WHEREAS, Section 3 of the Bridge Agreement grants certain easement rights with respect to the Bridge, as follows: (a) an easement to the then-owner of the Rosie's Parcel and the Cheyenne Parcel for the construction, operation, replacement, maintenance and removal of the Bridge (the "**Operations Easement**"); and (b) an easement to the public and to the guest, tenants and invitees of the then-owner of the Rosie's Parcel and the Cheyenne Parcel for pedestrian traffic over, through and across the Bridge (the "**Pedestrian Easement**"); and

WHEREAS, the Assignor desires to assign to Assignee its rights and obligations under the Bridge Agreement with respect to the obligations thereunder to operate and maintain the Bridge, and the accompanying rights under the Operations Easement, together with the rights to use the Pedestrian Easement as it respects the Cheyenne Parcel; and

WHEREAS, the Assignee hereby represents that it possesses the funding and administrative capacity to fully assume the rights and obligations under this Assignment, including though not exclusively, the obligation to operate and maintain the Bridge; and

WHEREAS, the Assignor desires to retain the rights to use the Pedestrian Easement as it respects the Rosie's Parcel; and

WHEREAS, pursuant to the Bridge Agreement, the obligations and rights under the Bridge Agreement ran to the common owner of the Rosie's Parcel and the Cheyenne Parcel. If the ownership of the two parcels were ever separated, the City of Orlando (the "**City**") reserved the right to "re-evaluate the situation"; and

WHEREAS, the City has had the opportunity to review the proposed split in ownership and the terms and conditions of this Agreement and has, by its joinder hereto, approved of the split in ownership of the parcels and the terms of this Agreement as they respect the operation, maintenance and use of the Bridge.

NOW, THEREFORE, in consideration of the conveyance of the Property from Assignor to Assignee, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Assignment**. Assignor hereby assigns, transfers and conveys unto Assignee, its successors and assigns all of Assignor's right, title, interest in the its rights and obligations under the Bridge Agreement: (a) with respect to the obligations thereunder to operate, maintain, replace and remove the Bridge (including but not limited to the obligations under Sections 7 and 9 thereof), (b) under the Operations Easement (whether respecting the Cheyenne Parcel or the Rosie's Parcel); and (c) under the Pedestrian Easement as it respects the Cheyenne Parcel (the "**Assigned Rights and Obligations**"). Assignor expressly reserves the rights under the Pedestrian Easement as it respects the Rosie's Parcel. Nothing in this Assignment affects the City's right to terminate the Bridge Agreement if the Bridge is not operated and maintained as required by Section 9 of the Bridge Agreement.

2. **Assumption and Indemnification**. Assignee hereby accepts the foregoing assignment and hereby assumes the Assigned Rights and Obligations. Assignor agrees to indemnify and hold Assignee harmless from any and all third party claims related to events involving the Bridge which occurred prior to the date of this Assignment. Assignee hereby

agrees that Assignee shall maintain Commercial General Liability insurance providing coverage against liability for property damage, bodily injury, and personal injury having aggregate limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per occurrence with a general aggregate of not less than TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00). Such insurance shall cover at least the following hazards: (i) premises and operations; (ii) products and completed operations; (iii) independent contractors; (iv) contractual liability for all written contracts; and (v) contractual liability covering the indemnities contained in this Assignment to the extent the same is available. Such insurance, and any and all other liability insurance maintained by Assignee in excess of or in addition to that required hereunder, shall name the Assignor and City as additional insureds and shall provide that the Assignor and City will receive thirty (30) days notice prior to termination of insurance coverage. Nothing in this Assignment operates as a waiver of the City of Orlando's sovereign immunity or the limits of liability established under Florida law.

3. **Grant of Easement.** Assignor hereby grants to Assignee a non-exclusive easement over, across and under the Rosie's Parcel for the following purposes: (a) for ingress and egress to access the Bridge for purposes of performing its obligations contained within the Assigned Rights and Obligations; and (b) performing its maintenance and repair obligations under the Bridge Agreement.

4. **Indemnification.** Each of Assignor and Assignee (each, an "**Owner**"), as that term is defined in the Bridge Agreement, agree that they shall be responsible for their respective obligations under Section 2 of the Bridge Agreement with respect to indemnification of the City for the matters set forth therein. Further, to the fullest extent permitted by law, each Owner agrees to indemnify and hold the other Owner harmless from and against, and defend such Owner from and against any claims, losses, causes of action and suits to the extent arising from the acts or omissions of such Owner or its directors, officers, agents, employees, contractors, invitees or licensees, including but not limited to the use of the easements granted herein or in the Bridge Agreement, or for any termination for cause by the City under the Bridge Agreement.

5. **Enforcement.** This Assignment may be enforced by any party hereto, or its successor or assignee, by any action available at law or in equity, including, but not limited to injunctive relief and specific performance. In the event the owner or occupant as the case may (the "**Defaulting Owner**") default in the performance of any of its obligations pursuant to this Assignment and such default shall continue for a period of thirty (30) days after receipt of written notice of said default from any other party (the "**Non-defaulting Owner**"), the Non-defaulting Owner shall be entitled to cure such default, provided, (i) the Defaulting Owner is not then in the process of diligently attempting to cure the default, and (ii) no notice or opportunity to cure shall be required in the event the default creates an emergency or interferes with the use of the Non-defaulting Owner's property. Any and all expenses incurred by the Non-defaulting Owner in curing such default, together with fifteen percent (15%) per annum interest thereon shall be payable by the Defaulting Owner within thirty (30) days of written demand therefor by the Non-defaulting Owner to the Defaulting Owner. In the event of enforcement of this Assignment by any party, said party shall be entitled to recover, in addition to any other relief available to same hereunder or at law or in equity, attorneys' fees and court costs at all trial and appellate levels, and interest on any amounts advanced by said party to cure such violation, such interest to be calculated at the lesser of (i) a rate of interest equal to five percent (5%) above the

then-current prevailing rate of interest in effect in the City of Orlando, or (ii) the highest rate permitted by the law of the State of Florida.

6. **Successors and Assigns.** The covenants and agreements herein contained shall bind and inure to the benefits of the Owners, and their successors and assigns, and shall run with the Rosie's Parcel and the Cheyenne Parcel. The City is a third party beneficiary of this Assignment.

7. **Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of Florida.

8. **Counterpart Signatures.** This Assignment may be executed in counterparts, all of which shall constitute the original, and a telecopied signature on this Assignment may be relied upon by all parties hereto and shall constitute an original counterpart signature.

[COUNTERPART SIGNATURES CONTAINED ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be executed in its name as of the day and year first above written.

ASSIGNOR:

Signed, sealed and delivered
in the presence of:

TSLF CHURCH STREET RETAIL, LLC,
a Delaware limited liability company

Print Name: _____

By: _____

Name:

Title:

Print Name: _____

[illegible]

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, the _____ of _____, a _____, which is the manager of **TSLF Church Street Retail, LLC**, a Delaware limited liability company, on behalf of said entities.

Notary Public in and for the Commonwealth
of Massachusetts

Printed Name

My commission expires:

CHURCH GARLAND RETAIL, LLC, a
Delaware limited liability company

By: Lincoln-GP Partners, LLC, a
Delaware limited liability company,
its sole member

By: _____

STATE OF _____)
)
COUNTY OF _____)

(Signature of Notary Public)
 Print Name: _____
 Notary Public, State of Florida
 Commission No.: _____
 My Commission Expires: _____

CONSENT OF THE CITY OF ORLANDO

THE **CITY OF ORLANDO** hereby consents to the assignment described in the ASSIGNMENT AND AGREEMENT REGARDING PEDESTRIAN BRIDGE EASEMENT AND AGREEMENT to which this Consent is attached.

CITY OF ORLANDO, FLORIDA

By: _____

EXHIBIT "A"
(Rosie's Parcel)

Fee Simple Tract - Tract 11 (Parcel 6-2):

Begin at the Southeast corner of Lot 3, Block 8, of W.A. Patrick's Addition to Orlando, according to the plat thereof as recorded in Plat Book A, Page 108, of the Public Records of Orange County, Florida, run thence North 00°50'58" East, 150.00 feet; thence South 89°21'03" West, 37 feet 6 1/2 inches; thence South 00°50'58" West, 150 feet, more or less, to a point 37 feet 3 1/2 inches West of said Southeast corner of said Lot 3, Block 8; thence East 37 feet 3 1/2 inches to the Point of Beginning. Less that portion of above described parcel lying in Church Street.

Fee Simple Tract - Tract 12 (Parcel 6-3):

West 1/2 of Lot 2, Block 8, W.A. Patrick's Addition to Orlando, according to the plat thereof as recorded in Plat Book A, Page 108, of the Public Records of Orange County, Florida. Also that part of Lot 2, Block 8, of said W.A. Patrick's Addition to Orlando, lying East of the West 1/2 of said Lot 2 and West of the East 75 feet of said Lot 2. Less that portion of above described parcel lying in Church Street.

Fee Simple Tract - Tract 14 (Parcel 6-4):

The East 75 feet of Lot 2, Block 8, W.A. Patrick's Addition to Orlando, according to the plat thereof as recorded in Plat Book A, Page 108, of the Public Records of Orange County, Florida, less that portion of above described parcel lying in Church Street, also less:

Begin at the Northeast corner of Lot 2, Block 8, of W.A. Patrick's Addition to Orlando, Plat Book A, Page 108, of the Public Records of Orange County, Florida; thence Southerly along the East line of said Lot 2, 92.80 feet to the existing North right of way of West Church Street; thence Westerly along said right of way 8.26 feet; thence North 00°55'33" West, 32 feet; thence South 89°04'27" West, 4.75 feet; thence Northerly, 28 feet West of and parallel with the East line of the West One-Half of the Southeast Quarter of Section 26, Township 22 South, Range 29 East, said line being the East side of the Easterly wall of a 2 story masonry building, 61.40 feet to the North line of said Lot 2; thence Easterly along said line 13 feet to the Point of Beginning.

EXHIBIT "B"
Cheyenne Parcel

Fee Simple Tract - Tract 15

A portion of Lot 3 and Lot 4, Block 9, W.A. Patrick's Addition to Orlando, as recorded in Plat Book A, Page 108, of the Public Records of Orange County, Florida, and land lying North to the Southerly right of way line of Church Street, as now laid out and existing, being more particularly described as follows:

Commence at the Southeast corner of Church Street Exchange, as recorded in Plat Book 18, Page 28, of the Public Records of Orange County, Florida; thence run South 00°49'37" East along the Westerly right of way line of CSX Transportation, Inc. Railroad right of way, a distance of 61.40 feet; thence continue along said right of way line North 89°10'23" East, a distance of 4.75 feet; thence run South 00°49'37" East along said Westerly right of way line, a distance of 32.00 feet to the intersection of the Northerly right of way line of Church Street with the Westerly right of way line of said CSX Transportation, Inc. Railroad; thence run South 07°24'57" East, a distance of 60.08 feet to the intersection of the Southerly right of way line of Church Street with the Westerly right of way line of said CSX Transportation, Inc. Railroad; thence run South 86°10'57" West along said right of way line, a distance of 151.25 feet to the Point of Beginning; thence departing said right of way line run South 00°45'14" East, a distance of 174.89 feet; thence run South 89°57'01" West, a distance of 50.84 feet to a point on the Easterly right of way line of Garland Street; thence run the following four courses and distances along the Easterly right of way line; run North 16°16'14" West, a distance of 7.11 feet; thence run North 89°47'09" East, a distance of 1.82 feet; thence run North 16°43'39" West, a distance of 11.45 feet; thence run North 01°03'25" West, a distance of 153.49 feet to a point on the aforementioned Southerly right of way line of Church Street; thence run North 86°10'57" East, along said right of way line, a distance of 55.00 feet to the Point of Beginning.

LESS AND EXCEPT that portion of land described in that certain Stipulated Final Judgment recorded September 23, 2013 in Official Records Book 10637, Page 8806, Public Records of Orange County, Florida.

Fee Simple Tract - Tract 16

A portion of Lots 1, 2, 3 and 4, Block 9, W.A. Patrick's Addition to Orlando, as recorded in Plat Book A, Page 108, of the Public Records of Orange County, Florida, and land lying North to the Southerly right of way line of Church Street, as now laid out and existing, being more particularly described as follows:

Commence at the Southeast corner of Church Street Exchange, as recorded in Plat Book 18, Page 28, of the Public Records of Orange County, Florida; thence run South 00°49'37" East along the Westerly right of way line of CSX Transportation, Inc. Railroad right of way, a distance of 61.40 feet; thence continue along said right of way line North 89°10'23" East, a distance of 4.75 feet; thence run South 00°49'37" East along said Westerly right of way line, a distance of 32.00 feet to the intersection of the Northerly right of way line of Church Street with the Westerly right of way line of said CSX Transportation, Inc. Railroad; thence run South 07°24'57" East, a distance of 60.08 feet to the Point of Beginning and the intersection of the Southerly right of way line of Church Street with the Westerly right of way line of CSX Transportation, Inc. Railroad; thence run South 00°43'30" East, along said Westerly right of way line of said CSX Transportation, Inc. Railroad, a distance of 184.17

feet; thence departing said right of way line, run South 89°52'35" West, a distance of 83.94 feet; thence run North 00°07'25" West, a distance of 6.00 feet; thence run South 89°52'35" West, a distance of 16.20 feet; thence run South 00°37'20" East, a distance of 7.30 feet; thence run South 88°59'28" West, a distance of 7.10 feet to a point on a non-tangent curve concave Southeasterly having a radius of 10.28 feet, a central angle of 14°57'32" and a chord distance of 2.68 feet which bears South 82°16'35" West; thence run Northwesterly along the arc of said curve a distance of 2.69 feet; thence run South 29°12'16" East, a distance of 1.52 feet; thence run South 58°41'20" West, a distance of 5.44 feet; thence run North 29°41'15" West, a distance of 1.77 feet to a point on a non-tangent curve concave Northerly having a radius of 25.30 feet, a central angle of 49°54'52" and a chord distance of 21.35 feet which bears South 89°14'24" West; thence run Northwesterly along the arc of said curve a distance of 22.04 feet; thence run South 30°11'56" West, a distance of 1.69 feet; thence run North 60°52'37" West, a distance of 5.21 feet; thence run North 28°07'12" East, a distance of 1.67 feet to a point on a non-tangent curve concave Southwesterly having a radius of 5.29 feet and a central angle of 27°26'09" and a chord distance of 2.51 feet which bears North 81°41'54" West; thence run Northwesterly along the arc of said curve a distance of 2.53 feet; thence run South 88°59'28" West, a distance of 5.88 feet; thence run North 00°02'59" West, a distance of 1.29 feet; thence run South 89°57'01" West, a distance of 2.02 feet; thence run North 00°45'14" West, a distance of 174.89 feet to a point on the aforementioned Southerly right of way line of Church Street; thence run North 86°10'57" East along said right of way line, a distance of 151.25 feet to the Point of Beginning.