

1 Lessee, as the assignee of the Original Lease Agreement, as amended, extended the term of the Original
2 Lease Agreement, as amended, for an additional thirty (30) years; to make certain improvements to the
3 buildings thereon, namely a Kroger Store and a Family Dollar Store; to obtain additional rent for the
4 benefit of Oakland Fraternal Cemetery; and other matters set forth therein; and,

5 **WHEREAS**, a Third Amendment to Lease Agreement (“Third Amendment”), dated November 12,
6 2015, and recorded with the Pulaski County Clerk’s Office as Instrument No. 2015072250, was executed
7 by the City, as Lessor, East Roosevelt Road Shopping Center, LLC, and LMS Properties, LLC (“Current
8 Lessee”), in order to amend and renew the Original Lease Agreement, as amended, and to consent to
9 assignment of the Original Lease Agreement, as amended, to Current Lessee pursuant to a Special
10 Warranty Deed and Assignment of Ground Lease dated November 3, 2015 (“Third Assignment”),
11 recorded November 16, 2015, as Instrument No. 2015072410; and,

12 **WHEREAS**, the Current Lessee, LMS Properties, LLC, now desires to assign the Original Lease
13 Agreement, as amended, to Fourth Assignee Sky Little Rock, LLC, d/b/a Sky Even Katan, LLC; and,

14 **WHEREAS**, the Fourth Assignee is requesting to have the option of six (6) additional consecutive
15 five (5)-year renewal periods beginning in the 91st lease year; and,

16 **WHEREAS**, as additional consideration for the City’s consent to the assignment by the Current
17 Lessee to the Fourth Assignee of all of Current Lessee’s rights pursuant to the Original Lease Agreement,
18 as amended, the Current Lessee will agree to pay prepaid rent in the amount of Twenty-Five Thousand
19 Dollars (\$25,000.00) for the use and benefit of the Oakland & Fraternal Historic Cemetery Park
20 (“Oakland Cemetery”), said prepaid rent to be paid to the Oakland & Fraternal Historic Cemetery Park
21 Board (“Oakland Cemetery Board”) at the closing of this transaction; and,

22 **WHEREAS**, on July 29, 2022, the Oakland Cemetery Board approved the Fourth Amendment to
23 Lease Agreement and Consent to Assignment of Lease regarding Fourth Assignee Sky Little Rock, LLC,
24 d/b/a Sky Even Katan, LLC; and,

25 **WHEREAS**, the history of this transaction as set forth in this resolution is incorporated in future
26 resolutions for a new lease assignment.

27 **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY**
28 **OF LITTLE ROCK, ARKANSAS:**

29 **Section 1.** The Little Rock City Board of Directors hereby consents to the assignment of the
30 Original Lease Agreement, as amended, by LMS Properties, LLC, to the Fourth Assignee Sky Little
31 Rock, LLC, d/b/a Sky Even Katan, LLC.

32 **Section 2.** The Board of Directors hereby authorizes the Mayor and City Clerk to execute the Fourth
33 Amendment to Lease Agreement and Consent to Assignment of Lease attached to this resolution as
34 Exhibit A to memorialize this consent to the assignment of the Original Lease Agreement, as amended,

1 and to grant the Lessee six (6) additional consecutive five (5)-year renewal option periods beginning in
2 the 91st lease year, as set forth in Exhibit A.

3 **Section 3. Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase, or
4 word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or
5 adjudication shall not affect the remaining portions of the resolution which shall remain in full force and
6 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the
7 resolution.

8 **Section 4. Repealer.** All laws, ordinances, resolutions, or parts of the same, including Little Rock,
9 Ark., Resolution No. 15,171 (February 18, 2020), that are inconsistent with the provisions of this
10 resolution, are hereby repealed to the extent of such inconsistency.

11 **ADOPTED: August 16, 2022**

12 **ATTEST:**

APPROVED:

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14 _____
15 **Susan Langley, City Clerk**

_____ **Frank Scott, Jr., Mayor**

16 **APPROVED AS TO LEGAL FORM:**

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18 _____
19 **Thomas M. Carpenter, City Attorney**

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1 Exhibit A

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3 FOURTH AMENDMENT TO LEASE AGREEMENT
4 AND CONSENT TO ASSIGNMENT OF LEASE
5

6 **THIS FOURTH AMENDMENT TO LEASE AGREEMENT AND CONSENT TO**
7 **ASSIGNMENT OF LEASE** (“Fourth Amendment”) is made and entered into by and between the City
8 of Little Rock (hereinafter “Lessor” or “City”), whose address is 500 West Markham Street, Little Rock,
9 Arkansas, LMS Properties, LLC, whose address is 111 Center Street, Suite 1510, Little Rock, Arkansas,
10 72201 (hereinafter “Current Lessee”), and Sky Little Rock, LLC, d/b/a Sky Even Katan, LLC (hereinafter
11 “Fourth Assignee”), whose address is 10101 Fondren Road, Suite 545, Houston, Texas, 77096.
12

13 **W I T N E S S E T H:**

14 **WHEREAS**, on June 11, 1959, the City and East 26th Street Development Corporation (“Original
15 Lessee”) entered into a certain lease agreement (“Original Lease Agreement”) for the benefit of the entity
16 now referred to as the Oakland & Fraternal Historic Cemetery Park, which Original Lease Agreement was
17 recorded with the Pulaski County Circuit Clerk’s Office at Book 1,029 at Pages 238 through 244 and had
18 an expiration date of December 11, 1974; and,

19 **WHEREAS**, by an amendment to the Original Lease Agreement dated January 27, 1977 (the “First
20 Amendment”), the City and the Original Lessee amended the Original Lease Agreement to honor a Sub-
21 Lease contraction executed February 23, 1962 with a Sub-Lessee, Worthen Bank and Trust Company,
22 and consented to the assignment by the Original Lessee of its rights in the Original Lease Agreement, as
23 amended, to S. Sherman, Ruby S. McCaskill and Sam Strauss, Jr., as Trustee for Steven Strauss, Sam
24 Strauss, III, and Susan Strauss (“First Assignees”); and,

25 **WHEREAS**, by a document entitled Assignment of Lease dated January 20, 1977 (“First
26 Assignment”), recorded with the Pulaski County Clerk’s Office at Book 1740 Page 667 through Page
27 672, the Original Lessee assigned the Original Lease Agreement, as amended, to First Assignees; and,

28 **WHEREAS**, by a document entitled Assignment of Lease dated July 25, 1983 (“Second
29 Assignment”), recorded September 15, 1983, as Instrument No. 83-47637, Ruby S. McCaskill assigned to
30 Lee S. Thalheimer and Bruce Thalheimer all her undivided interest as a lessee in the Original Lease
31 Agreement, as amended; and,

32 **WHEREAS**, the First Amendment was modified to change the name of one of the First Assignees
33 from S. Sherman to Sherman Realty Co., Inc. by initialing and recorded same as Instrument No. 83-47637
34 (the “Modified First Assignment”); and,

35 **WHEREAS**, by an Amendment and Renewal of Lease Agreement last executed on October 11, 2001

1 (the “Second Amendment”), recorded with the Pulaski County Clerk’s Office on October 22, 2001, as
2 Instrument No. 2001082279, the City, as Lessor, and East Roosevelt Road Shopping Center, LLC,
3 Lessee, as the assignee of the Original Lease Agreement, as amended, extended the term of the Original
4 Lease Agreement, as amended, for an additional thirty (30) years; to make certain improvements to the
5 buildings thereon, namely a Kroger Store and a Family Dollar Store; to obtain additional rent for the
6 benefit of Oakland Fraternal Cemetery; and other matters set forth therein; and,

7 **WHEREAS**, a Third Amendment to Lease Agreement (“Third Amendment”), dated November 12,
8 2015, and recorded with the Pulaski County Clerk’s Office as Instrument No. 2015072250, was executed
9 by the City, as Lessor, East Roosevelt Road Shopping Center, LLC, and LMS Properties, LLC (“Current
10 Lessee”), in order to amend and renew the Original Lease Agreement, as amended, and to consent to
11 assignment of the Original Lease Agreement, as amended, to Current Lessee pursuant to a Special
12 Warranty Deed and Assignment of Ground Lease dated November 3, 2015 (“Third Assignment”),
13 recorded November 16, 2015, as Instrument No. 2015072410; and,

14 **WHEREAS**, on July 29, 2022, the Oakland & Fraternal Historic Cemetery Park Board (“Oakland
15 Cemetery Board”) approved the Fourth Amendment to Lease Agreement and Consent to Assignment of
16 Lease regarding Fourth Assignee Sky Little Rock, LLC, d/b/a Sky Even Katan, LLC; and,

17 **WHEREAS**, on August 16, 2022, the City of Little Rock Board of Directors adopted Resolution No.
18 _____ to consent to the assignment of the Original Lease Agreement, as amended, by Current
19 Lessee to Fourth Assignee Sky Little Rock, LLC, d/b/a Sky Even Katan, LLC (“Fourth Assignment”);
20 and,

21 **WHEREAS**, the City Board of Directors also authorized the Mayor and City Clerk to execute this
22 Fourth Amendment to Lease Agreement to, *inter alia*, memorialize the consent to the assignment by
23 Current Lessee to Fourth Assignee; and,

24 **WHEREAS**, the City, Current Lessee and Fourth Assignee desire to enter into this Fourth
25 Amendment to Lease Agreement and Consent to Assignment of Lease as set forth below.

26 **NOW, THEREFORE, INCONSIDERATION OF THE PREMISES TO BE DEMISED, THE**
27 **INTENTIONS OF THE PARTIES, AND OTHER COVENANTS, CONDITIONS, WARRANTIES**
28 **AND AGREEMENTS HEREINAFTER SET FORTH, IT IS HEREBY AGREED AS FOLLOWS:**

29 **1. CONSENT TO ASSIGNMENT AND AMENDMENT AND RENEWAL OF ORIGINAL**
30 **LEASE AGREEMENT, AS AMENDED.** The City, as Lessor, hereby consents to an assignment by
31 Current Lessee to Fourth Assignee of all of Current Lessee’s rights pursuant to the Original Lease
32 Agreement, as amended, and Fourth Assignee agrees to assume all liabilities and obligations of Current
33 Lessee arising pursuant to the Original Lease Agreement, as amended, after the date of the assignment of
34 the Original Lease Agreement, as amended, to Fourth Assignee.

35 As additional consideration for Lessor’s consent to the assignment by Current Lessee to Fourth

1 Assignee of all of Current Lessee’s rights pursuant to the Original Lease Agreement, as amended, Current
2 Lessee shall pay to Lessor prepaid rent in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for
3 the use and benefit of the Oakland & Fraternal Historic Cemetery Park (“Oakland Cemetery”), said
4 prepaid rent to be paid to the Oakland Cemetery Board at the closing of this transaction.

5 Upon the assignment to and assumption of the Original Lease Agreement, as amended, by Fourth
6 Assignee, the Lessor hereby releases LMS Properties, LLC, from any obligations under the Original
7 Lease Agreement, as amended, occurring after the effective date of such assignment and assumption.

8 **2. GRANT OF ADDITIONAL RENEWAL OPTION PERIODS.** Section 2 of the Original
9 Lease Agreement, as modified by all prior amendments, is hereby amended by adding a new Paragraph
10 (h) as follows:

11 “(h) Lessor hereby grants Lessee six (6) additional consecutive five (5)-year renewal option periods
12 beginning in the 91st lease year; with the following rent payable:

13 (1) commencing in the 91st lease year, Lessee shall pay to Lessor as minimum guaranteed rental One
14 Thousand, Eight Hundred Dollars (\$1,800.00) per month;

15 (2) commencing in the 96th lease year, Lessee shall pay to Lessor as minimum guaranteed rental Two
16 Thousand, Two Hundred Dollars (\$2,200.00) per month;

17 (3) commencing in the 101st lease year, Lessee shall pay to Lessor as minimum guaranteed rental
18 Two Thousand, Six Hundred Dollars (\$2,600.00) per month;

19 (4) commencing in the 106th lease year, Lessee shall pay to Lessor as minimum guaranteed rental
20 Three Thousand Dollars (\$3,000.00) per month;

21 (5) commencing in the 11th lease year, Lessee shall pay to Lessor as minimum guaranteed rental
22 Three Thousand, Four Hundred Dollars (\$3,400.00) per month;

23 (6) commencing in the 116th lease year, Lessee shall pay to Lessor as minimum guaranteed rental
24 Three Thousand, Eight Hundred Dollars (\$3,800.00) per month.”

25 **3. SERVICE OF NOTICE.** Upon the assignment of the Original Lease Agreement, as amended,
26 to Fourth Assignee, Fourth Assignee agrees to give to the City Fourth Assignee’s address for written
27 notice given pursuant to the Original Lease Agreement, as amended.

28 **4. DUPLICATE ORIGINALS, COPIES.** This Fourth Amendment shall be executed in duplicate
29 originals. Any copy of this Fourth Amendment shall be deemed admissible as an original and shall be
30 deemed authentic for any other use.

31 **5. EFFECTIVE DATE.** This Fourth Amendment shall become effective when signed by all
32 parties hereto and upon the condition that Fourth Assignee is properly authorized to conduct business in
33 the State of Arkansas and after the closing date of the transfer of the Current Lessee’s interest in the
34 Original Lease, as amended, from Current Lessee to Fourth Assignee.

35 **6. AUTHORITY.** The officials who executed this Fourth Amendment hereby represent and warrant

1 that they have full and complete authority to act on behalf of the City, Current Lessee and Fourth
2 Assignee, respectively, and that by their signature below, the terms and provisions hereof, constitute valid
3 and enforceable obligations of each party.

4 **7. PRIOR LEASE AND AMENDMENT TO PRIOR LEASE.** All other terms of the Original
5 Lease Agreement, as amended by the First Amendment, Second Amendment and Third Amendment,
6 shall remain in full force and effect, except as amended by this Fourth Amendment and currently there are
7 no defaults.

8 **IN WITNESS WHEREOF**, the parties have set their hands and seals.

9 **CITY OF LITTLE ROCK**

LMS PROPERTIES, LLC

10
11 **By:** _____
12 **Frank Scott, Jr., Mayor**

By: _____
Tommy J. Lasiter, Manager

13
14 **Date:** _____

Date: _____

15
16 **ATTEST:**

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18 _____
19 **Susan Langley, City Clerk**

20
21 **Date:** _____

SKY LITTLE ROCK, LLC, d/b/a
SKY EVEN KATAN, LLC

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25 **By:** _____
26 **Binyomin Medetsky, Manager**

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28 **Date:** _____

29 **APPROVED AS TO LEGAL FORM:**

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31 **Thomas M. Carpenter, City Attorney**

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33 **By:** _____
34 **Beth Blevins Carpenter**
35 **Deputy City Attorney**

1 STATE OF ARKANSAS)

2) ss.

ACKNOWLEDGMENT

3 COUNTY OF PULASKI)

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5 On this day personally appeared before me the undersigned, a Notary Public within and for the
6 County and State aforesaid, duly qualified and acting, the within named Frank Scott, Jr., and Susan
7 Langley, to me well known as the Mayor and City Clerk, respectively, of the City of Little Rock,
8 Arkansas, and state that they had executed the foregoing Fourth Amendment to Lease Agreement
9 pursuant to the provisions of Resolution No. _____ adopted by the City of Little Rock Board of
10 Directors on August 16, 2022 for the consideration and purposes therein mentioned and set forth.

11 WITNESS my hand and official seal this ____ day of _____, 2022.

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14

Notary Public

15 My Commission expires:

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17 _____

18 (Notarial Seal)

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20 STATE OF ARKANSAS)

21) ss.

ACKNOWLEDGMENT

22 COUNTY OF PULASKI)

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24 On this day personally appeared before me the undersigned, a Notary Public within and for the
25 County and State aforesaid, duly qualified and acting, the within named Tommy J. Lasiter, to me well
26 known as the Manager of LMS Properties, LLC, and state that he had executed the foregoing Fourth
27 Amendment to Lease Agreement for the consideration and purposes therein mentioned and set forth.

28 WITNESS my hand and official seal this ____ day of _____, 2022.

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Notary Public

32 My Commission expires:

33

34 _____

35 (Notarial Seal)

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1 STATE OF _____)
2) ss.
3 COUNTY OF _____)
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ACKNOWLEDGMENT

5 On this day personally appeared before me the undersigned, a Notary Public within and for the
6 County and State aforesaid, duly qualified and acting, the within named Binyomin Medetsky, to me well
7 known as the Manager of Sky Little Rock, LLC d/b/a Sky Even Katan, LLC and state that he had
8 executed the foregoing Fourth Amendment to Lease Agreement for the consideration and purposes
9 therein mentioned and set forth.

10 WITNESS my hand and official seal this ____ day of _____, 2022.

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Notary Public

15 **My Commission expires:**

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17 _____
18 **(Notarial Seal)**

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