

This instrument was prepared by  
and return to after recording:

Anthony J. Davila  
Smith Hawks, PL  
138 Simonton Street  
Key West, FL 33040

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## GRANT OF EASEMENT

THIS GRANT OF EASEMENT (the “**Agreement**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between **GARRISON BIGHT SMI, LLC**, a Delaware limited liability company, (the “**Grantor**”), and **THE CITY OF KEY WEST, FLORIDA**, a Florida municipal corporation (herein referred to as “**City**” or “**Grantee**”). Grantor and Grantee are sometime each individually referred to herein as a “**Party**” and collectively as the “**Parties**.”

WHEREAS, Grantor is the owner of certain real property located in Monroe County, Florida, which property is legally described in **Exhibit “A”** (the “**Property**”); and

WHEREAS, the City owns a stormwater drain on the right-of-way named Eisenhower Drive; and

WHEREAS, a stormwater outfall pipe runs from the stormwater drain through the Property to Garrison Bight basin; and

WHEREAS, the Parties desire to enter into this Agreement in order to provide the City an easement over the Easement Area (as defined below) to access, repair, maintain, and replace the stormwater pipe, subject at all times to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and the City hereby agree as follows:

1. **Grant of Easement.** Grantor hereby grants to Grantee a permanent easement under, over, across and upon the 12-foot strip of land, with 6 feet on each side of the stormwater pipe, on the Property more particularly shown in **Exhibit “B”** (the “**Easement Area**”) to access, repair or maintain the stormwater pipe.
2. **Maintenance Procedure.** The City shall promptly notify Grantor or Grantor’s successors or assigns if the City reasonably believes that the stormwater pipe needs maintenance. If any excavation or subsurface work is reasonably determined to be necessary by either Grantor or Grantee, Grantor shall have the first right to perform and complete such work, in coordination with the City, at Grantor’s expense, if Grantor elects to do so, in its sole discretion. Except in emergency situations presenting an imminent risk of injury, loss or damage to life or property warranting urgent action,

the City may commence and/or complete (as applicable) any necessary maintenance work in the Easement Area if Grantor fails to notify City, within 30-days after Grantor's receipt of written notice from City, that Grantor will commence and/or complete the necessary maintenance work in a reply notice delivered by Grantor to the City. If Grantor timely elects to commence the necessary work it shall perform and complete the work within a commercially reasonable time after delivery of Grantor's notice to the City.

3. Modification or Relocation. Grantor reserves the right to unilaterally relocate the Easement Area ("**Relocated Easement**"); provided that (1) Grantor bears all costs (including without limitation costs of design, engineering, planning, surveying, permitting, construction, and document preparation) related to the relocation and relocation of the stormwater facilities within the Easement Area, (2) Grantor applies for and receives all applicable federal, state, and local permits and approvals for the relocated stormwater pipe, (3) there is no or minimal interruption (during changeover from the former location to the new) in the functionality of the stormwater drain, (4) the stormwater drainage specifications of any such relocated stormwater pipe are reasonably equivalent to or exceed the specifications of the stormwater pipe before relocation, (5) Grantor sends notice and construction plans to the City at least 30 days before any relocation work begins, and (6) the location of the Relocated Easement is reasonably approved in advance by the City, which such approval shall not be unreasonably withheld, conditioned or delayed. If the City disapproves any submittals for approval by Grantor, the City shall give Grantor a written explanation in reasonable detail for the disapproval within the aforesaid 30-day period. If City fails to approve or disapprove a submittal within such 30-day period, the submittal shall be deemed approved. After the City reasonably approves the location of the Relocated Easement, the Parties shall execute, deliver and record such reasonable documentation as shall be reasonably necessary to amend this Agreement, solely for purposes of reflecting such relocation of the Relocated Easement Area and the closure, termination, and release of the original Easement Area from this Easement.
4. Indemnification. The City shall defend, indemnify and hold Grantor harmless of and from any loss, claim, expense, action, liability, damage, action or cause of action in any way arising from or in connection with the intentional or negligent acts or omissions of the City's officers, employees, agents, contractors, sub-contractors, and invitees upon the Property, including without limitation those upon or within the Easement Area as the result of any work therein being performed by or at the request of City.
5. Grantor's Use of Easement Area. Grantor shall have the right to make any other use of the Easement Area which does not interfere with the City's rights under this Easement.

6. Successors and Assigns. All covenants, stipulations, terms, conditions, and provisions of this Agreement shall extend to and be made binding upon respective successors and assigns of the City and Grantor. It is intended that this Agreement shall be recorded and be binding upon future owners of the above-described property and the City, and all successors thereto.
7. Choice of Law; Venue. This Agreement shall be governed by and interpreted under the laws of the State of Florida, notwithstanding any choice of law principles. Venue for any litigation or other proceedings arising under this agreement shall lie in a court of competent jurisdiction in Key West, Monroe County, Florida.
8. Notices. All notices, demands, requests, consents, approvals or other communications (collectively, “**notices**” and singly a “**notice**”) required or permitted to be given hereunder or which are given with respect to this Agreement shall be effective only if in writing and delivered either by personal service, or delivered to an overnight delivery service with guaranteed next business day delivery, or mailed by registered or certified mail, return receipt requested, postage prepaid, address as follows:

TO GRANTOR:

GARRISON BIGHT SMI, LLC,  
Attention: Rochelle Thomas, Esq.  
17330 Preston Road, Suite #220A  
Dallas, TX 75252

TO GRANTEE:

CITY OF KEY WEST, FLORIDA  
Attention: City Attorney  
P.O. Box 1409  
Key West, FL 33041-1409

or to such other address as such Party shall have specified most recently by written notice. An attorney representing a Party to this agreement is authorized to give any notice permitted under this Agreement on behalf of such Party. Any notice given as provided herein shall be deemed received as follows: if delivered by personal service, on the date so delivered; if delivered to an overnight courier service, on the business day immediately following delivery to such service, and if mailed, on the fifth (5th) business day after deposit in the U.S. Mail, certified postage paid, addressed to the Party for which intended.

9. Attorneys Fees. In the event of litigation or other proceedings between the Parties, their successors and/or assigns, arising out of or relating to this Agreement, the prevailing Party shall be entitled to recover all costs incurred and reasonable attorney's fees, including attorney's fees incurred before, during, or at trial, or in any appeals.
10. Integration; Modification. This Agreement sets forth all of the covenants and understandings between Grantor and the City. No subsequent alteration, amendment, change or addition to this agreement shall be binding upon either Party unless reduced to writing and duly executed by both parties.
11. Party References. Notwithstanding any provision of this Agreement to the contrary, the terms "Grantor" shall mean the record titleholder of the Property from time to time, but shall not include any person or entity who is only the holder of a mortgage or other lien encumbering the Property; provided, however, that upon the fee simple transfer of title to a third person or entity by deed, foreclosure of a lien, or conveyance in lieu of foreclosure of a lien (including without limitation any mortgage holder or other third party purchaser at judicial sale), the successor-in-title to the Property shall become the Grantor for purposes under of this Agreement, and the previous Grantor shall be released of and from further liability and obligation under this Agreement from and after, but not before, the date of any such transfer of title.

*[remainder of page intentionally blank; executions follow on next page]*

IN WITNESS WHEREOF, these presents have been executed by the Grantor herein, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Signed, Sealed and Delivered in the presence of:

**GARRISON BIGHT SMI, LLC,**  
a Delaware limited liability company

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Witness:

\_\_\_\_\_  
Printed Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me, by means of  physical presence OR  online notarization, this day \_\_\_\_\_ of \_\_\_\_\_ 2024 by \_\_\_\_\_, as \_\_\_\_\_ of **Garrison Bight SMI, LLC**, a Delaware limited liability company,  who is personally known to me OR  who has produced \_\_\_\_\_ as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

IN WITNESS WHEREOF, these presents have been executed by the Grantee herein, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Signed, Sealed and Delivered in the presence of:

**CITY OF KEY WEST, FLORIDA,**  
a Florida municipal corporation

ATTEST

By: \_\_\_\_\_  
City Clerk

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

Name: \_\_\_\_\_

Title: Mayor

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me, by means of  physical presence OR  online notarization, this day \_\_\_\_ of \_\_\_\_\_, 2024 by \_\_\_\_\_, as Mayor of the City of Key West Florida, a Florida municipal corporation,  who is personally known to me OR  who has produced \_\_\_\_\_ as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

## Exhibit "A"

### Grantor Property

Lots 1, 2, and 3, Tract 7, all according to Estate of Benjamin Albury's Subdivision of part of Tract 7, according to the Plat thereof recorded in Plat Book 1 Page 3 in the Public Records of Monroe County, Florida, being more particularly described as follows:

Beginning at a point where the Northeasterly extension of the Southeasterly line of Angela Street intersects the Northeasterly line of Salt Pond or Bay Road; thence Southeasterly along the Northeasterly line of Salt Pond or Bay Road a distance of 209 feet; thence Northeasterly and parallel to the Southeasterly line of Angela Street extended Northeasterly a distance of 189 feet, more or less, intersecting the existing bulkhead line in Garrison Bight, if extended; thence Northwesterly and parallel to the Northeasterly line of Salt Pond or Bay Road a distance of 209 feet, more or less, to a point where the N.E.'ly extension of the S.E.'ly line of Angela Street intersects the said existing bulkhead if extended N.W.'ly; thence S.W.'ly along the N.E.'ly extension of the S.W.'ly line of Angela Street a distance of 189 feet, more or less, to the point of beginning.

(AND ALSO)

In the City of Key West, said County and State, and is part of Tract 7, said Land hereby conveyed commencing at a point on the North East side of the Salt Pond or Bay Road 209 feet from the corner of Salt Pond or Bay Road and Angela Street continued, and running thence in a Southeast direction along the North East side of said Salt Pond or Bay Road 84 feet, 6 inches and extending back at right angles with this line in a North East direction at each end thereof, into the waters of the Gulf, and the riparian rights belonging to said land. Said land being more fully described, reference being had to a map of the City of Key West, recopied and diagramed from Plats of Record by George W. Reynolds, County Clerk, in December A.D. 1900; as Part of Tract 7 commencing at the Northeast corner of Salt Pond or Bay Road and Rawson Street continued, (on the North East side of said Salt Pond or Bay Road) and running thence along said North East side of Salt Pond or Bay Road in a South Easterly direction 84 feet and 6 inches, and extends back at right angles with said North East side of Salt Pond or Bay Road in a North East direction, at each end thereof, into the waters of the Gulf.

(LESS AND EXCEPT)

A triangle piece of land in part of Lots 1, and 2, of Estate of Benjamin Albury Subdivision of a part of Tract 7, recorded in Plat Book 1, Page 3, described as follows:

Commencing at the intersection of the centerlines of Pearl Street and Newton Street, bear North 53 degrees 46 minutes and 37 seconds East for a distance of 250.44 feet to a point; thence bear North 34 degrees 04 minutes and 23 seconds West for a distance of 189.02 feet to a point; thence bear North 53 degrees 46 minutes and 37 seconds East for a distance of 98.23 feet to the point of beginning of the triangular piece of property hereinafter described; from said point of beginning continue bearing North 53 degrees 47 minutes and 37 seconds East for a distance of 90.77 feet to a point; thence bear South 34 degrees 04 minutes 23 seconds East for a distance of 86.91 feet to a point; thence bear North 81 degrees 26 minutes and 23 seconds West for a distance of 123.29 feet to the point of beginning.

(LESS AND EXCEPT)

A 30 foot strip of land in a part of Lot 1 of Estate of Benjamin Albury Subdivision of part of Tract 7, recorded in Plat Book 1, Page 3, described as follows:

Commencing at the intersection of the centerlines of Pearl Street and Newton Street, bear North 53 degrees 46 minutes and 37 seconds East for a distance of 250.44 to a point; thence bear North 34 degrees 04 minutes and 23 seconds West for a distance of 159.02 feet to the point of beginning of the strip of land hereinafter described; from said point of beginning continue bear North 34 degrees 04 minutes and 23 seconds West for a distance of 30 feet to a point; thence bear North 53 degrees 46 minutes and 37 seconds East for a distance of 98.23 feet to a point; thence bear South 81 degrees 26 minutes and 23 seconds East for a distance of 42.59 feet to a point, which is 30 feet, measured at right angles to the preceding course; thence bear South 53 degrees 46 minutes and 37 seconds West for a distance of 129.59 feet back to the Point of Beginning.

(AND ALSO)

A parcel of land on the Island of Key West, Monroe County, Florida, and being described as follows: Commence at the intersection of the centerline of Newton Street (extended Northwesterly) and the Northerly right-of-way line of Eisenhower Drive and run thence North 34° 04' 23" West along said right-of-way for a distance of 189.02 feet; thence run North 53° 46' 37" East for a distance of 98.23 feet; thence run South 81° 26' 23" East for a distance of 83.70 feet to the Point of Beginning of the parcel of land being described herein; thence continue South 81° 26' 23" East for a distance of 115.10 feet; thence run South 08° 33' 37" West for a distance of 43.63 feet; thence run North 81° 26' 23" West for a distance of 52.80 feet; thence run North 08° 33' 37" East for a distance of 21.30 feet; thence run North 81° 26' 23" W for a distance of 13.70 feet; thence run North 08° 33' 37" East for a distance of 9.70 feet; thence run North 81° 26' 23" West for a distance of 48.60 feet; thence run North 08° 33' 37" East for a distance of 12.60 feet back to the Point of Beginning.

NOW BEING DESCRIBED AS FOLLOWS:

A parcel of land on the Island of Key West, Monroe County, Florida, and is part of Lots 1, 2, 3, and 4 of Tract 7, according to Estate of Benjamin Albury's Subdivision of part of Tract 7, according to the Plat thereof recorded in Plat Book 1 Page 3 in the Public Records of Monroe County, Florida, being more particularly described as follows:

Commencing at the intersection of the Northeasterly extension of the Southeasterly right of way line of Angela Street and the Northeasterly right of way line of Eisenhower Drive, (aka Salt Pond or Bay Road), as constructed; thence S35°20'08"E along the said Northeasterly right of way line of Eisenhower Drive as constructed for a distance of 30.00 feet to the Point of Beginning of the parcel of land hereinafter described; thence continue S35°20'08"E along the said Northeasterly right of way line of Eisenhower Drive as constructed for a distance of 263.50 feet to a point, said point being 110.83 feet Southeasterly from the intersection of the centerline of Newton Street (aka Rawson Street) extended Northeasterly, and the said Northeasterly right-of-way line of Eisenhower Drive as constructed; thence N54°19'16"E for a distance of 186.96 feet to the intersection of the vertical wet face of an existing concrete bulkhead under an existing concrete



seawall cap; thence N36°55'38"W and along the said vertical wet face of the existing concrete bulkhead for a distance of 87.75 feet to a point of intersection of the said vertical wet face of the existing concrete bulkhead; thence N50°30'58"E and along the said vertical wet face of the existing concrete bulkhead for a distance of 13.29 feet to a point of intersection of the said vertical wet face of the existing concrete bulkhead; thence N34°30'56"W and along the said vertical wet face of the existing concrete bulkhead for a distance of 24.17 feet to a point of intersection of the said vertical wet face of an existing concrete bulkhead; thence N54°45'24"E and along the said vertical wet face of the existing concrete bulkhead for a distance of 0.50 feet to a point of intersection of the said vertical wet face of the existing concrete bulkhead; thence N36°20'30"W and along the said vertical wet face of the existing concrete bulkhead for a distance of 15.69 to a point of intersection of the said vertical wet face of the existing concrete bulkhead; thence N53°01'34"E and along the said vertical wet face of the existing concrete bulkhead for a distance of 13.83 feet to a point of intersection of the said vertical wet face of the existing concrete bulkhead; thence N60°38'16"E and along the said vertical wet face of the existing concrete bulkhead for a distance of 11.83 feet to a point of intersection of the said vertical wet face of the existing concrete bulkhead; thence N09°25'31"E and along the said vertical wet face of the existing concrete bulkhead for a distance 37.73 feet to a point of intersection of the said vertical wet face of the existing concrete bulkhead and the Southwesterly vertical wet face of the existing concrete seawall; thence N80°34'29"W for a distance of 154.31 feet to a point; thence S54°21'06"W for a distance of 140.93 feet back to the Point of Beginning.

