

RESOLUTION NO. _____

403-405 CAROLINE STREET EASEMENT

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN EASEMENT THAT EXTENDS A TOTAL OF 180 SQUARE FEET, MORE OR LESS, TO ADDRESS THE ENCROACHMENT OF EXISTING HISTORIC SECOND-STORY BALCONY IN ORDER TO MAINTAIN AN OVERHANG ONTO THE WHITEHEAD STREET RIGHT-OF-WAYS FOR A PROPERTY LOCATED WITHIN THE HISTORIC RESIDENTIAL/OFFICE (HRO) ZONING DISTRICT AT 403-405 CAROLINE STREET, KEY WEST, FLORIDA (RE#00001610-000000); PURSUANT TO SECTIONS 2-938 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FEES AND CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That an easement that extends a total of 180 square feet, more or less, for the real property described in the attached specific purpose survey prepared by J. Lynn O'Flynn, PSM of J. Lynn O'Flynn, Inc., dated April 4, 2019, is granted subject to the execution of the attached easement agreement, incorporating the minimum conditions described in section 2 below.

Section 2: That the following conditions shall apply to the granting of the easement:

(1) The easement shall terminate upon the removal of the existing second floor balcony supported by three pilasters on the first floor.

(2) The City may unilaterally terminate the easement upon a finding of public purpose by a vote of the Key West City Commission.

(3) The owners shall pay the annual fee of \$400.00 specified in Section 2-938(b) (3) of the Code of Ordinances.

(4) The owners shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachment if the annual fee required by the Code of Ordinances is not paid.

(5) Grantees shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured" on a primary and non-contributory basis utilizing an ISO standard endorsement at least as broad as CG 20 10 (11/85) or its Equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations is acceptable) including a "Waiver of Subrogation" clause in favor of City of Key West on all policies. Grantees shall maintain the General Liability coverage summarized above, including the "additional insured" endorsement, with coverage continuing in full force during the period of time this easement agreement remains in effect.

(6) Grantees's insurance policies shall be endorsed to give 30 days written notice to Grantor in the event of cancellation or material change, using form CG 02 24, or its equivalent.

(7) Certificates of Insurance submitted to Grantor shall not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation / material change notice endorsements and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements shall also be required if necessary. Grantees shall advise its insurance agent accordingly.

(8) The area to maintain the existing historic second-story balcony to maintain the overhang over Whitehead Street Right-of-Ways shall be the total allowed within the easement area.

(9) The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.

(10) The City reserves the right to construct surface improvements within the easement area.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this _____ day of _____, 2019.

Authenticated by the presiding officer and Clerk of the
Commission on _____, 2019.

Filed with the Clerk _____, 2019.

Mayor Teri Johnston _____

Vice Mayor Samuel Kaufman _____

Commissioner Gregory Davila _____

Commissioner Mary Lou Hoover _____

Commissioner Clayton Lopez _____

Commissioner Billy Wardlow _____

Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK