

RESOLUTION NO. _____

1529 VON PHISTER STREET EASEMENT

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN EASEMENT FOR A TOTAL OF 60 ± SQUARE FEET INTO THE THOMPSON STREET RIGHT-OF-WAY, TO ADDRESS THE ENCROACHMENT OF A PORTION OF AN EXISTING ROOF OVERHANG AND FENCE ENCROACHING ON CITY RIGHT-OF-WAY ABUTTING THE PROPERTY LOCATED AT 1529 VON PHISTER STREET (RE # 00042640-000000, AK # 1043273), 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 for a total of 60 ± square feet into the Thompson Street right-of-way, for the real property described in the attached specific purpose survey prepared by J. Lynn O'Flynn, Inc., dated June 1, 2015, 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 grant of easement:

(1) The easement shall terminate upon the replacement of the structure.

(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 owner shall pay the annual fee of \$300.00

specified in Section 2-938(b)(2) of the Code of Ordinances.

(4) The owner 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) Grantee shall secure, pay for, and file with the Grantor, prior to commencing any work under this Agreement, all certificates for public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amount indicated. Notwithstanding any other provision of this Agreement, Grantee shall provide the minimum limits of liability coverage as follows:

General Liability

- a. \$2,000,000 Aggregate (Per Project)
- b. \$2,000,000 Products Aggregate
- c. \$1,000,000 Any One Occurrence
- d. \$1,000,000 Personal Injury
- e. \$ 300,000 Fire Damage/Legal

(6) Grantee 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 2010 (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. Grantee 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.

(7) Grantee'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.

(8) 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. Grantee shall advise its insurance agent accordingly.

(9) The existing roof overhang and fence shall be the total allowed construction within the easement area.

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

(11) 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 _____, 2015.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2015.

Filed with the Clerk _____, 2015.

Mayor Craig Cates	_____
Commissioner Sam Kaufman	_____
Commissioner Clayton Lopez	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK