

919-921 DUVAL STREET

EASEMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2017,
between the City of Key West, Florida (hereinafter Grantor) and
Club Duval, Inc., as owner of property located at 919-921 Duval
Street, Key West, Florida (hereinafter the Grantee) (RE
#00017780-000000).

I. RECITALS

Grantee is owner of the property known as 919-921 Duval
Street, Key West, Florida, including a wood framed awning,
second floor porch molding, and a stepped parapet molding that
encroaches onto the Grantor's right-of-way. Portions of
Grantee's property encroaches 347 square feet, more or less,
onto the Grantor's right-of-way. Specifically:

COMMENCE at the Southeasterly right-of-way line of Olivia
Street and the Northeasterly right-of-way line of Duval street
and thence run Southeasterly along the Northeasterly right-of-
way line of the said Duval Street for a distance of 258.56 feet
to the Northwesterly face of an existing overhang on a Two Story
Frame Structure, said point being the Point of Beginning: thence
continue Southeasterly along the Northeasterly right-of-way line
of the said Duval Street for a distance of 37.33 feet to the

Southeasterly face of said overhang; thence Southwesterly with a deflection angle of 89 degrees 50 feet 44 inches to the right and along said overhang for a distance of 1.00 foot; thence run Northwesterly and at right angles along said overhang for a distance of 1.00 foot; thence run Southwesterly and at right angles along said overhang for a distance of 8.70 feet; thence run Northwesterly and at right angles along said overhang for a distance of 35.33 feet; thence run Northeasterly and at right angles along said overhang for a distance of 8.70 feet; thence run Northwesterly and at right angles along said overhang for a distance of 1.00 foot; thence Northeasterly and at right angles along said overhang for a distance of 1.10 feet back to the Point of Beginning, containing 347 square feet more or less.

Land described herein contains 347 square feet, more or less as specifically described and illustrated in the attached specific purpose survey dated May 15, 2017, drawn by J. Lynn O'Flynn, PSM of J. Lynn O'Flynn, Inc., (Copy attached hereto). This encroachment impedes marketability of the property.

II. CONVEYANCE OF EASEMENT

The Grantor hereby agrees to grant and convey to the Grantee an easement for encroachments, at the property located at 919-921 Duval Street, as more specifically described in the attached survey. The easement shall pertain to the wood framed awning, second floor porch molding, and the stepped parapet

molding along Duval Street herein described, and not to any other encroachment. The granting of this easement is conditioned upon the following:

1. Prior to the easement becoming effective, the Grantee shall obtain Commercial General Liability insurance that extends coverage to the property that is governed by this easement with limits of no less than \$1,000,000. Coverage must be provided by an insurer authorized to conduct business in the State of Florida and with terms and conditions consistent with the latest version of the Insurance Service Office's (ISO) latest filed Commercial General Liability form.
2. The easement shall terminate upon the removal of the structure.
3. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
4. The owner shall pay the annual fee of \$400.00 specified in Code Section 2-938(b) (3).
5. 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.
6. The existing awning, second floor porch molding, and the stepped parapet molding along Duval Street shall be the total allowed construction within the easement area.

7. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
8. The City reserves the right to construct surface improvements within the easement area.
9. To the fullest extent permitted by law, the Grantee expressly agrees to indemnify and hold harmless the City of Key West, their respective officers, directors, agents and employees (herein called the "indemnitees") from any and all liability for damage.

III. CONSIDERATION

Grantee agrees to pay to Grantor all sums and fees for city sewer, city garbage, if unpaid; otherwise to promptly bring the property and all uses thereof into full compliance with all city and state laws and regulations, if it is not now in full compliance. Grantee further agrees to pay Grantor an annual fee for this easement in the total amount of \$400.00, payable annually on the anniversary date of the execution of this Easement Agreement, to the City of Key West. Failure to pay such annual fee and/or to conform with agreed upon additional conditions shall constitute grounds for the Grantor to terminate the easement.

IV. EASEMENT TERMINATION

Grantee agrees that the improvements located on the Easement shall not be enlarged or expanded.

Grantee shall have the right to repair and maintain the improvements in the ordinary course of maintenance.

The easement shall terminate upon the removal of the structure.

The Grantor herein expressly and irrevocably appoints the City Manager of the City of Key West as its agent to permit the removal of the encroachment in the event the annual fee referred to hereinabove is not paid.

In the event Grantor determines that retaking this property is necessary for a public purpose by virtue of a vote of the City Commission, then Grantor may unilaterally terminate this easement and reclaim the property without compensation to Grantee.

This easement shall terminate upon the failure of the Grantee or its heirs, successors, or assigns to maintain liability insurance in a minimum amount of one million dollars (\$1,000,000.00) per occurrence, and any other insurance specifications set forth in this agreement, naming the City of Key

West as additional insured, for that portion of real property which is the subject of this easement agreement.

This easement shall be considered a covenant that runs with the land and shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this easement the date above written.

ATTEST:

CITY OF KEY WEST

CHERYL SMITH, CITY CLERK

JAMES K. SCHOLL, CITY MANAGER

STATE OF FLORIDA)

COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by JAMES K. SCHOLL, City Manager of the City of Key West, on behalf of the City who is personally known to me or who has produced _____ as identification.

Notary Public
State of Florida

My commission expires: _____

GRANTEE(S)

By: Club Duval, Inc., _____

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, for 919-921 Duval Street, who is personally known to me or who has produced _____ as identification.

Notary Public
State of _____

My commission expires: _____