

EASEMENT AGREEMENT

812 CAROLINE STREET EASEMENT

THIS AGREEMENT made this _____ day of _____, 2012, between the City of Key West, Florida (hereinafter Grantor) and Red Door Gallery, Inc., as owner of property located at 812 Caroline Street, Key West, FL (hereinafter the Grantee) (RE# 00003150-000000).

RECITALS

Grantee is owner of the property known as 812 Caroline Street, Key West, Florida. Portions of Grantee's property, including a roof overhang, encroaches approximately 74.1 square feet onto the Grantor's right-of-way on Caroline Street. Specifically: A parcel of land on the island of Key West, known on William A. Whitehead's map delineated in February, A.D. 1829, as part of Lot Three (3) in Square Twenty-one (21), said parcel being a portion of Caroline Street, and being more particularly described by metes and bounds as follows: COMMENCE at the intersection of the Southwesterly right of way line of Roberts Alley with the Southeasterly right of way line of Caroline Street and run thence Southwesterly along the Southeasterly right of way line of the said Caroline Street for a distance of

3.43 feet to the Northeasterly face of an existing overhang, said point also being the Point of Beginning; thence continue Southwesterly along the Southeasterly right of way line of the said Caroline Street for a distance of 29.64 feet to the Southwesterly face of said overhang; thence Northwesterly with a deflection angle of $90^{\circ}02'56''$ to the right and along the Southwesterly face of said overhang for a distance of 2.50 feet; thence Northeasterly with a deflection angle of $89^{\circ}43'45''$ to the right and along the Northwesterly face of said overhang for a distance of 29.64 feet; thence Southeasterly with a deflection angle of $90^{\circ}16'53''$ to the right and along the Northeasterly face of said overhang for a distance of 2.61 feet back to the Point of Beginning, containing 76 square feet, more or less, as more specifically described and illustrated in the attached specific purpose survey dated 6/15/2012 by J. Lynn O' Flynn, Inc. (Copy attached hereto). This encroachment impedes marketability of the property.

CONVEYANCE OF EASEMENT

The Grantor hereby agrees to grant and convey to Grantee an easement for the existing encroachment of a roof overhang of a commercial structure that encroaches into Caroline Street, at

the property located at 812 Caroline Street, as more specifically described in the attached survey. The easement shall pertain to the existing roof overhang, and not to any other encroachment. The grant of this easement is conditioned upon the following: (1) That the easement shall terminate upon the replacement of the structure and there shall be no expansion or further encroachments in the easement area; (2) That the City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission; (3) That the owner shall pay the yearly fee of \$400, as specified in Code of Ordinances section 2-938, as may be amended time to time; (4) That the owner shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachment(s) if the yearly fee required by the Code of Ordinances is not paid; (5) That the easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of two hundred thousand dollars per person and three hundred thousand per occurrence (or such other amount as may be legislatively determined to be the maximum extent of sovereign immunity waiver) naming the City as an additional insured for that portion of real property which is the subject of this easement; (6) That the City reserves the right to construct surface improvements within the easement area; (7) That the easement

area cannot be used in site size calculations such as lot, yard, and bulk calculations for site development. There shall be no additional construction related to this encroachment.

II. CONSIDERATION

Grantee agrees to pay to Grantor a processing fee in the amount of \$1,000.00, together with 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 rental 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 rental and/or to conform with agreed upon additional conditions shall constitute grounds for the Grantor to terminate the easement.

III. EASEMENT TERMINATION

Grantee agrees that the proposed 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 replacement 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 rental 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.

That the easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of two hundred thousand dollars per person and three hundred thousand per occurrence (or such other amount as may be legislatively determined to be the maximum extent of sovereign immunity waiver) naming the City as an 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

BOGDAN VITAS, CITY MANAGER

STATE OF FLORIDA)
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this
____ day of _____, 2012 by BOGDAN VITAS, 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: RED DOOR GALLERY, INC.

BY: _____
Rene Blais, President

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this
____ day of _____, 2012, by Rene Blais, President
of Red Door Gallery, Inc., as owner, who is personally known to
me or who has produced _____ as identification.

Notary Public
State _____ of

My commission expires: _____