

EASEMENT AGREEMENT

This agreement made this _____ day of _____, 2019, between the City of Key West, Florida (hereinafter Grantor) and David Valliant, an authorized person to represent 1026 James Street, LLC, a Florida limited liability company, for property located at 1026 James Street, Key West, Florida (hereinafter the Grantee) (RE # 00002580-000000).

I. RECITALS

Grantee is the Owner of the property known as 1026 James Street, Key West, Florida, including an area to maintain the existing encroachment of the front porch and steps that extend onto James Street onto the Grantor's right-of-way. Portions of Grantee's property extend a total of 58.0 square feet, more or less, onto the Grantor's Right-of-Way, specifically:

Commencing at the intersection of the Southeasterly Right-of-Way line of James Street with the Southwesterly Right-of-Way line of Frances Street and run thence Southwesterly along the Southwesterly Right-of-Way line of the said James Street for a distance of 59.14-feet to the Northeasterly face of an existing overhang on an existing two story frame building, said Point of Beginning; thence continue Southwesterly along the Southeasterly Right-of-Way line of the said James Street for a distance of 19.00-feet to the Southwesterly face of said overhang on said building; thence Southwesterly with a deflection angle of 90°18'39" to the

right and along said overhang for a distance of 2.95-feet; thence Northeasterly and at right angles along said overhang for a distance of 2.70-feet to wooden steps; thence Northwesterly and at right angles along said steps for a distance of 0.70-feet; thence Northeasterly and at right angles along said steps for a distance of 4.10-feet; thence Southeasterly and at right angles along said steps for a distance of 0.70-feet to said overhang; thence Northeasterly and at right angles along said overhang for a distance of 12.20-feet; thence Southeasterly and at right angles along said overhang for a distance of 2.65-feet back to the Point of Beginning, containing 58 square feet, more or less.

Land described herein contains 58.0 square feet, more or less, as specifically described and illustrated in the attached specific purpose survey dated July 12, 2019, drawn by J. Lynn O'Flynn, PSM, (Copy attached hereto). This encroachment impedes marketability of the property.

The Grantor hereby agrees to grant and convey to the Grantee an easement for encroachments, at the property located at 1026 James Street, as more specifically described in the attached survey. The easement shall pertain to addressing the encroachment to maintain the existing front porch and steps that extend onto the James Street right-of-way herein described, and not to any other encroachment. The granting of this easement is conditioned upon the following:

1. The easement shall terminate with the removal of the structure.
2. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
3. Grantee shall pay the annual fee of \$300.00 specified in Code Section 2-938(b)(2).
4. Grantee 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. 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 \$1,000,000.00. 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. Grantee shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured".
6. The easement area shall not be used in site size calculations

such as lot, yard, and bulk calculations for site development.

7. The City reserves the right to construct surface or sub-surface improvements within the easement area.
8. The area to maintain the existing encroachment of the front porch and steps onto James Street right-of-way shall be the total allowed 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.

II. CONSIDERATION

Grantee agree 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 \$300.00, 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.

III. 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.

The easement shall terminate upon the removal of the encroaching front porch and steps.

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 incident and any other insurance cover 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

GREGORY W. VELIZ, CITY MANAGER

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me this day of _____, 2019 by GREGORY W. VELIZ, 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

By: 1026 James Street, LLC.,
A Florida Limited Liability Company, _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____ 2019, by _____ for 1026 James Street, who is personally known to me or who has produced _____ as identification.

Notary Public
State of _____

My commission expires: