

RESOLUTION NO. _____

712-716 EISENHOWER DRIVE EASEMENT

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, TERMINATING THE PRIOR EASMENT GRANTED IN RESOLUTION NO. 10-136; AND APPROVING THE ATTACHED AMENDED EASEMENT OF 3,200 SQUARE FEET TO ADDRESS THE ENCROACHMENT OF EXISTING STRUCTURES AND SURROUNDING PROPERTY TO A MULTIPLE-FAMILY RESIDENTIAL STRUCTURE LOCATED AT 712 714 716 EISENHOWER DRIVE (RE#00023300-000000); PROVIDING FEES AND CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission seeks to preserve and promote affordable housing opportunities for local residents; and

WHEREAS, in Resolution No. 10-136, the City Commission approved an easement for the property, which contained language that impeded financing opportunities to support its intended use as affordable housing; and

WHEREAS, the property at 712 714 716 Eisenhower Drive currently provides 11 affordable housing units, and granting an easement would encourage the property owner(s) to preserve the affordable housing use for the future; and

WHEREAS, the City Commission has recommended this site to the Monroe County Land Authority, which is reviewing the feasibility of purchasing the property to ensure its ongoing status as affordable housing.

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

Section 1: That an easement of approximately 3,200 square feet for the real property described in the attached specific purpose survey prepared by Island Surveying, Inc. dated February 16, 2010 is granted subject to the execution of an easement agreement acceptable to the City Attorney, incorporating 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 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, except as specifically set forth in the easement and below. (3) That the owner shall pay the yearly fee specified in Code of Ordinances section 2-938, as may be amended from 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 one hundred thousand dollars (or such other amount as may legislatively be

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 approval of the easement is contingent upon deed-restricted, affordable use of the units on-site. (7) That this easement shall immediately terminate upon a finding by the City Commission that any of the units are not occupied or utilized within the affordability guidelines; (8) That the City reserves the right to construct an ADA compliant sidewalk and stormwater improvements within the easement area. (9) That the easement area cannot be used in site size calculations such as lot, yard, and bulk calculations for site development. (10) Notwithstanding the ability of the City Commission to terminate this easement agreement upon a finding of public purpose, the easement over those habitable areas of the structure now existing on the property may not be extinguished by a finding of public purpose so long as all other terms of this easement agreement are satisfied.

Section 3: That the easement granted in Resolution No. 10-136 is hereby terminated and replaced in its entirety with the easement attached hereto.

Section 4 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 _____, 2011

Authenticated by the presiding officer and Clerk of the
Commission on _____, 2011

Filed with the Clerk _____, 2011

MARK ROSSI, VICE-MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK