

RESOLUTION NO. 25-__

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, DIRECTING THE CITY'S ATTORNEY TO PURSUE AN APPEAL AND/OR INJUNCTION, IF NECESSARY, THROUGH OUTSIDE COUNSEL, HOWARD DUBOSAR, IMMEDIATELY FOLLOWING THE DECISION OF THE ADMINISTRATIVE HEARING AND PRIOR TO THE REMOVAL OF THE CROSSWALKS; AUTHORIZING HOWARD DUBOSAR TO PURSUE A JOINT AGREEMENT WITH OTHER MUNICIPALITIES DISPUTING THE DIRECTIVE OF FDOT; AUTHORIZING THE CITY MANAGER TO WORK WITH STAKEHOLDERS AND ART IN PUBLIC PLACES BOARD ("AIPP") TO OBTAIN FUNDING AND DESIGN PUBLIC DISPLAYS TO EXPRESS THE CITY'S INCLUSIVE VALUES AND COMMITMENT TO THE LGBTQ+ COMMUNITY; AUTHORIZING THE CITY MANAGER TO EFFECTUATE ALL NECESSARY BUDGET AMENDMENTS OR TRANSFERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 15, 2025, the Florida Department of Transportation (FDOT), issued a notice of noncompliance for the pavement markings located at the intersection of Duval Street and Petronia Street and instructing the City of Key West to remove the pavement markings by September 3, 2025; and

WHEREAS, the FDOT notice references that the City may request an administrative hearing, which is to be held on September 3, 2025, beginning at 10:00 a.m. at the Florida Turnpike Enterprise's offices in Orlando; and

WHEREAS, in accordance with Resolution 25-213, the City Attorney's office has retained outside Counsel, Howard DuBosar to

appear and argue against the removal of the rainbow crosswalks on September 3, 2025, as the removal of these crosswalks would send a damaging and misleading message to residents, visitors, and businesses, particularly those who identify with or support the LGBTQ+ community, contrary to the inclusive values held by the City; and

WHEREAS, the City Commission affirms that local communities such as Key West must retain the right to express their identity, values, and culture through reasonable and safe public design decisions, consistent with the principles of home rule and local self-governance under the Florida Constitution; and

WHEREAS, the pending administrative hearing may result in a decision that could impact the continued existence of said crosswalks; and

WHEREAS, the City Commission finds it to be in the best interests of the City and its residents to preserve public safety and maintain the City's authority over its infrastructure pending further judicial review; and

WHEREAS, the City Commission desires to ensure that, if necessary, the City promptly seeks judicial intervention through an injunction to prevent the removal of the crosswalks following the conclusion of the administrative proceeding.

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

Section 1. The City Attorney is hereby directed to coordinate with and authorize outside counsel, Howard DuBosar, to immediately pursue appellate and injunctive relief, if necessary, following the issuance of a decision in the pending administrative hearing on September 3, 2025, and prior to the removal of the crosswalks, including, as deemed appropriate by counsel for the City, an emergency ex parte petition for temporary relief and/or a Motion to Stay.

Section 2. Outside counsel, Howard Dubosar, is authorized to take all legal actions necessary and appropriate to seek such injunction and other relief on behalf of the City.

Section 3. Mr. DuBosar is encouraged and authorized to work towards a joint agreement with the Cities of Delray Beach, Fort Lauderdale, and any additional municipalities to share litigation costs as appropriate.

Section 4. The City Manager is directed to work with community stakeholders and the Art in Public Places Board, to obtain funding and design appropriate rainbow-themed displays along the City rights-of-way, including City-owned light poles and other suitable locations near the current crosswalks, to further

express the City's inclusive values and its commitment to supporting the LGBTQ+ community, particularly during the pendency of this matter.

Section 5. The City Manager is hereby authorized to effectuate all necessary budget transfers and amendments to cover the costs and expenses of the necessary litigation proceedings to preserve the crosswalks.

Section 6. If any section, subsection, clause, or provision of this Resolution is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions.

Section 7. 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 __, 2025.

Authenticated by the Presiding Officer and Clerk of the Commission on _____ day of _____, 2025.

Filed with the Clerk on _____, 2025.

Mayor Danise Henriquez _____

Vice Mayor Donald "Donie" Lee _____

Commissioner Lisette Carey _____

Commissioner Aaron Castillo _____

Commissioner Monica Haskell _____

Commissioner Mary Lou Hoover _____

Commissioner Sam Kaufman _____

DANISE HENRIQUEZ

ATTEST:

KERI O'BRIEN, CITY CLERK