

506 ELIZABETH STREET

EASEMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2014, between the City of Key West, Florida (hereinafter Grantor) and Jeffrey and Carla Lewis, as owners of property located at 506 Elizabeth Street, Key West, FL (hereinafter the Grantee) (RE# 00009080, AK# 1009342).

RECITALS

Grantee is owner of the property known as 506 Elizabeth Street, Key West, Florida, including a structure with existing eaves, porches and partial fence and gate, that encroach onto the Grantor's Elizabeth Street right-of-way. Portions of Grantee's property, including eaves, porches and partial fence and gate, encroach approximately 77.70 square feet onto the Grantor's right-of-way. Specifically: On the Island of Key West and known on William A. Whitehead's map of said Island delineated in February, A.D. 1829, as a portion of the Elizabeth Street Right of Way adjacent to Lot Two (2) in Square Forty-nine (49) and being more particularly described by metes and bounds as follows: Commencing at the Southwesterly corner of the

intersection of Fleming and Elizabeth Streets ,and running thence $S31^{\circ}51'39''E$ along the Southwesterly Right of Way Line of Elizabeth Street for a distance of 84.05 feet to the Point of Beginning of the parcel of land hereinafter described, said Point of Beginning also being the Northeasterly corner of lands described in Official Records Book 1386, at Page 256 of the Public Records of Monroe County, Florida; thence $N58^{\circ}08'21''E$ for a distance of 1.99 feet to the projection of the Northeasterly face of an existing wood fence; thence $S32^{\circ}43'27''E$ along the said projection of and the Northeasterly face of an existing wood fence for distance of 4.69 feet to the Northwesterly face of an existing covered porch roof overhang; thence $N58^{\circ}20'24'' E$ and along the said Northwesterly face of an existing covered porch roof overhang for a distance of 1.42 feet to the Northeasterly corner of the said existing covered porch roof overhang; thence $S31^{\circ}39'36''E$ and along the said Northeasterly face of an existing covered porch roof overhang for a distance of 19.83 feet to the Southeasterly corner of the said existing covered porch overhang; thence $S58^{\circ}20'24''W$ and along the said Southeasterly face of an existing covered porch roof overhang a distance of 3.40 feet to the Southwesterly Right of Way line of Elizabeth Street; thence $N31^{\circ}51'39''W$ and along the said Southwesterly Right of Way line of Elizabeth Street for a

distance of 24.52 feet back to the Point of Beginning. Containing 77.70 square feet, more or less, as specifically described and illustrated in the attached specific purpose survey dated March 4, 2014 by Florida Keys Land Surveying (Copy attached hereto). This encroachment impedes marketability of the property.

CONVEYANCE OF EASEMENT

The Grantor hereby agrees to grant and convey to Grantees an easement for encroachments, at the property located at 506 Elizabeth Street, as more specifically described in the attached survey. The easement shall pertain to the existing eaves, porches and partial fence and gate located along Elizabeth Street and related to the encroachment herein described, 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; (2) The City may unilaterally terminate the easement upon a finding of public purpose by a vote of the Key West City Commission. (3) That the owner shall pay the yearly fee of \$300.00 specified in the Code of Ordinances Section 2-938(b). (4) That 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. (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 (\$200,000.00) per person and three hundred thousand dollars (\$300,000.00) per incident (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) The existing eaves, porches and partial fence and gate shall be the only total allowed construction 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. (8) That the City reserves the right to construct surface improvements within the easement area.

There shall be no additional construction related to this encroachment.

II. 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 rental 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 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 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.

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 two hundred thousand dollars (\$200,000.00) per person and three hundred thousand dollars (\$300,000.00) per incident, or such other amount as may legislatively be determined to be the maximum extent of sovereign immunity waiver, naming the City of Key West 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

JAMES K. SCHOLL, CITY MANAGER

STATE OF FLORIDA)
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014 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: _____

SIGNATURES CONTINUE ON NEXT PAGE

GRANTEE(S)

By: Jeffrey Lewis, Owner

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Jeffrey Lewis, who is personally known to me or who has produced _____ as identification.

Notary Public
State of _____

My commission expires: _____

GRANTEE

By: Carla Lewis, Owner

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Carla Lewis, who is personally known to me or who has produced _____ as identification.

Notary Public
State of _____

My commission expires: _____