

Prepared by and Return to:
Ronald J. Ramsingh, Esq.
City Attorney
1300 White St.
Key West, FL 33040

1904-1908 FLAGLER AVENUE EASEMENT
AGREEMENT

This agreement made this _____ day of _____, 2025,

between the City of Key West, Florida (hereinafter Grantor) and 1908 Flagler Avenue Corp, the owners of the property located at 1904-1908 Flagler Avenue (RE # 00063480-000000, 00063450-000000), Key West, Florida (hereinafter the Grantee).

I. RECITALS

Grantee is the Owner of the property known as 1904-1908 Flagler Avenue, Key West, Florida. As depicted on the attached Specific Purpose Survey, the applicant has requested an easement for an approximately one hundred and sixteen (116.87) square feet, more or less, portion of the City right-of-way for the construction of an overhang. Portions of Grantee's property is proposed to extend a total of one hundred and sixteen (116.87) square feet, more or less, onto the Grantor's Rights-of-Way, specifically:

"PARCEL A"

A portion of the public Right of Way of Flagler Avenue (A.K.A Eleanor Street), adjacent to Lot 22, Square 6, Tract 30, CASH'S DIAGRAM, according to the Plat thereof recorded in Plat Book 1, Page 13, of the Public Records of Monroe County, Florida, and

being more particularly described as follows:

COMMENCING at the intersection of the Northeasterly Right of Way line of Bertha Street and the Southeasterly Right of Way line of Flagler Avenue and run thence

N60°00'00"E along the said Southeasterly Right of Way line of Flagler Avenue for a distance of 49.92 feet to a point on the Southwesterly face of a proposed roof overhang, said point being the Point of Beginning of the parcel of land hereinafter described; thence continue N60°00'00"E along the said Southeasterly Right of Way line of Flagler Avenue for a distance of 3.67 feet to a point on the Northeasterly face of the said proposed overhang; thence N30°00'00"W along the Northeasterly face of the said overhang for a distance of 4.00 feet to the Northeasterly corner of the said overhang; thence S60°00'00"W along the Northwesterly face of the said overhang for a distance of 3.67 feet to the Northwesterly corner of the said overhang; thence S30°00'00"E along the Southwesterly face of the said overhang for a distance of 4.00 feet back to the Point of Beginning. (Containing 14.68 Sq. Ft +/-)

"PARCEL B"

A portion of the public Right of Way of Flagler Avenue (A.K.A Eleanor Street), adjacent to Lot 22, Square 6, Tract 30, CASH'S DIAGRAM, according to the Plat thereof recorded in Plat Book 1, Page 13, of the Public Records of Monroe County, Florida, and

being more particularly described as follows:

COMMENCING at the intersection of the Northeasterly Right of Way line of Bertha Street and the Southeasterly Right of Way line of Flagler Avenue and run thence N60°00'00"E along the said Southeasterly Right of Way line of Flagler Avenue for a distance of 54.75 feet to a point on the Southwesterly face of a proposed roof overhang, said point being the Point of Beginning of the parcel of land hereinafter described; thence continue N60°00'00"E along the said Southeasterly Right of Way line of Flagler Avenue for a distance of 29.17 feet to a point on the Northeasterly face of the said proposed overhang; thence N30°00'00"W along the Northeasterly face of the said overhang for a distance of 3.00 feet to the Northeasterly corner of the said overhang; thence S60°00'00"W along the Northwesterly face of the said overhang for a distance of 29.17 feet to the Northwesterly corner of the said overhang; thence S30°00'00"E along the Southwesterly face of the said overhang for a distance of 3.00

feet back to the Point of Beginning. (Containing 87.51 Sq. Ft +/-)

"PARCEL C"

A portion of the public Right of Way of Flagler Avenue (A.K.A Eleanor Street), adjacent to Lot 22, Square 6, Tract 30, CASH'S DIAGRAM, according to the Plat thereof recorded in Plat Book 1, Page 13, of the Public Records of Monroe County, Florida, and

being more particularly described as follows:

COMMENCING at the intersection of the Northeasterly Right of Way line of Bertha Street and the Southeasterly Right of Way line of Flagler Avenue and run thence N60°00'00"E along the said Southeasterly Right of Way line of Flagler Avenue for a distance of 84.83 feet to a point on the Southwesterly face of a proposed roof overhang, said point being the Point of Beginning of the parcel of land hereinafter described; thence continue N60°00'00"E along the said Southeasterly Right of Way line of Flagler Avenue for a distance of 3.67 feet to a point on the Northeasterly face of the said proposed overhang; thence N30°00'00"W along the Northeasterly face of the said overhang for a distance of 4.00 feet to the Northeasterly corner of the said overhang; thence S60°00'00"W along the Northwesterly face of the said overhang for a distance of 3.67 feet to the Northwesterly corner of the said overhang; thence S30°00'00"E along the Southwesterly face of the said overhang for a distance of 4.00 feet back to the Point of Beginning. (Containing 14.68 Sq. Ft +/-)

The Grantor hereby agrees to grant and convey to the Grantee an easement for encroachments, at the property located at 1904-1908 Flagler Avenue, as more specifically described in the attached Specific Purpose Survey dated November 22nd, 2024. The easement shall pertain to the overhang identified in the survey and not to any other encroachments.

The granting of this easement is conditioned upon the following:

1. The Easement shall allow for the proposed encroachment of an overhang for a total easement area of approximately 116.87 square feet as depicted on the survey prepared by Eric A. Isaacs

of Florida Keys Land Surveying Inc. dated November 22nd, 2024, and identified in the plans approved pursuant to City Commission Resolution 25-046. Additional or future easement area shall require an amendment in accordance with Sec. 2-938 of the City Code.

2. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
3. The Grantee shall pay the annual fee as specified in Section 2-938(b)(3) of the City Code.
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 Owners shall obtain Commercial General Liability insurance that extends coverage to the property that is governed by this easement with limits of no less than \$300,000.00. 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. Grantees shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured" or "Additional Interest".
6. The easement areas 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 City owned easement areas.
8. The City reserves the right of entry/re-entry for the easement areas for the purposes of inspection, maintenance, improvements, and operations in connection with City owned/leased property.
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 damages caused by or resulting from the Grantee's improvement in the easement area.

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 \$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 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 without an appropriate development plan approval pursuant to Section 108-91 of the City Code. Grantee shall have the right to repair and maintain the individual encroaching features.

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 encroachments 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 three-hundred thousand dollars (\$300,000.00) 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

KERI O'BRIEN, CITY CLERK

BRIAN L. BAROSSO, CITY MANAGER

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of [] physical presence or [] online notarization this _____ day of _____, 2025, by _____.

Signature of Notary Public-State of Florida

Name of Notary

Personally Known _____

OR Produced Identification _____

Type of Identification

Produced _____

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me this ____ day of _____, 2025 by BRIAN L. BAROSSO, 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: _____

as Owner(s) of
1904-1908 Flagler Avenue
Key West, Florida

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by _____, who are personally known to me or who have produced _____ as identification.

Notary Public
State of _____

My commission expires: _____