

RESOLUTION NO. _____

411 GREENE STREET - REVOCABLE LICENSE

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE CITY OF KEY WEST TO ENTER INTO A REVOCABLE LICENSE AGREEMENT FOR NONPERMANENT USE OF CITY PROPERTY TO PLACE TWO BENCHES WITHIN THE GREENE STREET RIGHT-OF-WAY AND TWO BENCHES WITHIN THE FITZPATRICK STREET RIGHT-OF-WAY ADJACENT TO PROPERTY LOCATED AT 411 GREENE STREET PURSUANT TO SECTION 2-939 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Development Review Committee (DRC) considered a request for revocable license for a nonpermanent use of City property to place four benches on the sidewalk, including two benches within the Greene Street right-of-way and two benches within the Fitzpatrick Street right-of-way adjacent to property located at 411 Greene Street; and

WHEREAS, Section 2-939 of the Code of Ordinances of the City of Key West, Florida provides that the City may grant a revocable license for a nonpermanent use of City property, such as planters, awnings, trash receptacles, planted areas, benches, flagpoles, guardrails, ramps and light fixtures.

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

Section 1: That the City Manager is hereby authorized to execute the attached Revocable License Agreement For Use of City Property (the "Agreement") for the placement of four benches on the sidewalk, including two benches within the Greene Street right-of-way and two benches within the Fitzpatrick Street right-of-way, adjacent to 411 Greene Street, as more specifically described in the Agreement, in a form acceptable to the City Attorney.

Section 2: That the following conditions shall apply to the grant of revocable license:

(1) That the City may unilaterally terminate the revocable license with or without cause upon 30 days written notice. That the owner shall pay the yearly fee specified in Code of Ordinances section 2-939.

(2) That the owner shall irrevocably appoint the City Manager as its agent to permit the removal of the benches on City property if the yearly fee required by the Code of Ordinances is not paid. The costs incurred by the City associated with any such removal shall be borne by the owner.

(3) That the revocable license shall terminate upon the failure of the property owner to maintain liability insurance such public liability and property damage insurance protecting the City from all claims and damage to property or bodily

injury. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) (or such other amount as may be legislatively determined to be the maximum extend of sovereign immunity waiver) naming the City as an additional insured for that portion of real property which is the subject of this revocable license. The policy shall not terminate or be cancelled without 45 days' written notice to the Chief Building Official, sent via certified mail.

(4) In the event this revocable license is terminated, the benches shall be immediately removed upon the request of the City and in the event the benches are not removed, or due to an emergency the City finds it necessary to act immediately, the City may remove same and shall not be responsible for damage incurred due to such removal. The costs incurred by the City associated with any such removal shall be borne by the owner.

(5) The owner shall maintain seven (7) feet of sidewalk clearance at all times between the benches and the edge of the sidewalk or the nearest obstacle.

(6) The owner shall remove all benches from the sidewalks and store them inside the owner's business when the business is closed.

(7) The owner will acknowledge that the benches shall not be for exclusive use of the owner's business or its customers.

(8) The revocable license shall be personal to owner and may not be transferred or assigned.

Section 3: 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 _____, 2014.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2014.

Filed with the Clerk _____, 2014.

Mayor Craig Cates _____

Vice Mayor Mark Rossi _____

Commissioner Teri Johnston _____

Commissioner Clayton Lopez _____

Commissioner Billy Wardlow _____

Commissioner Jimmy Weekley _____

Commissioner Tony Yaniz _____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK