

RESOLUTION NO. _____

729 FLEMING STREET EASEMENT

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN EASEMENT AGREEMENT FOR PROPOSED ENCROACHMENTS TOTALING 47.0 SQUARE FEET, MORE OR LESS, TO CONSTRUCT ONE (1) ADA ACCESSIBLE RAMP FROM AN EXISTING CONCRETE CURB AND RAMP THAT EXTENDS ONTO THE FLEMING STREET RIGHT-OF-WAY, AND TO CONSTRUCT ONE (1) ADA ACCESSIBLE RAMP FROM AN EXISTING CONCRETE CURB / PLANTER BED THAT EXTENDS ONTO THE WILLIAM STREET RIGHT-OF-WAY ON ADJACENT TO PROPERTY LOCATED WITHIN THE HISTORIC MEDIUM DENSITY RESIDENTIAL (HMDR) ZONING DISTRICT AT 729 FLEMING STREET, KEY WEST, FLORIDA (RE#00006000-000000); PURSUANT TO SECTION 2-938 (b)(2) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FEES AND CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1: That an easement that would extend a total of 47.0 square feet, more or less, for the real property described in the two attached specific purpose surveys was prepared by Robert E. Reese, PSM of Reece & Associates, dated April 22, 2020 for the proposed 27.0 square feet encroachment onto the William Street right-of-way, and dated May 14, 2020 for the proposed 20.0 square feet encroachment onto the Fleming Street right-of-way are granted subject to the execution of the attached easement agreement, incorporating the minimum conditions described in section 2 below.

Section 2: That the following conditions shall apply to the granting of the easement:

(1) The easement shall terminate upon the removal of the two (2) ADA accessible ramps.

(2) The City may unilaterally terminate the easement upon a finding of public purpose by a vote of the Key West City Commission.

(3) The owners shall pay the annual fee of \$300.00 specified in Section 2-938(b)(2) of the Code of Ordinances.

(4) The owners shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachments if the annual fee required by the Code of Ordinances is not paid.

(5) Prior to the easement becoming effective, the Owners shall obtain an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured" on a primary and non-contributory basis utilizing an ISO standard endorsement at least as broad as CG 20 10 (11/85) or its Equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations is acceptable) including a "Waiver of Subrogation" clause in favor of City of Key West on all policies. The Owners shall maintain the General Liability coverage summarized above, including the "additional insured" endorsement, with coverage continuing in full force during the period of time this easement agreement remains in effect.

(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 easement areas.

(8) The areas to construct one (1) ADA accessible ramp that would extend onto the Williams Street right-of-way , and to construct one (1) ADA accessible ramp that would extend onto the Fleming Street right-of-way shall be the total allowed within the easement areas.

(9) To the fullest extent permitted by law, the Owner expressly agrees to indemnify and hold harmless the City of Key West, their respective officers, directors, agents and employees (herein called the "indemnities") from and all liability for damage.

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 _____, 2020.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2020.

Filed with the Clerk _____, 2020.

Mayor Teri Johnston _____

Vice Mayor Samuel Kaufman _____

Commissioner Gregory Davila _____

Commissioner Mary Lou Hoover _____

Commissioner Clayton Lopez _____

Commissioner Billy Wardlow _____

Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK