

600 DUVAL STREET

EASEMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2014, between the City of Key West, Florida (hereinafter Grantor) and 600 Duval Street, L.C. (by Moshe Gvili), as owner of property located at 600 Duval Street, Key West, Florida (hereinafter the Grantee) (RE # 00012660-000000).

I. RECITALS

Grantee is owner of the property known as 600 Duval Street, Key West, Florida, including a structure with a second floor balcony located along Duval Street that encroaches onto the Grantor's right-of-way. Portions of Grantee's property, including the second floor balcony, encroach 109 square feet, more or less, onto the Grantor's right-of-way. Specifically: Commencing at the Southwesterly Right-of-Way Line of Duval Street and the Southeasterly Right-of-Way Line of Southard Street and is also the Point of Beginning; thence Southeasterly along the said Southwesterly Right-of-Way Line of Duval Street for a distance of 24.60 feet; thence at a right angle and in a Northeasterly direction along the face of a balcony for 4.40 feet; thence at a right angle and in a Northwesterly direction along the face of a balcony for 24.60 feet; thence at a right angle and in a Southwesterly direction along the face of a balcony for 4.40 feet back to the Point of Beginning. Said parcel containing 109.0 square feet, more or less, as specifically described and illustrated in

the attached specific purpose survey dated October 15, 2013 by Frederick H. Hildebrandt of Island Surveying, Inc. (Copy attached hereto). This encroachment impedes marketability of the property.

II. CONVEYANCE OF EASEMENT

The Grantor hereby agrees to grant and convey to the Grantee an easement for encroachments, at the property located at 600 Duval Street, as more specifically described in the attached survey. The easement shall pertain to the second floor balcony located along Duval Street related to a structure encroachment herein described, and not to any other encroachment. The grant of this easement is conditioned upon the following:

(1) Prior to the issuance of a building permit, the owner shall revise the plans to provide the full eight (8) feet of vertical clearance from the sidewalk to the bottom of the balcony including supporting beams.

(2) The easement shall terminate upon the replacement of the structure.

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

(4) The owner shall pay the annual fee of \$400.00 specified in Section 2-938(b) of the Code of Ordinances.

(5) 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.

(6) 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 extend of sovereign immunity waiver) naming the City as an additional insured for that portion of real property which is the subject of this easement.

(7) The existing balcony shall be the total allowed construction within the easement area.

(8) The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.

(9) The City reserves the right to construct surface improvements within the easement area.

III. 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 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.

IV. 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 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.

(This space left intentionally blank.)

IN WITNESS WHEREOF, the parties have executed this easement the date above written.

ATTEST:

CITY OF KEY WEST

CHERYL SMITH, CITY CLERK

BOGDAN VITAS, CITY MANAGER

STATE OF FLORIDA)
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014 by BOGDAN VITAS, 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 (S)

By: Moshe Gvili, _____ for 600 Duval Street, L.C.

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by _____, for 600 Duval Street, L.C., who is personally known to me or who has produced _____ as identification.

Notary Public
State of _____

My commission expires: _____