

RESOLUTION NO. _____

1904-1908 FLAGLER AVENUE EASEMENT

RESOLUTION OF THE CITY COMMISSION OF KEY WEST, FLORIDA, APPROVING AN EASEMENT OF APPROXIMATELY ONE HUNDRED AND SIXTEEN (116.87) SQUARE FEET FOR PROPOSED OVERHANGS ON A PROPOSED EDUCATION FACILITY THAT WOULD EXTEND ON TO THE CITY OF KEY WEST RIGHT-OF-WAY, FOR A PROPERTY LOCATED AT 1904 - 1908 FLAGLER AVENUE (RE# 00063480-000000 AND RE# 00063450-000000) WITHIN THE LIMITED COMMERCIAL (CL) ZONING DISTRICT PURSUANT TO SECTION 2-938(B) (3) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FEES AND CONDITIONS.

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

Section 1: That an Easement for property located at for property located at 1904 - 1908 Flagler Avenue to allow for a 116.87 square foot encroachment onto City right-of-way as described on the survey prepared by Eric A. Isaacs of Florida Keys Land Surveying Inc. dated November 22nd, 2024, is granted subject to the execution of the attached Easement agreement and further subject to 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 allow for the proposed encroachment of overhangs 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.

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.

Section 4: This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order shall be rendered to the Florida Department of Commerce (DOC). Pursuant to Chapter 73C-44,

F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DOC with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Passed and adopted by the City Commission at a meeting held this _____ day of _____, 2025.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2025.

Filed with the Clerk _____, 2025.

Mayor Danise Henriquez _____

Vice Mayor Lissette Carey _____

Commissioner Samuel Kaufman _____

Commissioner Mary Lou Hoover _____

Commissioner Aaron Castillo _____

Commissioner Donnie Lee _____

Commissioner Monica Haskell _____

Danise Henriquez, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK