

RESOLUTION NO. _____

423 FRONT STREET EASEMENT

RESOLUTION OF THE CITY COMMISSION OF KEY WEST, FLORIDA, APPROVING AN EASEMENT OF APPROXIMATELY SIX HUNDRED AND TWENTY-FIVE (625) SQUARE FEET, MORE OR LESS, AT A PROPERTY LOCATED AT 423 FRONT STREET, IN ORDER TO ACCOMMODATE HISTORIC BUILDING FEATURES AND OTHER PROPERTY FIXTURES ENCROACH ON THE FRONT STREET, WOLFSON STREET, AND EXCHANGE STREET RIGHTS-OF-WAY IN THE HISTORIC RESIDENTIAL COMMERCIAL CORE 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; 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 to allow for the continued encroachment onto City right-of-way as described on the survey prepared by J. Lynn O'Flynn, PSM. of J. Lynn O'Flynn, INC. dated August 2nd, 2023, 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 existing encroachments as depicted on the survey prepared by J. Lynn O'Flynn PSM of J. Lynn O'Flynn, INC., dated August 2, 2023. Additional or future encroachments shall require an amendment of this easement in accordance with Sec. 2-938 of the City Code.

2. Applicant/owner agrees to remove the air conditioner (AC) units adjacent to Wolfson Street within six (6) months' notice in the event the City elects to open and improve Wolfson Street. The relocation of the AC units shall be subject to the review and approval of the Historic Architectural Review Commission (HARC) Planner, Chief Building Official and Fire Department.
3. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
4. The Grantee shall pay the annual fee as specified in Section 2-938(b)(3) of the City Code.
5. 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.
6. 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 or the liability limits prescribed in F.S. 768.28, whichever is greater. 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".

7. The easement areas shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
8. The City reserves the right to construct surface or sub-surface improvements within the easement areas.
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.

Passed and adopted by the City Commission at a meeting held this _____ day of _____, 2024.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2024.

Filed with the Clerk _____, 2024.

Mayor Teri Johnston _____

Vice Mayor Samuel Kaufman _____

Commissioner Lissette Carey _____

Commissioner Mary Lou Hoover _____

Commissioner Clayton Lopez _____

Commissioner Billy Wardlow _____

Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK