

RESOLUTION NO. 17-___

227 DUVAL STREET EASEMENT

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN EASEMENT OF 21 ± SQUARE FEET ALONG THE CAROLINE AND DUVAL STREET RIGHT-OF-WAYS, TO ADDRESS AN AREA TO MAINTAIN AND RENOVATE AN EXISTING KIOSK AND FENCE LOCATED AT 227 DUVAL STREET (RE # 00001320-000000), 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 of 21 ± square feet along the Caroline and Duval Street right-of-ways, for the real property described in the attached specific purpose survey prepared by J. Lynn O'Flynn, PSM, dated July 29, 2016, is 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) Prior to the easement becoming effective, the Grantee shall obtain Commercial General Liability insurance that extends coverage to the property that is governed by this easement with limits of no less than \$1,000,000. 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. Grantee shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured".

- (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 owner shall pay the annual fee of \$300.00 specified in Section 2-938(b) (2) of the Code of Ordinances.
- (4) 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.
- (5) Grantee shall furnish 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 2010 (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. Grantee 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) Grantee's insurance policies shall be endorsed to give 30 days written notice to Grantor in the event of cancellation or material change, using form CG 02 24, or its equivalent.

(7) Certificates of Insurance submitted to Grantor shall not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation / material change notice endorsements and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements shall also be required if necessary. Grantee shall advise its insurance agent accordingly.

(8) The area to maintain and renovate an existing kiosk and fence shall be the total allowed construction within the easement area.

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

(10) The City reserves the right to construct surface improvements within 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 _____, 2017.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2017.

Filed with the Clerk _____, 2017.

Mayor Craig Cates _____

Vice Mayor Clayton Lopez _____

Commissioner Samuel Kaufman _____

Commissioner Richard Payne _____

Commissioner Margaret Romero _____

Commissioner Billy Wardlow _____

Commissioner Jimmy Weekly _____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK