

500 DUVAL STREET

EASEMENT AGREEMENT

THIS AGREEMENT made this ____ day of _____, 2014, between the City of Key West, Florida (hereinafter Grantor) and Old Kress Building Company, Inc., as owner of property located at 500 Duval Street, Key West, Florida (hereinafter the Grantee) (RE # 00009850-000000, AK # 1010111).

I. RECITALS

Grantee is owner of the property known as 500 Duval Street, Key West, Florida, including an existing building with metal awning and rooftop cornice located along Duval Street and Fleming Street that encroaches onto the Grantor's rights-of-way. Portions of Grantee's property, including the awning and cornice, encroach 1,639 square feet, more or less, onto the Grantor's right-of-way, as more specifically described and illustrated in the attached specific purpose survey dated May 20, 2014 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 500 Duval Street, as more specifically described in the attached survey. The easement shall pertain to the metal awning and rooftop cornice located along Duval Street and Fleming Street related to structure encroachments herein described, and not to any other encroachment.

The grant of this easement is conditioned upon the following:

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

(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 \$400.00 specified in Section 2-938(b) 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) 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.

(6) The existing awning and cornice shall be the total allowed construction within the easement area.

(7) The easement area 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 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

JIM SCHOLL, CITY MANAGER

STATE OF FLORIDA)
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014 by JIM SCHOLL, 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)

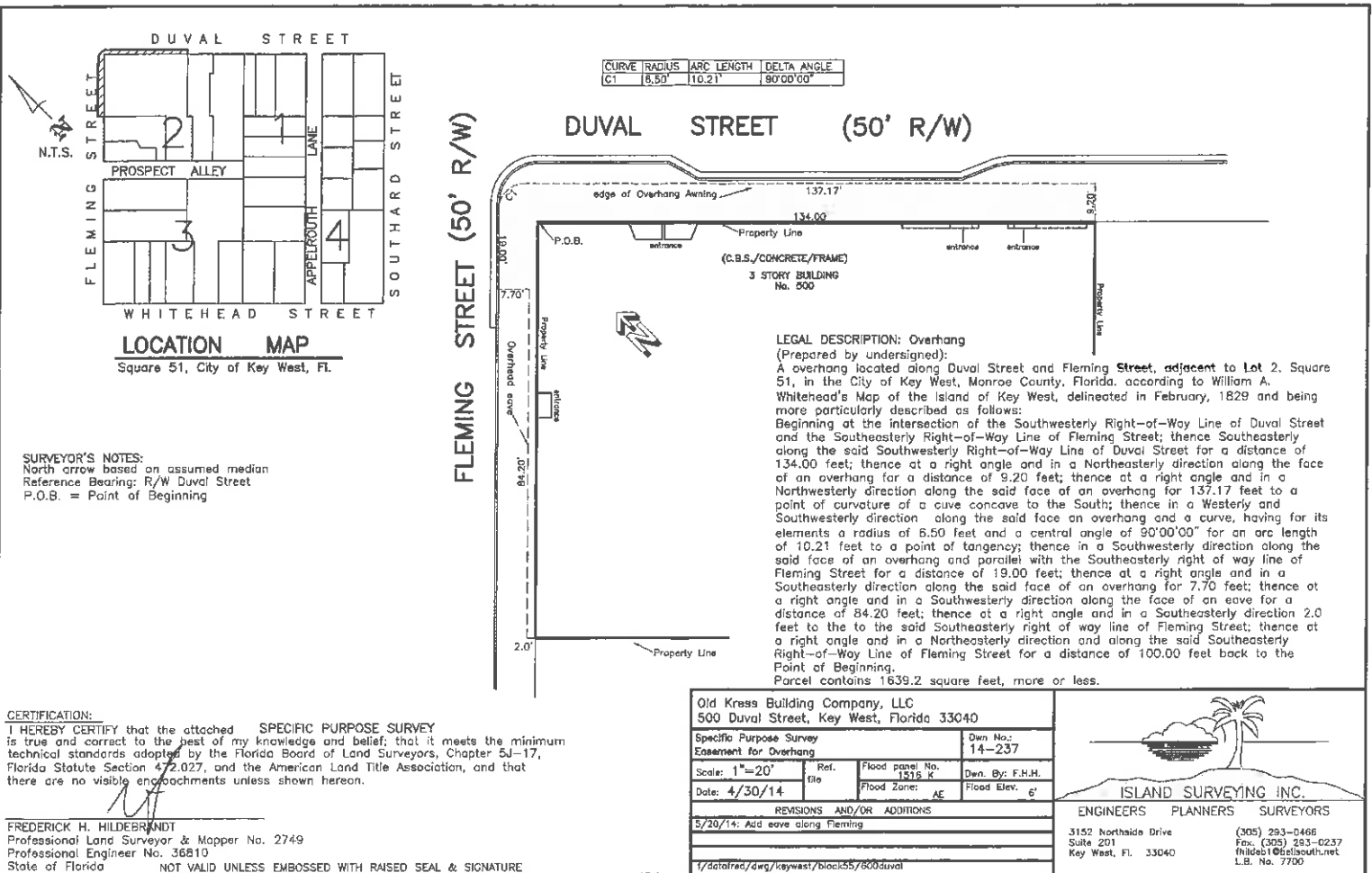
By: Anthony V. Falcone, President for
Old Kress Building Company, Inc.

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by _____, for Old Kress Building Company, Inc., who is personally known to me or who has produced _____ as identification.

Notary Public
State of _____

My commission expires: _____



| CURVE | RADIUS | ARC LENGTH | DELTA ANGLE |
|-------|--------|------------|-------------|
| C1 | 6.50' | 110.21' | 90°00'00" |

LOCATION MAP
Square 51, City of Key West, FL.

SURVEYOR'S NOTES:
North arrow based on assumed median
Reference Bearing: R/W Duval Street
P.O.B. = Point of Beginning

LEGAL DESCRIPTION: Overhang
(Prepared by undersigned):
A overhang located along Duval Street and Fleming Street, adjacent to Lot 2. Square 51, in the City of Key West, Monroe County, Florida, according to William A. Whitehead's Map of the Island of Key West, delineated in February, 1829 and being more particularly described as follows:
Beginning at the intersection of the Southwesterly Right-of-Way Line of Duval Street and the Southeasterly Right-of-Way Line of Fleming Street; thence Southeasterly along the said Southwesterly Right-of-Way Line of Duval Street for a distance of 134.00 feet; thence at a right angle and in a Northeasterly direction along the face of an overhang for a distance of 9.20 feet; thence at a right angle and in a Northwesterly direction along the said face of an overhang for 137.17 feet to a point of curvature of a curve concave to the South; thence in a Westerly and Southwesterly direction along the said face of an overhang and a curve, having for its elements a radius of 6.50 feet and a central angle of 90°00'00" for an arc length of 10.21 feet to a point of tangency; thence in a Southwesterly direction along the said face of an overhang and parallel with the Southeasterly right of way line of Fleming Street for a distance of 19.00 feet; thence at a right angle and in a Southeasterly direction along the said face of an overhang for 7.70 feet; thence at a right angle and in a Southwesterly direction along the face of an eave for a distance of 84.20 feet; thence at a right angle and in a Southeasterly direction 2.0 feet to the to the said Southeasterly right of way line of Fleming Street; thence at a right angle and in a Northeasterly direction and along the said Southeasterly Right-of-Way Line of Fleming Street for a distance of 100.00 feet back to the Point of Beginning.
Parcel contains 1639.2 square feet, more or less.

CERTIFICATION:
I HEREBY CERTIFY that the attached **SPECIFIC PURPOSE SURVEY** is true and correct to the best of my knowledge and belief; that it meets the minimum technical standards adopted by the Florida Board of Land Surveyors, Chapter 5J-17, Florida Statute Section 472.027, and the American Land Title Association, and that there are no visible encroachments unless shown hereon.

FREDERICK H. HILDEBRANDT
Professional Land Surveyor & Mapper No. 2749
Professional Engineer No. 36810
State of Florida
NOT VALID UNLESS EMBOSSED WITH RAISED SEAL & SIGNATURE

| | | | |
|--|-----------|------------------------|-----------------|
| Old Kress Building Company, LLC 500 Duval Street, Key West, Florida 33040 | | | |
| Specific Purpose Survey | | Draw No.: 14-237 | |
| Easement for Overhang | | Date: 4/30/14 | |
| Scale: 1"=20' | Ref. file | Flood panel No. 1315 K | Dev. By: F.H.H. |
| | | Flood Zone: AE | Flood Elev. 6' |
| REVISIONS AND/OR ADDITIONS | | | |
| 5/20/14: Add eave along Fleming | | | |
| 1:\data\red\dwg\keywest\block557800\duval | | | |

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ENGINEERS PLANNERS SURVEYORS
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Key West, FL 33040 fhilde1@islandsurvey.net
L.B. No. 7700