

RESOLUTION NO. 16-____

224 DUVAL STREET EASEMENT

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN EASEMENT OF 448 ± SQUARE FEET, MORE OR LESS, TO ADDRESS THE ENCROACHMENT OF AN EXISTING SECOND STORY BALCONY WHICH ENCROACHES ONTO THE DUVAL STREET RIGHT-OF-WAY LOCATED AT 224 DUVAL STREET (RE # 00001380-000000, AK # 1001406), 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 448 ± square feet along the Duval Street right-of-way, for the real property described in the attached specific purpose survey prepared by J. Lynn O'Flynn, PSM of J. Lynn O'Flynn, Inc., dated July 28, 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 grant of 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) During renovation, plans must show protection of the City Sabal Palms located near the proposed work areas.
- (3) The easement shall terminate upon the removal of the balcony.
- (4) The City may unilaterally terminate the easement upon a finding of public purpose by a vote of the Key West City Commission.
- (5) The owner shall pay the annual fee of \$400.00 specified in Section 2-938(b) (3) of the Code of Ordinances.
- (6) 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.
- (7) The existing second story 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.

(10) 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.

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 _____, 2016.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2016.

Filed with the Clerk _____, 2016.

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