

EASEMENT AGREEMENT

This agreement made this _____ day of _____, 2019,
between the City of Key West, Florida (hereinafter Grantor) and
Valsin Marmillion & Juan Pisani, Owners of property located at
403-405 Caroline Street, Key West, Florida (hereinafter the
Grantees) (RE # 00001610-000000).

I. RECITALS

Grantees are the Owners of the property known as 403-405
Caroline Street, Key West, Florida, including an area of
encroachment of existing historic second floor balcony in order to
maintain an overhang onto Whitehead Street onto the Grantor's
Right-of-Ways. Portions of Grantees's property encroaches a total
of 180.0 square feet, more or less, onto the Grantor's Right-of-
Ways, Specifically:

Commencing at the intersection of the Northwesterly Right-of-
Ways line of Caroline Street with the Northeasterly Right-of-Ways
line of Whitehead Street and run thence Northwesterly along the
Northeasterly Right-of-Ways line of the said Whitehead Street for a
distance of 1.60 feet to the Southeasterly face of an existing
overhand of a balcony said point also being the Point of Beginning;
Thence continue Northwesterly along the Northeasterly Right-of-Ways
line of the said Whitehead Street for a distance of 41.20 feet to
the Northwesterly face of said overhang; Thence Southwesterly with

a deflection angle of 89°49'57" to the left and along said overhang for a distance of 41.20 feet; Thence Northeasterly and at right angles along said overhang for a distance of 4.42 feet, back to the Point of Beginning, containing 180 square feet, more or less.

Land described herein contains 180.0 square feet, more or less, as specifically described and illustrated in the attached specific purpose survey dated April 4, 2019, drawn by J. Lynn O'Flynn, PSM, (Copy attached hereto). This encroachment impedes marketability of the property.

The Grantor hereby agrees to grant and convey to the Grantees an easement for encroachments, at the property located at 403-405 Caroline Street, as more specifically described in the attached survey. The easement shall pertain to addressing an encroachment of existing historic second floor balcony in order to maintain an overhang onto the Whitehead Street Right-of-Ways herein described, and not to any other encroachment. The granting of this easement is conditioned upon the following:

1. Prior to the easement becoming effective, the Grantees 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".

2. The easement shall terminate with the removal of the second-story balcony.
3. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
4. The Owners shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
5. The Owners 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. The easement area 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 easement area.

8. To the fullest extent permitted by law, the Grantees 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 damage.

III. CONSIDERATION

Grantees agree 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. Grantees 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

Grantees agree that the improvements located on the Easement shall not be enlarged or expanded.

Grantees shall have the right to repair and maintain the

improvements.

The easement shall terminate upon the removal of the existing historic second story balcony.

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 Grantees.

This easement shall terminate upon the failure of the Grantees or its heirs, successors, or assigns to maintain liability insurance in a minimum amount of three hundred thousand dollars (\$300,000.00) per and any other insurance cover specifications set forth in this agreement, naming the City of Key West as 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.

IN WITNESS WHEREOF, the parties have executed this easement
the date above written.

ATTEST:

CITY OF KEY WEST

CHERYL SMITH, CITY CLERK

JAMES K. SCHOLL, CITY MANAGER

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me this
day of __, 2019 by JAMES K. 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:

GRANTEES

By: Valsin Marmillion, _____
By: Juan Pisani, _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this
day of _____ 2019, by ____ for 403-405 Caroline Street,
who is personally known to me or who has produced _____
_____ as identification.

Notary Public
State of _____

My commission expires: