

RESOLUTION NO. _____

3838 FLAGLER AVENUE EASEMENT

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN AFTER-THE-FACT EASEMENT AGREEMENT FOR ENCROACHMENTS TOTALING 266.0 SQUARE FEET, MORE OR LESS, TO CONSTRUCT ONE (1) BOATLIFT AND ONE (1) WOOD DOCK ONTO CITY OWNED SUNRISE CANAL ABUTTING PROPERTY LOCATED WITHIN THE SINGLE-FAMILY (SF) 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 that would extend a total of 266.0 square feet, more or less, for the real property described in the attached specific purpose survey prepared by J. Lynn O'Flynn, Inc. for the proposed 266.0 square foot encroachment onto Sunrise Canal, and dated July 14, 2022 are 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) The easement shall terminate with the removal of the structures.
- (2) The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
- (3) The Grantee shall pay the annual fee of \$400.00 specified in code Section 2-938(b)(3).
- (4) 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.
- (5) 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 \$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. Grantee shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured".

- (6) The easement areas 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 areas.
- (8) The areas to construct one (1) boatlift and one (1) wood dock on the Sunrise Canal right-of-way shall be the total allowed within the easement area.
- (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 _____, 2022.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2022.

Filed with the Clerk _____, 2022.

Mayor Teri Johnston _____

Vice Mayor Samuel Kaufman _____

Commissioner Gregory Davila _____

Commissioner Mary Lou Hoover _____

Commissioner Clayton Lopez _____

Commissioner Billy Wardlow _____

Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK