PARTIAL MEDIATED SETTLEMENT AGREEMENT

Case No. 22-328
Property: 712 Eaton Street, Key West, FL 33040
Respondent: 712 Eaton St. Land Trust

This Partial Mediated Settlement Agreement ("Agreement") is made between the City of Key West, Florida, a Municipal Organization ("City") and 712 Eaton St. Land Trust ("Respondent") regarding the accessory pavilion/pool-house structure (the "Pavilion") located at 712 Eaton Street, Key West, Florida 33040.

1. Background and Purpose

The City issued a Notice of Violation concerning the Pavilion in alleged violation of City of Key West Ordinances § 14-37, § 14-40, and § 122-600. This Agreement is intended solely to establish a process through which Respondent may attempt to obtain the approvals and permits necessary to achieve compliance, without resolving, admitting, or adjudicating any factual or legal issues underlying the Notice of Violation.

2. Reservation of City Authority

Nothing in this Agreement waives or limits the City's police powers or enforcement authority. It does not constitute pre-approval or recommendation of any variance, Certificate of Appropriateness, or building permit. All boards and officials retain full discretion to grant, condition, or deny any future application.

3. Respondent's Plan to Achieve Compliance

Respondent shall seek a variance and all appropriate approvals and permits in order to reduce the footprint of the Pavillion so that it is completely contained within the current recorded legal description for the 712 Eaton St. parcel. This Agreement is not intended to resolve, affect, or comment upon any title dispute, and nothing herein shall be construed as a determination of property ownership or boundary location.

4. Variance Application

The City maintains that Respondent is required to obtain a variance for the planned reduction of the Pavillion's footprint. Respondent disagrees with this position but is, nonetheless, willing to seek such a variance and, if the variance is granted, carry out the steps necessary to obtain all approvals and permits required and to complete the modification of the Pavillion. Respondent shall, at its sole risk and expense, seek a variance

from required setbacks before the Planning Board pursuant to LDR § 90-395, subject to the following conditions:

a. Filing Deadline

A complete variance application, including but not limited to current surveys, site plans, notice materials, and all required fees, must be filed within thirty (30) calendar days of the Code Enforcement Special Magistrate's approval of this Agreement ("Variance Filing Deadline"). If Respondent fails to timely file a complete variance application, the City may immediately so notify the Code Enforcement Special Magistrate and request that the stay provided for below be terminated so that the City may resume prosecution of the pending Code Enforcement Case.

b. City Opposition Reserved

The City expressly reserves the right to oppose the variance on any lawful ground. Allowing Respondent to apply does not imply City support or reflect any City position regarding the merits of the variance request.

c. Decision Deadline

Respondent shall diligently prosecute the variance application to hearing and final decision. If final action on the variance application has not occurred within one hundred twenty (120) days of the date that the Code Enforcement Special Magistrate approves this Agreement, due to Respondent's failure to comply with the timelines set forth herein, Respondent shall be in default, and the City may immediately notify the Code Enforcement Special Magistrate and request that the stay be terminated so that the City may resume prosecution of this Code Enforcement Case.

d. Survey Requirement

If the variance is granted, within thirty (30) days after completing the work authorized by the variance, Respondent shall submit a sealed as-built boundary survey confirming that all Pavilion components constructed or reconstructed pursuant to the variance approval, including columns, footings, roof overhangs, and decking, are wholly contained within the current recorded legal description for the 712 Eaton Street parcel. The as-built survey shall be prepared by a Florida-licensed surveyor and shall reflect the final, post-construction condition of the Pavilion as approved through the variance, HARC review, and building permit process.

e. Post-Variance Compliance (If Granted)
If the Planning Board grants relief:

1. Within fifteen (15) days of the written decision, Respondent shall apply to HARC for an after-the-fact or revised Certificate of Appropriateness consistent with the variance;

2. Within fifteen (15) days after HARC approval, Respondent shall apply for all required building permits;

3. Substantial construction progress shall occur within sixty (60) days of permit issuance; and

4. Final inspection and approval shall occur within one hundred twenty (120) days thereafter.

The foregoing notwithstanding, City and Respondent recognize that the subject property is usually occupied during the winter season. In the event that Respondent obtains the variance contemplated in this Agreement, the Respondent shall not be required to commence construction prior to April1, 2026; however, Respondent shall commence construction no later than that date, and the periods set forth in paragraphs 3 and 4 above shall be measured from the date construction commences. Failure of Respondent to meet any milestone set forth in this subsection shall entitle the City to seek a lift of the stay provided for below in order to resume prosecution of the Code Enforcement case.

5. Default and Return to Enforcement

If Respondent fails to timely file a complete variance application, fails to obtain a Planning Board decision within the required period due to any delay caused by Respondent, or if the variance is denied, the City may immediately notify the Code Enforcement Special Magistrate and request that the stay provided for in this Agreement be lifted so that the City may resume prosecution of Case No. 22-328 under Chapter 162 and the City Code. Upon resumption of enforcement, the City may pursue any lawful remedy available under Chapter 162 and the City Code.

The Respondent shall not be deemed in violation of this Agreement nor subject to renewed enforcement while a timely filed variance application remains pending before the Planning Board, provided that any continuance or delay of the variance proceedings is not at Respondent's request and is not the result of Respondent's failure to prosecute the application. Respondent shall likewise not be subject to renewed enforcement during the statutory appeal period following the Planning Board's written decision. If no appeal is filed

within that period, or upon issuance of a final appellate decision affirming the Planning Board, the City may resume prosecution as provided in this Agreement.

The City may place the matter on the next available docket and seek a finding of violation of §§ 14-37, 14-40, and 122-600, with any penalties, compliance directives, and potential daily fines authorized by law upon entry of a finding and order.

6. Inspection and Monitoring

Respondent shall provide reasonable documentation and confirmation to City staff, upon reasonable notice, to verify compliance with this Agreement, including verification of deadlines, HARC approvals, and permitting progress. Respondent shall permit access to the subject premises for any and all inspections required for the construction, all in accordance with the Code of the City of Key West. The Special Magistrate has jurisdiction to enforce this Partial Mediated Settlement Agreement, schedule status hearings, and modify deadlines for good cause.

7. Compliance Closure or Further Action

Upon verified full compliance, whether through variance approval and completion or through corrective measures taken after enforcement, the City shall notify the Special Magistrate that the matter is in compliance. If default occurs, the City may notice the case for hearing and pursue all remedies available under Chapter 162.

8. Fine Mitigation Consideration

Nothing in this Agreement obligates the City to recommend or support mitigation of any fines that may later be imposed. Any request for mitigation shall be made in accordance with City policy after verified compliance, and any decision shall rest solely with the Special Magistrate.

9. Property Boundaries

This Agreement does not adjudicate or address ownership, title, or property boundaries. For purposes of administering any variance, Certificate of Appropriateness, or building permit, the City shall apply the current recorded legal description for 712 Eaton Street unless and until a final court judgment or recorded boundary agreement requires otherwise. The filing of any quiet-title action or lis pendens shall not stay enforcement or extend any deadline in this Agreement absent a written order of the Special Magistrate or a stay issued by a court of competent jurisdiction.

10. Notices and Effective Date

All notices required under this Agreement must be in writing and delivered to the addresses on file in Case No. 22-328 unless updated in writing. Each signatory affirms authority to bind the party represented. This Agreement becomes effective upon approval by the Special Magistrate. No modification of this Agreement is effective unless approved in writing by the City and entered by the Special Magistrate.

All time periods are calendar days unless expressly stated otherwise; if a deadline falls on a City holiday or weekend, performance is due the next City business day.

11. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Stipulated Compliance Order and Settlement Agreement on the dates set forth below, and the Special Magistrate, having reviewed the Agreement, hereby approves and enters it as an enforceable order of the City of Key West.

CITY OF KEY WEST, FLORIDA
By: _____ Date: _____
Name: Brian Barroso
Title: City Manager

Donald Yates
SPECIAL MAGISTRATE
_____ Date: _____

Respondent Signature Page Below

RESPONDENT – 712 EATON ST LAND TRUST

By: _____ Date: 11/20/25

Richard Pesce, as Manager of Eaton St Enterprises, LLC, trustee for 712 Eaton St Land Trust dated January 25, 2023