

**130 DUVAL STREET**

**EASEMENT AGREEMENT**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
between the City of Key West, Florida (hereinafter Grantor) and  
130 Duval Street, Inc., as owner of property located at 130  
Duval Street, Key West, Florida (hereinafter the Grantee) (RE #  
00000550-000000).

**I. RECITALS**

Grantee is owner of the property known at 130 Duval Street,  
Key West, Florida, including an area to maintain an existing  
elevated covered balcony which encroaches 164.5 square feet,  
more or less, onto the Grantor's Duval Street right-of-way.  
Portions of Grantee's property also includes an area to maintain  
an existing six elevated air conditioning units that extend  
178.5 square feet, more or less, onto the Grantor's 12-foot  
Alley west of parcel RE# 00000550-000000 right-of-way.  
Specifically:

Commencing at the intersection of the northerly right-of-  
way line of Greene Street and the westerly right of way line of  
Duval Street; thence north 29 degrees 59'39" west (assumed)  
along the southwesterly right of way line of Duval Street, 39.50

feet to the point of beginning; thence north 60 degrees 00'21" east, 4.70 feet; thence north 29 degrees 59'39" west, 35.00 feet; thence south 60 degrees 00'21" west, 4.70 feet to an intersection of the southwesterly right of way line of Duval Street; thence south 29 degrees 59'39" east, along said right of way line, 35.00 feet to the point of beginning. Containing 164.5 square feet, more or less.

Together with:

Commencing at the intersection of the northerly right of way line of Greene Street and the westerly right of way line of Duval Street; thence north 29 degrees 59'39" west (assumed) along the southwesterly right of way line of Duval Street, 39.50 feet; thence south 60 degrees 00'21" west, 88.50 feet to the intersection of the northeasterly line of a 12.00 foot alley and the point of beginning; thence continue south 60 degrees 00'21" west, 5.10 feet; thence north 29 degrees 59'39" west, 35.00 feet; thence north 60 degrees 00'21" east, to the intersection of the easterly line of said alley, 5.10 feet; thence south 29 degrees 59'39" east, 35.00 feet to the point of beginning. Containing 178.5 square feet, more or less.

Land described herein contains a total of 343 square feet, more or less as specifically described and illustrated in the attached specific purpose surveys dated October 11, 2018, drawn

by Robert E. Reece, PSM of Reece & Associates, (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 130 Duval Street, as more specifically described in the attached survey. The easement shall pertain to an area to maintain an existing elevated covered balcony, embed plate for flood panels which extends onto the Duval Street right of way, together with six elevated air conditioning units that extend onto the 12-foot alley west of parcel RE#00000550-000000 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 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. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
3. The easement shall terminate upon the removal of the existing elevated covered balcony, embed plate for flood panels together with the existing six elevated air conditioning units.
4. The owner shall pay the annual fee of \$400.00 specified in Code Section 2-938(b) (3).
5. 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.
6. The area to maintain an existing elevated covered wood balcony, embed plate for flood panels and the existing six elevated air conditioning units along Duval Street and the 12-foot Alley west of parcel RE#00000550-000000 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.

9. Fully 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 all liability for damage.

### 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 the 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.

The easement shall terminate upon the removal of the existing elevated covered wood balcony, embed plate for flood panels and the existing six elevated air conditioning units.

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 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 one million dollars (\$1,000,000.00) per occurrence, and any other insurance 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 \_\_\_\_\_, 2018 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: \_\_\_\_\_

GRANTEE(S)

\_\_\_\_\_  
By: 130 Duval Street, Inc., \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_,  
for 130 Duval Street, Inc., who is personally known to me or who  
has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
State of \_\_\_\_\_

My commission expires: \_\_\_\_\_