

RESOLUTION NO. _____

528 FRONT STREET EASEMENT

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN EASEMENT TO MAINTAIN THE EXISTING OVERHANG, RETAINING WALL, AND ACCESSIBLE RAMP THAT EXTEND 656.0-SQUARE FEET, MORE OR LESS, ONTO THE FRONT STREET RIGHT-OF-WAY ON A PROPERTY LOCATED WITHIN THE HISTORIC RESIDENTIAL COMMERCIAL CORE (HRCC-1) ZONING DISTRICT AT 528 FRONT STREET, KEY WEST, FLORIDA (RE#00000310-000000); PURSUANT TO SECTION 2-938 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 extend a total of 656.0-square feet, more or less, 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 August 23, 2019 and revised on November 18, 2019, 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 granting of the easement agreement:

- (1) The easement agreement shall terminate upon the removal of the structure.
- (2) The Owners shall maintain the vegetative plantings along the sidewalk/retaining wall/accessible ramp area.

(3) The City may unilaterally terminate the easement agreement upon a finding of public purpose by a vote of the Key West City Commission.

(4) The Owners shall pay the annual fee of \$400.00 specified in Section 2-938(b)(3) of the Code of Ordinances.

(5) The Owners shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachment and termination of the easement agreement if the annual fee required by the Code of Ordinances is not paid.

(6) Prior to the easement agreement becoming effective, the Owners shall obtain Commercial General Certificate of Liability Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured" on a primary and non-contributory basis utilizing an ISO standard endorsement at least as broad as CG 20 10 (11/85) or its Equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations is acceptable) including a "Waiver of Subrogation" clause in favor of City of Key West on all policies. The Owners shall maintain the General Liability coverage summarized above, including the "additional insured" endorsement, with coverage continuing in full force during the period of time this

easement agreement remains in effect. The Owners shall provide proof of Insurance annually upon payment of annual fee.

(7) The easement agreement shall terminate upon the failure of the owners to maintain liability insurance.

(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 or sub-surface improvements within the easement area.

(10) The area to maintain the encroachment of an existing overhang, accessible ramp, and retaining wall onto the City right-of-way shall be the total allowed within the easement area.

(11) To the fullest extent permitted by law, the Owners expressly agree to indemnify and hold harmless the City of Key West, their respective officers, directors, agents and employees (herein called the "indemnities") from and all liability for damage.

(12) Structural Inspection of the overhang is performed annually.

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 _____, 2020.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2020.

Filed with the Clerk _____, 2020.

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