

EASEMENT AGREEMENT

This agreement made this _____ day of _____, 2020,
between the City of Key West, Florida (hereinafter Grantor) and
James Olinkiewicz, an authorized person to represent 528 Front
Street Key West, Inc., for property located at 528 Front Street,
Key West, Florida (hereinafter the Grantee) (RE # 00000310-000000).

I. RECITALS

Grantee is the authorized representative of the property known
as 528 Front Street, Key West, Florida, including an area to maintain
the encroachment of an existing overhang, retaining wall, and
accessible ramp that extend 656.0-square feet, more or less, onto
Front Street on the Grantor's right-of-way, specifically:

A parcel of land on the Island of Key West, and known as a
portion of the Right-of-Way of Front Street adjacent to Lot 2, Square
6 according to Wm. A. Whitehead's map of the Island of Key West,
delineated in February, A.D. 1829, said parcel being more particularly
described by metes and bounds as follows: Commence at the intersection
of the Southwesterly Right-of-Way line of Simonton Street with the
Southeasterly Right-of-Way line of Front Street and run thence
Southwesterly along the Southeasterly Right-of-way line of the said
Front Street for a distance of 7.80-feet to the Point of Beginning;
thence continue Southwesterly along the Southeasterly right of way
line of the said Front Street for a distance of 80.18-feet; thence
Northwesterly and at right angles for a distance of 6.66-feet; thence
Northeasterly with a deflection angle of 90°11'11 to the right for a
distance of 8.53-feet; thence Northwesterly and at right angles for a

distance of 1.70-feet; thence Northeasterly and at right angles for a distance of 31.80-feet; thence Northwesterly and at right angles for a distance of 1.20-feet; thence Northeasterly and at right angles for a distance of 8.00-feet; thence Southeasterly and at right angles along for a distance of 1.20-feet; thence Southeasterly with a deflection angle of 89°48'49 to the right for a distance of 8.10-feet back to the Point of Beginning ,containing 656.00-square feet, more or less.

Land described herein contains 656.0-square feet, more or less, as specifically described and illustrated in the attached specific purpose survey dated August 23, 2019 and revised on November 18, 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 Grantee an easement for encroachments, at the property located at 528 Front Street, as more specifically described in the attached survey. The easement shall pertain to addressing the encroachment to maintain the existing overhang, accessible ramp and a retaining wall that extend onto the Front Street right-of-way herein described, and not to any other encroachment. The granting of this easement is conditioned upon the following:

- 1.The easement agreement shall terminate with the removal of the structure.
- 2.The Grantee 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 vote of the Key West City Commission.
4. Grantee shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
5. Grantee 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 Grantee shall obtain Commercial General Liability insurance that extend coverage to the property that is governed by this easement with limits of no less than \$1,000,000.00. 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". Grantee shall provide proof of Insurance annually upon payment of annual fee.
7. The easement agreement shall terminate upon the failure of the property owner 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 the existing overhang, accessible ramp and retaining wall onto City right-of-way shall be the total allowed within the easement area.
11. 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 damage.
12. Structural Inspection of the overhang is performed annually.

II. 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 agreement 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.

III. 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 agreement shall terminate upon the removal of the encroachment of the existing overhang, accessible ramp and retaining wall.

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 and termination of the easement agreement 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 agreement and reclaim the property without compensation to Grantee.

This easement agreement shall terminate upon the failure of the Grantee or their heirs, successors, or assigns to maintain liability insurance in a minimum amount of one million dollars (\$1,000,000.00) per incident 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

GREGORY W. VELIZ, CITY MANAGER

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me this day of _____, 2020 by GREGORY W. VELIZ, 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

By: 528 Front Street Key West, Inc., _____
JOHN OLINKIEWIZ, PRESIDENT

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____ 2020, by _____ for 528 Front Street Key West, Inc., who is personally known to me or who has produced _____ as identification.

Notary Public
State of _____

My commission expires: