518 FLEMING STREET EASEMENT AGREEMENT

This Agreement made this ___ day of _____, 2026, between the City of Key West, Florida (hereinafter "Grantor") and Baby's Holdings LLC, the owner of the property located at 518 Fleming Street (RE# 00009520-000000), Key West, Florida (hereinafter the "Grantee").

I. RECITALS

Grantee is the Owner of the property known as 518 Fleming Street, Key West, Florida. As depicted in the Sketch and Description, the applicant has requested an easement for an approximately one hundred sixty-seven and twenty hundredths (167.20) square feet to memorialize an existing encroachment consisting of a portion of the subject building and a second-story balcony. Portions of Grantee's property currently extend a total of one hundred sixty-seven and twenty hundredths (167.20) square feet onto the Grantor's Rights-of-Way, specifically:

> *A portion of the Right-of-Way of Fleming Street, on the island of Key West, Monroe County, Florida, and known as Lot3, Square 50, according to William A. Whitehead's map of the Island of Key West, delineated in February, A.D. 1829, and being more particularly described metes and bounds as follows:*

COMMENCING at the intersection of Fleming Street and Bahama Street; THENCE North 34°39'01" West, along the prolongation of the westerly Right-of-Way line of Bahama Street, 5.50 feet; THENCE South 55°20'59" West, 30.40 feet; THENCE South 34°39'01" East, 5.50 feet, to the southerly Right-of-Way line of Fleming Street; THENCE North 55°20'59" East, along the southerly Right-of-Way line of Fleming Street, 30.40 feet to the Point of Beginning. Containing 167.20 square feet, more or less.

The Grantor hereby agrees to grant and convey to the Grantee an easement to allow for the repair and maintenance of encroachments consisting of a portion of the existing building and an existing second-story balcony at the property located at 518 Fleming Street, as more specifically described in the attached Sketch and Description dated June 21, 2026, prepared by Reece & Associates. The easement shall pertain only to the encroachments identified in the attached Sketch and Description for a total easement area of 167.20 square feet, and not to any other encroachments.

The granting of this easement is conditioned upon the following:

1. Ordinary repair and maintenance shall be permitted.
2. Grantee agrees that the improvements located on the Easement shall not be enlarged or expanded beyond what is approved herein.
3. The Easement shall allow for the existing encroachments as depicted on the Sketch and Description prepared by Reece & Associates, dated June 21, 2026, and a total easement

area of 167.20 square feet. Additional or future easement area shall require an amendment in accordance with Sec. 2-938 of the City Code.

4. The City may unilaterally terminate the easement, upon a finding of public purpose by vote of the Key West City Commission.
5. The Grantee shall pay the annual fee as specified in Section 2-938(b)(3) of the City Code.
6. 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.
7. Prior to the easement becoming effective, the Owners shall obtain Commercial General Liability insurance that extends coverage to the property 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 the City of Key West named as "Additional Insured."
8. The easement areas 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 City-owned easement areas.
10. The City reserves the right of entry/re-entry for the easement areas for the purposes of inspection, maintenance, improvements, and operations in connection with City-owned or leased property.
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 damages caused by or resulting from the Grantee's improvements within the easement area.

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 in the total amount of Four Hundred Dollars ($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 conditions of this Easement Agreement shall constitute grounds for the Grantor to terminate the easement.

III. EASEMENT TERMINATION

Grantee agrees no additional encroachment or easement area is authorized and that any expansion would require the appropriate City approval and an amendment/new easement pursuant to Section 2-938. Grantee shall have the right to repair and maintain the individual encroaching features.

The Grantee herein expressly and irrevocably appoints the City Manager of the City of Key West as its agent to permit the removal of the encroachments 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 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 Three Hundred Thousand Dollars **($300,000.00)** per incident and any other insurance coverage 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 Agreement shall be considered a covenant running with the land and shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors, and assigns.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have executed this Easement Agreement on the date above written.

GRANTEE

CITY OF KEY WEST

Reviewed for Legal Sufficiency

Signature

BRIAN L. BARROSO
City Manager

ATTEST:

KERI O'BRIEN
City Clerk

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by BRIAN L. BARROSO, 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

BABSYS HOLDINGS LLC

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by _____, as _____ of BABSYS HOLDINGS LLC, on behalf of the company, who is personally known to me or has produced _____ as identification.

_____

Notary Public

State of _____

My Commission Expires: _____