

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 1.08 OF THE CITY CHARTER, CALLING FOR A REFERENDUM AUTHORIZING THE CITY OF KEY WEST TO PURCHASE 4.25 ACRES OF REAL PROPERTY COMMONLY KNOWN AS 2800 FLAGLER AVENUE (RE NUMBER 00065090-000100) FROM THE FT. ZACHARY TAYLOR SURCHARGE FUND, WHICH IS SET APART FOR THE PURCHASE OF SUCH LANDS, FOR THE USE AS A PUBLIC PARK INCLUDING A CHILDREN'S PLAYGROUND AND PASSIVE RECREATIONAL SPACE; AUTHORIZING THE CITY CLERK TO TAKE ALL NECESSARY ACTION TO PLACE THIS MEASURE ON THE BALLOT FOR NOVEMBER 2, 2010; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, City of Key West maintains a fund which is derived from a state mandated surcharge on state park entrance fees imposed by Florida Statute section 380.0685 in Areas of Critical State Concern;

WHEREAS, the Fort Taylor Fund currently contains \$962,000.00 as of July 12, 2010.

WHEREAS, funds derived under section 380.0685 may only be used to purchase property in the area of critical state concern from which they are derived.

WHEREAS, the City Commission passed resolution 10-156, which authorized the exploration of the feasibility of purchasing 2800 Flagler Avenue.

WHEREAS, the City of Key West received an appraisal on June 14, 2010 indicating that the appraised value of the property at 2800 Flagler Avenue is \$500,000.00; and

WHEREAS, the City intends to preserve the property at 2800 Flagler avenue and utilize it as a park and passive recreational space; and

WHEREAS, Charter Section 1.08 provides that "Annexation or acquisition by any means, of any and all real property may only be by a vote of the electors of the City"; and

WHEREAS, Florida Statutes Section 101.161 provides procedures for a referendum and Florida Statutes Section 100.342 provides for notice for a referendum election; and

WHEREAS, the City desires, in accordance with the terms of its Charter, to purchase the real property upon terms acceptable to the City Commission for a purchase price not to exceed the current appraised value of the property; and

WHEREAS, the City Commission desires that the proposed referendum appear on the regularly scheduled election ballot of November 2, 2010;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST FLORIDA:

Section 1: That a referendum for the purchase of real property

commonly known as 2800 Flagler Avenue shall be held on November 2, 2010.

Section 2: That the question appearing on the ballot shall be titled: "Referendum - Authorization to Purchase Real Property at 2800 Flagler Avenue for a Public Park."

Section 3: That the ballot question shall be worded as follows:

"Is the City of Key West authorized to purchase 4.25 acres of real property at 2800 Flagler Avenue (RE#00065090-000100), using only revenues from a special state mandated surcharge fund, and not property tax revenues, which funds may only be used to purchase property in areas of critical state concern, in an amount not to exceed the current appraised value of \$500,000.00 for use as a public park including a children's playground and passive recreational space?"

_____ Yes

_____ No

Section 4: That the City Clerk is hereby authorized and directed to take all necessary and proper action to place this question on the ballot of November 2, 2010, including the providing

of notice of the election in accordance with law.

Section 5: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable there from and shall be construed as reasonable as necessary to achieve the lawful purposes of this Ordinance.

Section 6: All Ordinances or parts of Ordinances of the City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 7: This Ordinance 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.

Read and passed on first reading at a meeting held this _____ day of _____, 2010.

Read and passed on final reading at a meeting held this _____ day of _____, 2010.

Authenticated by the presiding officer and Clerk of the Commission on this _____ day of _____, 2010.

Filed with the Clerk _____, 2010.

CRIAG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK