

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 7.03 OF THE CITY CHARTER, TO CALL FOR A REFERENDUM FOR THE LEASE OF PROPERTY LOCATED AT THE TRUMAN WATERFRONT AND OWNED BY THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST ("LRA"), SUCH LEASE FOR A DURATION OF 99 YEARS AT THE RATE OF \$1.00 PER YEAR, THEREBY EXCEEDING THE CHARTER LIMIT OF 20 YEARS, FOR A PARCEL TO BE USED FOR A MIXED-INCOME LICENSED ASSISTED LIVING AND INDEPENDENT LIVING FACILITY FOR SENIOR CITIZENS; AUTHORIZING THE CITY CLERK TO TAKE ALL NECESSARY ACTION TO PLACE THIS MEASURE ON THE BALLOT FOR OCTOBER 1, 2013; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Charter Section 7.03 requires referendum for a lease conveyance of LRA-owned property for a term in excess of 20 years; and

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

WHEREAS, in 2002, the United States Navy conveyed to the LRA a property of approximately 33 acres known as the Truman Waterfront; and

WHEREAS, in Resolution Nos. 03-237, 03-409 and 04-204, the City supported the concept of utilizing a parcel of approximately four acres for an assisted living facility; and

WHEREAS, a licensed assisted living facility is defined in Florida Statutes Section 429.02; and

WHEREAS, the citizens urging the development of this assisted living facility desire that it have an independent living component, and that all occupants of the facility, whether or not in need of assisted care, be senior citizens and not be limited by income level; and

WHEREAS, the Key West City Commission and the LRA wish to facilitate the development of the proposed facility by assuring the opportunity of offering a long-term lease - 99 years - at the Truman Waterfront, recognizing that given the costs of operation and the difficulty in obtaining lending packages for a 20-year land lease, the existence of a long-term lease opportunity will invite developers/operators to bid; and

WHEREAS, the City Commission and LRA recognize that a 99-year lease opportunity will provide the LRA with flexibility in bidding and lease negotiations; and

WHEREAS, the voters previously approved a referendum authorizing the City Commission/LRA to negotiate a lease for the parcel at the Truman Waterfront; and

WHEREAS, the City Commission/LRA entered into a lease agreement with the Florida Keys Assisted Care Coalition ("Coalition") that called for certain requirements to be met within defined time periods; and

WHEREAS, the initial deadlines with the Coalition have been extended on two previous occasions; and

WHEREAS, a June 28 deadline currently looms for the submission of a complete application for development plan approval; and

WHEREAS, since the passage of the referendum and execution of a placeholder lease agreement, the Coalition has brought two developers to the City for lease negotiations; and

WHEREAS, the Coalition has repeatedly privately and publically maintained that the lease between a proposed developer and the City should be for a dollar per year based upon their stated belief that the voters understood the lease would be for nominal value; and

WHEREAS, the referendum question considered by the voters, which was prepared and presented to the City by the Coalition, did not contain such nominal value language;

WHEREAS, among the final points of negotiation between the currently proposed developer and the City are monetary terms; and

WHEREAS, if it is truly the intent of the voters to provide a dollar per year lease for ninety-nine years at the Truman Waterfront, then those monetary issues can be resolved by a clear expression at the polls;

WHEREAS, the City Commission and LRA understand that referendum approval may be followed by the consideration and approval of a particular lease;

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

Section 1: That a referendum for the anticipated lease of certain real property owned by the Naval Properties Local Redevelopment Authority and located at the Truman Waterfront shall be held on October 1, 2013.

Section 2: That the question appearing on the ballot shall be titled: "Referendum - 99 Year Lease of Real Property for \$1.00 per year for Senior Care."

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

“To encourage housing for senior citizens, shall the Naval Properties Local Redevelopment Authority of the City of Key West be authorized to lease real property of approximately 3.32 acres at the Truman Waterfront, to Wendover Housing Partners, LLC, for a period of 99 years at the rate of one dollar (\$1.00) per year for exclusive use as a mixed-income senior citizens assisted living and independent living facility?”

_____ 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 October 1, 2013, 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 therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 6: All Ordinances or parts of Ordinances of said 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 regular meeting held this ___ day of _____ 2013.

Read and passed on final reading at a regular meeting held this ___ day of _____ 2013.

Authenticated by the presiding officer and Clerk of the Commission on this ___ day of _____ 2013.

Filed with the Clerk _____, 2013.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK