ORDINANCE NO. 11-01

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY ADDING SECTION 2-487 ENTITLED "FUNDING OF ART IN NEW CONSTRUCTION AND MAJOR RENOVATION PROJECTS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission for the City of Key West finds it in the best interest of the citizens to increase access to public art; and

WHEREAS, the City Commission for the City of Key West desires to promote public understanding and awareness of the visual arts and to enrich the public environment for residents and visitors alike; and

WHEREAS, the original version of this ordinance did not account for the critical need for funding such art in public places; and]

WHEREAS, the establishment of a fund dedicated to the creation and preservation of public art would enhance the welfare of the citizens and visitors;

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

Section 1: That Section 2-487 is hereby added to the Code of Ordinances as follows*:

Sec. 2-487 - Funding of Art in New Construction and Major Renovation Projects

(a) One percent of the construction costs as specified herein shall be set aside for the acquisition, administration, commission, installation and maintenance of works of art to be placed on the site of said construction or renovation. This requirement shall only apply to new construction that qualifies as a major development plan as defined in Chapter 108 of the City of Key West Code of Ordinances that exceeds five hundred thousand dollars ($500,000.00), or renovation projects that qualify as a major development plan as defined in Chapter 108 of the City of Key West Code of Ordinances exceeding one hundred thousand dollars ($100,000.00) in cost as well as any qualifying governmental agency owned project within the City of Key West that requires a building permit would be subject to the 1% for art fund. Thirty percent (30%) of the appropriation shall be collected at the time of issuance of building permit(s) and seventy percent (70%) shall be

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

collected at the time of issuance of the certificate of occupancy. Either the donation of art or the payment of the fee referenced herein shall comply with the Art in Public Places guidelines promulgated pursuant to Section 2-486.

(b) Costs, as described in paragraph (a), shall not include architectural fees, engineering fees, asbestos abatement, other environmental preparation, site work or contingency costs.

(c) All construction costs to be used in determining the Art in Public Places appropriation shall be calculated as of the date that the construction or renovation contract is executed, including any subsequent change orders.

(d) Funds collected under this provision, as well as any gifts, grants and donations made to the City of Key West for the purpose of acquiring and installing art in public places, shall be separately accounted for and may be used only for the following purposes: acquisition, administration, commission, installation, and maintenance of art in public places.

(e) In lieu of an on-site art program, the developer/builder may opt out of the requirement listed in

paragraph (a) by contributing one percent (1/0%) of the building or renovation costs described in paragraph (a) that will be donated to the City's Art in Public Places Program to be used for projects under paragraph (d).

Section 2: 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 3: 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 4: 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 4 day of January, 2011.

Read and passed on final reading at a regular meeting held this 18 day of January, 2011.

Authenticated by the presiding officer and Clerk of the Commission on 19 day of January, 2011.

Filed with the Clerk January 19, 2011.

MARK ROSSI, VICE MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK