ORDINANCE NO. 2011 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, ESTABLISHING CHAPTER 31 ENTITLED "PARKS AND RECREATIONAL OPEN SPACE LANDS TRUST FUND" OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, from its founding, a principal goal of the Village has and continues to be the acquisition of land for public recreation and open space purposes; and

WHEREAS, consistent with that goal, the Village Council has from time to time established capital accounts/funds for the purpose of acquiring land for public recreation and open space; and

WHEREAS, the Village Council wishes to formalize its funding policy by creating a Parks and Recreational Open Space Lands Trust Fund for use in acquiring parks and recreational lands; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Parks and Recreational Open Space Lands Trust Fund. Chapter 31 "Parks and Recreational Open Space Lands Trust Fund" of the Village Code of Ordinances is hereby created to read as follows:

Sec. 31-1. Parks and Recreational Open Space Lands Trust Fund

(a) There is hereby created the Parks and Recreational Open Space Lands Trust Fund (the "PROS Lands Trust Fund") for use in acquiring parks and recreational lands within the Village. The Village Manager is hereby authorized to establish the PROS Lands Trust Fund and to receive and disburse monies in accordance with the provisions of this section.

(b) The PROS Lands Trust Fund shall receive monies from the following sources:

(i) All funds derived from any borrowings by the Village for the acquisition of lands for parks and open space purposes.

(ii) All monies accepted by the Village in the form of federal, State, or other governmental grants, allocations, or appropriations, as well as foundation or private grants and donations for acquisition of parks and open space as provided for by this section.

(iii) Such additional allocations as may be made by the Village Council from time to time for the purposes set forth herein.

(iv) All interest generated from the funding sources identified above, except where monies received have been otherwise designated or restricted.

(c) The PROS Lands Trust Fund shall be maintained in trust by the Village Council solely for the purposes set forth herein, in a separate and segregated fund of the Village which will not commingle with other Village funds until disbursed for an authorized purpose pursuant to subsection (d) below.

(d) Disbursements from the PROS Lands Trust Fund shall be made only for the following purposes:

(i) Acquisition of properties which have been approved for purchase or lease by the Village Council in accordance with the provisions of this chapter; and

(ii) Improvements to the property which enhance the recreational and open space purposed for which the land was acquired.

(iii) All costs associated with each acquisition including, but not limited to, appraisals, surveys, title search work, real property taxes, documentary stamps and surtax fees, and other transaction costs.

(iv) Any other purpose upon the unanimous approval of the entire Village Council.

(e) Where any property acquired with PROS Lands Trust Fund monies is leased or sold by the Village, the proceeds from said lease or sale shall be committed to the PROS Lands Trust Fund for the purposes provided for herein. Such proceeds shall neither be committed to any other fund, nor

be used for any other purpose.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading

PASSED AND ADOPTED on first reading this 16th day of November, 2010.

PASSED AND ADOPTED on second reading this ____ day of _____, 2011.

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MAYOR FRANKLIN H. CAPLAN

ATTEST:

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CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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VILLAGE ATTORNEY