

Sponsored by: Mike Puto

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2006-150**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE PURCHASE AND CONVEYANCE OF THREE UNDEVELOPED RESIDENTIAL BUILDING LOTS TO HABITAT FOR HUMANITY OF THE MIDDLE KEYS TRUST, INC. FOR THE PURPOSE OF CREATING AFFORDABLE HOUSING; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, it is the desire of the City Council of the City of Marathon, Florida to facilitate the creation of affordable housing opportunities within the City; and

**WHEREAS**, Habitat for Humanity of the Middle Keys Land Trust, Inc. (hereinafter HFH) is a not for profit Florida Corporation organized for charitable purposes that include providing for the development and preservation of decent, permanently affordable housing for low and moderate income persons in the Middle Keys; and

**WHEREAS** HFH has entered into an agreement to purchase three undeveloped residential building lots, located on 64<sup>th</sup> Street, Marathon, and further described in Exhibit A, attached hereto, subject to participation by the City of Marathon; and

**WHEREAS**, the City of Marathon has provided funding in its current 2005-2006 budget in the amount of \$1,500,000 for the purchase of land in support of the City's Comprehensive Plan, which includes provisions for affordable housing partnerships; and

**WHEREAS**, the City of Marathon Land Acquisition Advisory Committee at its meeting of September 6, 2006, voted to nominate the properties for acquisition for the purpose of creating affordable housing opportunities; and

**WHEREAS**, the City of Marathon wishes to approve the Land Acquisition Advisory Board recommendations;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA**, that:

**Section 1.** The above recital is true and correct and is incorporated herein by reference.

**Section 2.** The City Council hereby approves the acquisition and purchase of the properties described herein in Exhibit A for the purpose of creating affordable housing and authorizes City staff to proceed immediately to closing.

**Section 3.** The Mayor of the City of Marathon is hereby authorized to sign a deed conveying the subject properties to Habitat for Humanity of the Middle Keys Land Trust, Inc. subject to the recording of a City of Marathon affordable housing deed restriction, substantially in the form of Exhibit B attached hereto

**Section 4.** The Council hereby directs City Staff that the funds utilized to purchase these properties shall come from the land acquisition funds in the 2005-2006 budget for the City. The council further directs city staff that the first \$62,642 in affordable housing in lieu of dollars collected by the City, shall be applied to replenish the infrastructure fund in the FY 06-07 budget.

**Section 5.** This resolution shall take effect immediately upon its adoption.

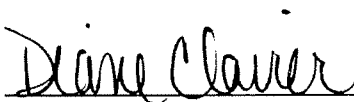
**PASSED AND APPROVED** by the City Council of the City of Marathon, Florida, this 26th day of September, 2006.

**THE CITY OF MARATHON, FLORIDA**

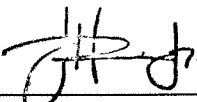
  
\_\_\_\_\_  
Christopher M. Bull, Mayor

AYES: Mearns, Pinkus, Tempest, Worthington, Bull  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
Diane Clavier, City Clerk

(City Seal)

  
\_\_\_\_\_  
City Attorney Signature

## EXHIBIT A

### **Subject Property 1:**

Real Estate Number: 00340240-000000

Legal Description: REIMANN'S SUB PB2-145 KEY VACA PT SW1/4 OF SW1/4 SEC 1 & PT GOV LOT 1 SEC-12 TWP-66S RNG-32E S67.5 FT LOT 9

Zoning/FLUM: Improved Subdivision/Residential Medium

Lot Size: 8,8160 sq. ft.

Address: 64<sup>th</sup> Street, Ocean

### **Subject Property 2:**

Real Estate Number: 00340250-000000

Legal Description: BK 1 LT 5 DAYS SUBDIVISION PB3-15 KEY VACA

Zoning/FLUM: Improved Subdivision/Residential Medium

Lot Size: 10,000 sq. ft.

Address: 64<sup>th</sup> Steet, Ocean

### **Subject Property 3:**

Real Estate Number: 00340260-000000

Legal Description: BLK 1 N 75' LOT 6 DAYS SUBDIVISION PB3-15 KEY VACA

Zoning/FLUM: Improved Subdivision/Residential Medium

Lot Size: 7500 sq. ft.

Address: 64<sup>th</sup> Street, Ocean

**EXHIBIT B**

**This instrument prepared by,  
and after recording return to:**

City Clerk  
City of Marathon, Florida  
10045-55 Overseas Highway  
Marathon, Florida 33050

**DECLARATION OF AFFORDABLE HOUSING RESTRICTIONS**

THIS DECLARATION OF **AFFORDABLE HOUSING RESTRICTIONS** (“Declaration”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_, whose principal mailing address is \_\_\_\_\_ (Declarant”).

**RECITALS:**

1. Declarant is the fee simple title owner to certain real property (the “Property”) located in the City of Marathon, Monroe County, Florida, (the “City”) which is more particularly described as:  
  
SEE LEGAL DESCRIPTION ATTACHED AS EXHIBIT “A”  
(Identify the number of pages of the attachment)
2. Declarant is the recipient of an Affordable Housing Residential Unit Allocation pursuant to the City’s Rate of Growth Ordinance (“ROGO”).
3. The Property was assigned additional ROGO points under the Affordable Housing program set forth in Section 9.5-122.3(b) of the City Code.
4. In consideration of the Declarant’s receipt of its Affordable Housing Residential Unit Allocation award, and the waiver of fees as set forth herein, and for other good and valuable consideration, Declarant hereby covenants with the City of Marathon, a political subdivision of the State of Florida, its successors or assigns, for itself, its heirs and successors that the property described herein is subject to and bound by the Affordable Housing Restrictions hereinafter set forth, each and all of which is and are for the benefit of the Property, shall run with the land, and are enforceable by the City, its successors and assigns.

NOW, THEREFORE, the Declarant agrees that the Property shall be held and conveyed subject to the following Affordable Housing Restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interests in the Property or any part thereof, their heirs, successors and assigns for the entire term of this Declaration.

**THE DECLARANT AGREES AND CERTIFIES THAT AS THE OWNER OF THE PROPERTY DESCRIBED HEREIN, THERE IS A CAP AND RESTRICTION UPON THE SALE OR OTHER CONVEYANCE OF THE SUBJECT PROPERTY. IN ORDER TO CONVEY THE PROPERTY, THE DECLARANT, HIS/HER/ITS SUCCESSORS OR ASSIGNS MUST COMPLY WITH THE FOLLOWING:**

- A. **The prospective purchaser must be a qualified purchaser under the City of Marathon Affordable Housing Restrictions as set forth in Section 9.5-266(a)(3) and (4) of the City Code (as may be amended), or the City's successors or assigns, as a precondition of the purchase of the subject property. A valid Certificate of Compliance issued by the City of Marathon, its successors or assigns, within 30 days of the prospective conveyance must be recorded in the Public Records of Monroe County contemporaneously with the recording of the deed of conveyance.**
  - B. **The Deed, or other document of conveyance must make specific reference to this document by name and the OR Book and Page where it is recorded in the Public Records of Monroe County.**
  - C. **The Deed, or other document of conveyance, must state, in bold print of at least 14 point font, on the first page of the document, immediately following the legal description the phrase, "THIS PROPERTY IS SUBJECT TO AFFORDABLE HOUSING RESTRICTIONS WHICH MAY EFFECT ITS SALE OR CONVEYANCE".**
1. **Restrictions.** Declarant hereby covenants, agrees and certifies, in so far as the rights, powers, interests and authority of the Declarant is concerned, that development, sale, lease, or other conveyance of the Property shall be in accordance with the City's Affordable Housing Restrictions as set forth in the provisions of Section 9.5-266(a)(3) and (4) of the City Code (as may be amended).
  2. **Impact Fees.** Under the provisions set forth in Chapter 9.5 of the City Code, any persons, including any governmental agency, prior to receiving a building permit for any new land development activity shall pay "Fair Share Impact Fees".
  3. **Waiver of Impact Fees.** Under the Affordable Housing Provisions set for in the Chapter 9.5 of the City Code, the owner or owners of the above described real Property have been exempted from payment of "Fair Share Impact Fees" for a (check one) \_\_\_ a single family, \_\_\_\_\_ multi-family unit \_\_\_\_\_, \_\_\_\_\_ a mobile

home dwelling to be constructed on said real property.

4. **City.** This Declaration is intended to benefit and run in favor to the City.
5. **Enforcement.** This Declaration may be enforced by the City at law or in equity or as a code compliance action against any party or person violating, or attempting to violate, any of the covenants and restrictions contained herein. The remedies available to the City shall include, but are not limited to, obtaining a court order requiring the Declarant or his/her successor or assigns to comply with the City's affordable housing regulations in effect at the time of such order, and compelling the Property's continuing compliance with the affordable housing regulations until this Declaration has expired. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, reasonable attorneys' fees and costs as well as attorneys' fees and cost incurred in enforcing this prevailing parties attorneys' fees provision. This enforcement provision shall be in addition to any other remedies available at law or in equity.
6. **Term.** The restrictions, covenants and conditions of this Declaration shall run with the bind the land for a term of fifty (50) years from the date of execution herein.
7. **Amendments.** All amendments hereto shall be in writing and must be signed by the Declarant and the City. All amendments hereto shall be recorded in the Public Records of Monroe County, Florida, and shall not be valid until recorded.
8. **Paragraph Headings.** Paragraphs headings, where used herein, are inserted for the convenience only and are not intended to be a part of this Declaration or in any way defined, limited or described to be a part of this Declaration in the Public Records of Monroe County, Florida, and shall not be valid until recorded.
9. **Effective Date.** This Declaration shall come shall become effective upon the issuance of a Certificate of Occupancy issued by City of Marathon, its successors or assigns, for the dwelling unit or units to which this covenant applies, and recordation of this Declaration in the Public Records of Monroe County, Florida.
10. **Governing Law.** This Declaration and the enforcement of the rights and obligations established hereby shall be subject to and governed by the laws of the State of Florida.
11. **Recordation.** Declarant shall at its sole cost and expenses, record this Declaration in the Public Records of Monroe County, Florida within fifteen (15) days of approval of the upon the issuance of a Certificate of Occupancy issued by City of Marathon, its successors or assigns, for the dwelling unit or units to which this covenant applies. Declarant shall provide the City with proof of the recording of the Declaration in accordance with the provisions of this paragraph. Failure to record these restrictions shall result in the revocation of the Certificate of Occupancy for

the dwelling unit or units to which this covenant applies, and other remedy, legal or equitable, available to the City to assure compliance with these Restrictions.

- 12. **Authorization for City to Withhold Permits and Inspections.** If the terms of this Declaration are not being complied with, in addition to any other remedies available at law or in equity, the City is hereby authorized after notice and an opportunity to cure, to withhold any permits regarding the Property or any portion thereof, and to refuse to make any inspections or grant any approvals for the Property or any portion thereof, until such time as the Declarant or its successor or assigns is in compliance with the covenants of this Declaration. The determination of non-compliance and to withhold permits, inspections, or approvals shall be by the Director of Planning and shall be subject to the appeal provision of the City's land development regulations.

**IN WITNESS WHEREOF**, Declarant, has caused these presents to be executed on the day and year first above written.

Signed, sealed and delivered in the presence of:

DECLARANT

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, by, \_\_\_\_\_, who personally appeared before me, and is/are personally known to me or have produced \_\_\_\_\_ as identification and acknowledged executing the foregoing document.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_