

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2008-131**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AMENDED UNITY OF TITLE PREPARED FOR THE BENEFIT AND IN FAVOR OF THE CITY OF MARATHON BY THE MOST REVEREND JOHN C. FAVALORA, AS ARCHBISHOP OF THE ARCHDIOCESE OF MIAMI, HIS SUCCESSORS IN OFFICE, A CORPORATION SOLE, WITH RESPECT TO CERTAIN PROPERTY LOCATED IN THE CITY OF MARATHON**

**WHEREAS**, the City of Marathon (the "City") is currently building wastewater collection and treatment systems for the different areas of the City; and

**WHEREAS**, the City is paying for these projects, in part, through assessments on all properties in the City; and

**WHEREAS**, some property owners are choosing to unify title to contiguous lots as a means of reducing the assessments that they will pay to the City; and

**WHEREAS**, the San Pablo Catholic Church recorded a Unity of Title with respect to their property which was not entirely to their financial advantage; and

**WHEREAS**, the original Unity of Title contains a provision that the City Council has to approve any amendments to the Unity of Title; and

**WHEREAS**, the Amended Unity of Title excludes one lot included in the original Unity of Title, and is therefore more financially advantageous to the Church; and

**WHEREAS**, City staff recommends approval of the amended Unity of Title;

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

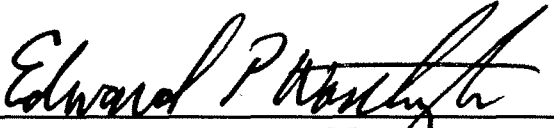
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council hereby approves the Amended Unity Of Title, a copy of which is attached hereto as Exhibit "A", prepared for the benefit and in favor of the City by the Most Reverend John C. Favalora, as Archbishop of the Archdiocese of Miami, his successors in office, a corporation sole, with respect to certain property located in the City of Marathon.

**Section 3.** 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 August, 2008.

**THE CITY OF MARATHON, FLORIDA**

  
Edward P. Worthington, Mayor

AYES: Bull, Cinque, Tempest, Vasil, Worthington  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

  
Jimmy Morales, City Attorney

Doc# 1709471  
Bk# 2377 Pg# 1593

Prepared by and Return To:  
David P. Kirwan  
David P. Kirwan, P.A.  
Attorney at Law  
5800 Overseas Highway, #4  
Marathon, FL 33050

### **AMENDED UNITY OF TITLE**

WHEREAS, The Most Reverend JOHN C. FAVALORA, as Archbishop of the Archdiocese of Miami, his successors in office, a corporation sole, is the fee simple Owner (the "Owner") of the Property described as:

**Lots 13, 14, 15 and 16 EBERHARTER SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 3, Page 128 of the Public Records of Monroe County, Florida.**

**THIS AMENDED UNITY OF TITLE IS FILED TO CORRECT THE LEGAL DESCRIPTION CONTAINED IN THE UNITY OF TITLE RECORDED IN OFFICIAL RECORDS 2374 AT PAGE 162 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AMENDING THE ORIGINAL UNITY OF TITLE BY REMOVING LOT 12.**

Owner recognizes and acknowledges that for the public health, welfare, safety or morals, the Property should not be divided into separate parcels owned by the Owner, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner hereby agrees to restrict the use of the subject Property in the following manner:

The Property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised or assigned separately, except in its entirety as one plot or parcel of land.

Owner further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land and shall be recorded, at Owner's expense, in the Public Records of Monroe County, Florida, and shall remain in full force and effect and be binding upon the Owner, his heirs, successors, personal representatives and assigns and upon all mortgagees or lessees until such time as the same may be released in writing by the City Council of the City of Marathon after a public hearing.

### **CONDITIONS**

1. **City:** This Unity of Title is intended to benefit and run in favor of the City of Marathon, Florida.

2. **Enforcement:** This Unity of Title 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 Owner or his successor or assigns to compel the Property's continuing compliance with the covenants and restrictions contained herein until the City releases this Unity of Title.

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.

3. **Authorization for City to Withhold Permits and Inspections.** If the terms of this Unity of Title 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 Owner or his successor or assigns are in compliance with the conditions of this Unity of Title. 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.

4. **Modifications, Amendments and Releases.** This Unity of Title may only be modified, amended or released by a written instrument executed by the City Manager following approval by the City Council. All modifications, amendments and release hereto shall be in writing and must be signed by the Owner, or his successors or assigns, and the City Manager. All amendments hereto shall be recorded in the Public Records of Monroe County, Florida, and shall not be valid until recorded.

5. **Governing Law.** This Unity of Title and the enforcement of the rights and obligations established hereby shall be subject to and governed by the laws of the State of Florida.

6. **Recordation.** The Owner, at his sole expense, shall record this Unity of Title in the Public Records of Monroe County, Florida, within ten (10) working days after approval of the same by the City.

7. **Approval of Amended Unity of Title.** By execution of this document, the undersigned, Clyde Burnett, as City Manager of the City of Marathon, hereby approves of this Amendment and certifies that this document has been approved by the City Council of the City of Marathon, Florida.

IN WITNESS WHEREOF, the undersigned has caused this Unity of Title to be executed as of the 26 day of August, 2008..

Janet Rancand  
Witness  
Printed Name: Janet Rancand

John C. Favalora  
The Most Reverend John C. Favalora  
as Archbishop of the Archdiocese of  
Miami, his successors in office, a  
corporation sole

Merilyn Sanchez  
Witness  
Printed Name: Merilyn Sanchez

Maria Thorley  
Witness  
Printed Name: Maria Thorley

Clyde Burnett  
Clyde Burnett, City Manager  
City of Marathon, Florida

Diane Clavier  
Witness  
Printed Name: Diane Clavier

State of Florida  
County of Miami-Dade

The foregoing instrument was acknowledged before me this 18 day of August, 2008 by The Most Reverend John C. Favalora as Archbishop of the Archdiocese of Miami, his successors in office, a corporation sole is personally known to me or who produced his \_\_\_\_\_ as identification.



Morgie R. Fornio  
Notary Public

My commission expires: 10/19/2008

State of Florida  
County of Monroe

The foregoing instrument was acknowledged before me this 27 day of August, 2008 by Clyde Burnett, City Manager of the City of Marathon, Florida, who is personally known to me or who produced his \_\_\_\_\_ as identification.

Diane Clavier  
Notary Public

My commission expires:



MONROE COUNTY  
OFFICIAL RECORDS