

Sponsored by: Lindsey

**CITY OF MARATHON, FLORIDA
RESOLUTION 2018-90**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE A RELEASE OF UNITY OF TITLE ON BEHALF OF THE CITY IN THE FORM ATTACHED TO THIS RESOLUTION CONCERNING PROPERTY DESCRIBED AS BLOCK 3 LOTS 32 AND 33, LIDA SUBDIVISION FIRST ADDITION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the applicants, Albert Wagner has requested a release of unity of title recorded in 2012 for purposes of constructing a residential home.

WHEREAS, the Unity of Title, recorded in the Official Records of Monroe County, Florida at Book 2421, at Page 743 states that the Unity of Title may only be released in writing through a written instrument executed by the City Manager after approval by the City Council.

WHEREAS, the City Council heard, reviewed and duly considered the reports, findings and recommendations of staff, and finds that the release of the Unity of Title is in the best interests of the citizens of the City of Marathon.

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 Manager is hereby authorized on behalf of the City of Marathon to execute a release of Unity of Title recorded in Official Records Book 2421, at Page 743 of the Public Records of Monroe County, Florida, in substantially the same form and format as attached hereto.

Section 3. The City Manager is hereby authorized to do all things necessary and expedient in order to effectuate the release described in Section 2 above. The applicant shall record the releases at its cost and expense.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11TH DAY OF SEPTEMBER, 2018.

THE CITY OF MARATHON, FLORIDA



Michelle Coldiron, Mayor

AYES: Bartus, Cook, Senmartin, Zieg, Coldiron
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



David Migut, City Attorney

This Instrument Was Prepared By:
Thomas D. Wright, Esquire
Law Offices of Thomas D. Wright, Chartered
P.O. Box 500309
Marathon, FL 33050
Telephone: 305-743-8118

UNITY OF TITLE

WHEREAS, the undersigned is the fee simple owner (the "Owner") of the Property described as:

Lots 32 and 33, Block 3, Lida Subdivision,
First Addition, according to the Plat thereof as recorded
in Plat Book 4, Page 103, of the Public Records of
Monroe County, Florida.

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 as long as the same is put to the hereinafter use; and in consideration of the right to maintain one residential structure on the property as a single family home, without application of the side setback requirements of the lots unified hereby, and for good and valuable consideration, the receipt and sufficiency of which are 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 mortgages or lessees until such time as the same may be released in writing by the City Council 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 costs 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/her/its 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 modification, 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 Tile 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.

IN WITNESS WHEREOF, the undersigned has caused this Unity of Title to be executed as of this 2nd day of July, 2009.

WITNESS OR ATTEST:

OWNER:

Thomas D. Wright
Print Name: Thomas D. Wright
as to Albert and Merle

Albert G. Wagner
ALBERT G. WAGNER

Michelle Stano
Print Name: Michelle Stano
as to Albert and Merle

Merle M. Wagner
MERLE M. WAGNER

Gloria Luna
Print Name: Gloria Luna
as to Richard Wagner

Richard J. Wagner
RICHARD J. WAGNER

Mabel West
Print Name: Mabel West
as to Richard Wagner

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 1st day of July, 2009, by Albert G. Wagner and Merle M. Wagner, husband and wife, who are personally known to me or have produced their FL DL as identification.

NOTARY PUBLIC-STATE OF FLORIDA
Michelle Stano
Commission # DJ850391
Expires: APR. 27, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

Michelle Stano
Notary Public

My commission expires:

STATE OF Illinois
COUNTY OF COOK

The foregoing instrument was acknowledged before me this 2ND day of July, 2009, by Richard J. Wagner, who is personally known to me or has produced his DRIVERS LICENSE as identification.

Jeanette M. Romano
Notary Public

My commission expires: 2/17/10



MONROE COUNTY
OFFICIAL RECORDS

RELEASE OF UNITY OF TITLE

KNOW ALL MEN BY THESE PRESENTS: The undersigned representative of the City of Marathon, a municipal corporation of the State of Florida, releases the UNITY OF TITLE recorded in Official Record Book 2421 at Page 743 of the Public Records of Monroe County, Florida, relating to and pertaining to the property described in said UNITY OF TITLE being located in the City of Marathon, Monroe County, Florida.

All terms, conditions and provisions contained in the aforementioned UNITY OF TITLE are hereby released and canceled.

SIGNED AND SEALED this 17 day of September, 2018.

CITY OF MARATHON

Chuck Lindsey
Chuck Lindsey, City Manager

WITNESSES:

Diane Clavier
(signature)

Diane Clavier
(printed name)

[Signature]
(signature)

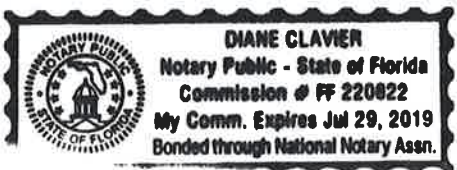
Carlos A. Solis
(printed name)

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

David Migut
David Migut, City Attorney

STATE OF FLORIDA
COUNTY OF MONROE

ACKNOWLEDGED before me, a Notary Public, this 17 day of September, 2016, by Charles Lindsey, who is personally known to me or [] who produced _____ as identification.



Diane Clavier
Signature of Notary Public
Diane Clavier
Printed name of Notary