

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Will Allen, Redevelopment Administrator/ (954) 797-2093

PREPARED BY: Will Allen

SUBJECT: Resolution

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RATIFYING THE SECOND AMENDMENT TO STANDARD FORM OF AGREEMENT AMONG CONTRACTOR, ARCHITECT AND CRA FOR DESIGN-BUILD PROJECT.

REPORT IN BRIEF: The CRA and Town of Davie through the Housing and Community Development Department have partnered through the years to construct affordable single family houses in the Potter Park area. In addition to purchasing lots on which CRA homes have been constructed, the CRA has constructed the Eastside Community Hall, paid for the construction of SW 43 Street, purchased lots and donated them for construction of Habitat for Humanity homes, and purchased property which was donated for building the Potter Park Multipurpose Facility. These factors have contributed to the private sector returning to this neighborhood to build other new homes in the area.

This resolution ratifies the action of the CRA to increase the previously agreed upon price to construct four houses at the four corners of SW 43 Street and SW 56 Avenue. The process to build these four homes which will complement the nine “Key West” style homes has taken substantial time. This is necessary due to the impact of both Hurricanes Katrina and Wilma and their impact on construction costs such as concrete, steel and drywall as well as other mitigating circumstances. Chief Building Official Hitchcock has reviewed the revised construction contracts and finds they are reasonable. It is time to build the houses and additional delays will only result in additional costs. The end result is that the cost of the houses has increased. This is a common occurrence due to the current housing market after the hurricanes. In addition, there is an obligation to build these homes for these families. They are in limbo as to their options with existing leases and living arrangements. The only alternative is to not build the homes which is not to the benefit of anyone. The CRA approved an increase to the contract amount for each house as is detailed within the amendment document. The prices have rise to approximately \$218,000 each which is substantially below the median price for this type of house. The homeowners portion cannot increase based on their income eligibility.

The CRA agreed to pay the increase at their March 24, 2006 meeting. The cost to be borne by the CRA totals \$143,265 or nearly \$36,000 per house. It should be noted that the CRA will recoup all or a portion of that increase in the event of a resale of the house. Although there are restrictive covenants in place, should the house ever be sold the CRA will share equally in the profit up to the amount of the increase so those funds can be used to fund future work force housing.

PREVIOUS ACTIONS: The Standard form of Agreement Between Contractor, Architect And CRA For Design-Build Project was approved on July 3, 2003. The first amendment to contract was approved on August 5, 2004. The lots were approved to be conveyed to the separate owners by Resolutions R-2005-43 to R-2005-46 approved on February 2, 2005.

CONCURRENCES: The CRA Board approved the amendment at their March 24, 2006 meeting.

FISCAL IMPACT: Has request been budgeted? Yes

If yes, expected cost: \$143,265

Account Name: Special Projects 010-0405-515.05-02 to match
State Housing Initiative Partnership Funds

RECOMMENDATION(S): Motion to approve Resolution.

Attachment(s): Resolution
Resolution No. R-2003-169

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RATIFYING THE SECOND AMENDMENT TO STANDARD FORM OF AGREEMENT AMONG CONTRACTOR, ARCHITECT AND CRA FOR DESIGN-BUILD PROJECT.

WHEREAS, the Town of Davie solicited proposals on behalf of the CRA for the Design/Build of CRA Houses; and the result of the selection process was to select the firm of Ocampo & Associates as the architect and Carrick Contracting Corporation as the contractor to build four houses in the Eastside Neighborhood which was approved by Resolution No. R-2003-169 on July 3, 2003 by Town Council ; and

WHEREAS, Resolution No. R-2003-169 also ratified an agreement between the Davie CRA, Ocampo & Associates and Carrick Contracting Corporation to construct the four houses at a price of \$116,000 plus upgrades for a garage; and

WHEREAS, there have been a variety of circumstances which have delayed the construction of the house primarily suffering through two hurricane seasons; and

WHEREAS, the delays have resulted in the cost of the houses increasing based on a number of factors such as higher material costs, shortage of labor, etc.; and

WHEREAS, the Davie CRA approved a first amendment to the agreement with the architect and contractor on August 5, 2005 to increase the base price of the house to \$138,600 and approved a second amendment to the standard form of agreement on March 24, 2006 which allowed a specific additional increase as is stated individually for each of the four homes but is approximately \$218,000 per home including a one car garage; and

WHEREAS, the second amendment to the standard form of agreement has been prepared and agreed upon by the Davie Community Redevelopment Agency, Ocampo & Associates and Carrick Contracting Corporation which is attached and identified as Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The Town Council of the Town of Davie ratifies the Second Amendment to Standard Form of Agreement between Contractor, Architect and CRA for Design-Build Project for the construction of four homes.

SECTION 2. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2006.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2006.

SECOND AMENDMENT TO STANDARD FORM OF AGREEMENT
AMONG CONTRACTOR, ARCHITECT AND CRA FOR
DESIGN-BUILD PROJECT

THIS SECOND AMENDMENT TO STANDARD FORM OF AGREEMENT dated this ___ day of _____, 2006, among Contractor, Architect and CRA for Design-Build Project ("Second Amendment") is made by and among CARRICK CONTRACTING CORPORATION ("Contractor"), OCAMPO & ASSOCIATES ("Architect") and TOWN OF DAVIE COMMUNITY REDEVELOPMENT AGENCY ("CRA").

R E C I T A L S:

WHEREAS, on June 24, 2003, Contractor, Architect and CRA entered into that certain Standard Form of Agreement between Contractor, Architect and CRA for Design-Build Project ("Agreement") for construction of homes upon certain real property located in Broward County; and

WHEREAS, on August 5, 2004, Contractor, Architect and CRA entered into a First Amendment to the Agreement ("First Amendment") increasing the Guaranteed Maximum Price for each house to \$138,600; and

WHEREAS, Contractor, Architect and CRA desire to again amend certain terms of the Agreement.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Article 3.2.4 titled GUARANTEED MAXIMUM PRICE, as amended by the First Amendment is hereby deleted and replaced with the following language:

3.2.4 GUARANTEED MAXIMUM PRICE (GMP) DOCUMENTS.
The parties agree that the GMP for each of the four (4) houses to be constructed under this Contract is as shown on Exhibit A attached hereto, including a connected garage for each house. Specifically, the GMP for the Ann Musso house is \$218,735.00; for the Martha Josey house is \$217,855.00; for the Kaila Gillings house is \$219,560.00; and for the Radhica Ramsaran/Annmarie Lopez house is \$218,955.00.

2. The parties agree that the terms of this Second Amendment shall also serve to amend the Total Purchase Price for each house as established in Section 2.1, Article II, of the Home Ownership Program Construction Agreements, as amended, between the Contractor and each of the owners identified in Article 3.2.4; specifically the Construction Agreement between the Contractor and Ann Musso dated January 31, 2005; the Construction Agreement between the

Contractor and Martha Ann Josey dated August 11, 2004; the Construction Agreement between the Contractor and Kaila Gillings dated January 31, 2005; and the Construction Agreement between the Contractor and Radhica Ramsaran/Annmarie Lopez dated August 11, 2004. The Contractor agrees to be bound by the terms and conditions of the Construction Agreements (as amended) described in this Section 2 except that the Total Purchase Price shall be increased as provided in Section 1 above.

3. This Second Amendment may be executed in counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same Second Amendment. All terms indicated as defined terms in this Second Amendment shall have the same meaning as defined in the Agreement, unless otherwise provided herein.
4. Except as specifically modified in this Agreement, all of the terms and conditions of the Agreement shall remain in full force and effect. In the event of any inconsistency between the terms of this Second Amendment and the terms of the Agreement or any prior amendment thereto, then the terms of this Second Amendment shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment on the dates specified below.

Signed, sealed and delivered in the presence of:

CONTRACTOR:

CARRICK CONTRACTING
CORPORATION

By: _____
Name: _____
Title: _____
Date: _____

ARCHITECT:

OCAMPO & ASSOCIATES

By: _____
Name: _____
Title: _____
Date: _____

CRA:

TOWN OF DAVIE COMMUNITY
REDEVELOPMENT AGENCY

By: _____

Name: _____

Title: _____

Date: _____

RESOLUTION NO. R-2003-169

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF OCAMPO & ASSOCIATES AND RATIFYING AN AGREEMENT BETWEEN THE DAVIE COMMUNITY REDEVELOPMENT AGENCY AND THE ARCHITECT, OCAMPO & ASSOCIATES AND THE CONTRACTOR, CARRICK CONTRACTING CORPORATION FOR SERVICES TO CONSTRUCT FOUR SINGLE FAMILY HOMES IN THE EASTSIDE NEIGHBORHOOD OF DAVIE, FLORIDA.

WHEREAS, the Town solicited proposals on behalf of the CRA for the Design/Build of CRA Houses; and

WHEREAS, the selection committee selected Ocampo & Associates as the firm best qualified to provide the required services; and

WHEREAS, the Davie Community Redevelopment Agency concurs with the selection of Ocampo & Associates as the firm best qualified to provide the required services and the Davie CRA has negotiated an agreement between the Davie CRA and the architect, Ocampo & Associates, and the contractor, Carrick Contracting Corporation for services in connection with the construction of four houses in the Eastside neighborhood of Davie; and

WHEREAS, an agreement for such services has been prepared and agreed upon by the Davie Community Redevelopment Agency and Ocampo & Associates and Carrick Contracting Corporation which is attached hereto and identified as Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby accept the selection of Ocampo & Associates as the firm best qualified to provide the required services.

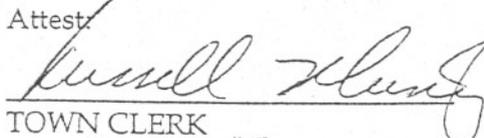
SECTION 2. The Town Council of the Town of Davie ratifies the agreement between the Davie Community Redevelopment Agency, the architect, Ocampo & Associates, and the contractor, Carrick Contracting Services for services to construct four single family houses in the Eastside neighborhood of Davie, Florida.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS 8th DAY OF July, 2003


MAYOR/COUNCILMEMBER

Attest:


TOWN CLERK

APPROVED THIS 8th DAY OF July, 2003

STANDARD FORM OF AGREEMENT BETWEEN CONTRACTOR, ARCHITECT AND
CRA FOR DESIGN-BUILD PROJECT

ARTICLE 1

This Agreement is made this 8th day of July in the year 2003, by
and between the

CONTRACTOR

Carrick Contracting Corporation
1450 Kinetic Road
Lake Park, Fl 33403
License # CGC-055155

and the

ARCHITECT

Ocampo & Associates
817 S. University Drive, Suite 109
Plantation, Florida 33324

for services in connection with the following

PROJECT

Construction of four (4) single-family homes
in the East side neighborhood of Davie, Florida

and

**TOWN OF DAVIE COMMUNITY
REDEVELOPMENT AGENCY ("CRA")**

Town of Davie Community Redevelopment Agency
4700 Davie Road
Suite C
Davie, Florida 33314

Notice to the parties shall be given at the above addresses.

ARTICLE 2

GENERAL PROVISIONS

The Contractor has agreed to procure the services of licensed design professionals to provide the architectural and engineering services required to design the Project in accordance with the CRA's requirements as outlined in the Town of Davie RFP ("RFP") for Design/Build CRA Houses ("CRA Program"). The parties acknowledge that this Agreement is entered into to facilitate the construction of initially four single family houses on designated vacant property in Davie Florida as part of the CRA Program. The parties further agree that the end lot purchasers ("Lot Purchaser") will be a third party beneficiary of this Agreement and the Lot Purchaser will enter into the Homeownership Construction Agreement ("Construction Contract") attached hereto as Exhibit "A" with the Contractor.

TEAM RELATIONSHIP The Contractor and Architect agree to work together on the basis of trust, good faith and fair dealing, and shall take actions reasonably necessary to enable each other to perform this Agreement in a timely, efficient and economical manner. The Architect agrees to furnish its best professional skill and judgment and cooperate with the Contractor in a manner consistent with good design practice. The Architect further agrees that he shall act as a fiduciary to the CRA in this relationship.

2.1. DEFINITIONS

.1 The Contract Documents govern the relationship between the Contractor and the Architect. The Contract Documents consist of this Agreement; RFP, Architect's Response to RFP dated June 6, 2002, Response to RFP Drawings, Specifications, Plans and the Construction Contract.

.2 The Architect's Work ("Work") shall be to provide the necessary architectural and engineering services required by the Contractor for the Project, including coordination of design services of subcontractors who may be procured by the Contractor to provide both design and construction services for certain Project elements. The Work includes Basic Services provided in the Design and Construction Phases plus other services as may be authorized by the CRA and Contractor.

.3 Substantial Completion for each house occurs on the date when the local building department issues a Certificate of Occupancy.

2.2. **EXTENT OF AGREEMENT** This Agreement, the RFP, Architects response to RFP dated June 6, 2002 and the Construction Contract represents the entire agreement between the Contractor and the Architect and supersedes all prior negotiations, representations and agreements, either written or oral.

ARTICLE 3

ARCHITECT'S RESPONSIBILITIES

3.1. **PROJECT REQUIREMENTS** The Architect, in order to determine the requirements of the Project, shall review the requirements for construction under the CRA Program. The Architect shall review its understanding of the Project requirements with the Contractor and prepare the items, and provide the services detailed in this Agreement, and under the CRA Program to satisfy the requirements.

3.2. **BASIC SERVICES** The Architect's Basic Services consist of the provision of the Schematic Design Documents, Construction Documents, bidding or negotiation assistance, Construction Phase Services, and shall include normal architectural, structural, mechanical, electrical and site design.

3.2.1 **SCHEMATIC DESIGN DOCUMENTS** Based upon the Project requirements, the Architect shall prepare, for approval by the CRA, Schematic Design Documents consisting of drawings, outline specifications and other conceptual documents illustrating the Project's basic elements, scale, and their relationship to the site.

3.2.2 **DESIGN DEVELOPMENT DOCUMENTS** Based on the approved Schematic Design Documents, the Architect shall prepare, for approval by the Contractor, CRA and governmental authorities, including revisions necessary to secure such approvals, Design Development Documents. The Design Development Documents shall further define the Project, including drawings and outline specifications fixing and describing the Project size and character, and other appropriate elements incorporating the structural, architectural, mechanical and electrical systems. Two printed sets and one reproducible set of these Documents shall be provided to the Contractor. Following completion of the Design Development Documents, the Architect shall cooperate with the Contractor in updating the schedule and estimate.

3.2.3 **CONSTRUCTION DOCUMENTS** Based on the approved Design Documents the Architect shall prepare, for approval by the Contractor, CRA and governmental authorities, including revisions necessary to secure such approvals, Construction Documents setting forth in detail the requirements for construction of the Project, consisting of drawings and specifications that comply with codes, laws and regulations enacted at the time of their preparation. Two printed sets and one reproducible set of these Documents shall be provided to the Contractor.

3.2.4 **GUARANTEED MAXIMUM PRICE (GMP) DOCUMENTS** The parties agree the maximum GMP is \$116,000.00 for each house to be constructed which includes the fee to the Contractor and the Architect. The lot purchaser may upgrade the house by constructing (i) a one (1) car detached garage at a cost of \$6,750.00, (ii) a two car detached garage at a cost of \$9,950.00 or (iii) a connected garage at a cost of \$5,450.00.

3.2.5 BIDDING AND NEGOTIATION ASSISTANCE The Architect shall assist the Contractor in obtaining bids from subcontractors and major suppliers by providing necessary drawings, specifications and addenda, attending pre-bid meetings, and clarifying the scope and intent of the design documents as needed.

3.2.6 CONSTRUCTION PHASE SERVICES The Construction Phase will commence upon the execution of the Construction Contract. The Architect shall furnish interpretations and clarifications of the drawings and specifications, by means of additional drawings, addenda or otherwise, as are necessary for the proper execution and progress of the Project. All such interpretations and clarifications shall be consistent with the intent of the Construction Documents and reasonably inferable from them.

3.2.7 The Architect shall timely review and approve or otherwise respond to the Contractor's submittals, including shop drawings, product data and samples. Submittals shall be checked for conformance with the design and scope of the Project and for compliance with the Construction Documents.

3.2.8 Approval by the Contractor or CRA shall not be deemed to be an assumption of responsibility by the Contractor or CRA for any error, inconsistency or omission in the drawings and specifications or other documents prepared by the Architect, its employees, subcontractors, agents or consultants.

3.2.9 The Architect shall have reasonable access to the Project site at all times.

3.2.10 The Architect shall communicate with the CRA and the Contractor's subcontractors and suppliers only through the Contractor.

3.2.11 The Architect shall make periodic visits to the Project site to become generally familiar with the quality of the construction and to determine in general if the construction is proceeding in accordance with the Construction Documents. On the basis of these on-site observations, the Architect shall endeavor to guard the CRA against defects or deficiencies in the construction. If the Architect becomes aware of any such defects, deficiencies or violations, it shall give prompt written notice to the Contractor. The Architect shall not be responsible for construction means, methods, techniques, sequences and procedures, unless they are specified by the Architect, or for ensuring that the Contractor's work is in accordance with the Construction Documents.

3.2.12 The Architect shall assist the Contractor and CRA in filing required documents with governmental authorities having jurisdiction over the Project.

3.2.13 The Architect shall attend meetings with the CRA and Contractor upon the request of the Contractor.

3.2.14 All of the Services to be provided by the Architect shall be rendered promptly so as not to delay the Contractor.

3.2.15 The Architect shall assist the Contractor in conducting inspections to determine the date of Substantial Completion of the Contractor's subcontractors.

3.3. QUALIFICATIONS The Architect warrants and represents that the Architect and its consultants and subcontractors are duly qualified, licensed, registered and authorized by law to perform the Work.

3.4. CONSULTANTS AND SUBCONTRACTORS The Architect shall not engage the services of any consultant or subcontractor without first obtaining the Contractor's written approval which shall not be unreasonably withheld. Such approval by the Contractor shall not be deemed to create a contractual relationship between the Contractor and any such consultant or subcontractor.

3.5. ARCHITECT'S REPRESENTATIVE The Architect's representative is Raoul Ocampo.

3.6. RESPONSE TO THE RFP. – Notwithstanding anything else contained herein to the contrary, the Architect agrees that in addition to its responsibilities and obligations contained herein it will adhere to and provide services as detailed in the RFP and in Architect's Response to the RFP dated June 6, 2002.

3.7. POST CONSTRUCTION RESPONSIBILITIES Architect agrees, that it will provide post-construction services as necessary to correct any errors in the design or construction of the Work. This corrective work should be considered incidental work and be done at no additional charge.

ARTICLE 4

CONTRACTOR'S RESPONSIBILITIES

4.1. INFORMATION AND SERVICES PROVIDED BY CONTRACTOR

4.1.1 To the extent the Contractor has obtained the information and services identified below from the CRA, the Contractor shall provide them to the Architect. The Architect shall be entitled to rely on such information and services to the same extent as the Contractor. However, the Contractor does not warrant the accuracy or completeness of such information or services. Items referenced in this Section 4.1.1 shall be costs paid for by third parties and should not be considered included as part of the Construction Contract price or a cost paid for by the Contractor.

.1 All necessary information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports and investigations.

.2 Inspection and testing services during construction as required by law or as mutually agreed.

.3 Necessary approvals, site plan review, rezoning easements and assessments, necessary permits, fees and charges required for the construction, use, occupancy or renovation of permanent structures, including legal and other required services.

4.1.2 The Contractor shall be responsible for the preparation of budgets, cost estimates and schedules.

4.1.3 The Contractor shall promptly report to the Architect errors, inconsistencies and omissions it discovers in the Construction Documents; however, nothing in this Paragraph shall relieve the Architect of responsibility for its own errors, inconsistencies and omissions.

4.2. CONTRACTOR'S REPRESENTATIVE The Contractor's representative is Thomas J. Carrick.

ARTICLE 5

SCHEDULE

The Architect shall provide the services required by this Agreement at such reasonable times as will enable the Contractor to complete its work in accordance with the schedules established by the Contractor in the Construction Contract.

ARTICLE 6

ARCHITECT'S COMPENSATION AND PAYMENTS

6.1. COMPENSATION FOR BASIC SERVICES - The Architect's fee shall be included in the GMP set forth in Article 3 herein. The Architect shall be paid in conjunction with the payments made to the Contractor and paid by Contractor through payments made to Contractor under the Construction Contract.

ARTICLE 7

INDEMNITY, INSURANCE AND WAIVER OF SUBROGATION

7.1. INDEMNITY

7.1.1 In addition to any liability or obligation of the Architect to the Contractor that may exist under any other provision of this Agreement or by law or otherwise, to the fullest extent permitted by law and in consideration of ten dollars (\$10.00), the Architect shall defend, indemnify and hold harmless the Contractor and CRA and their respective officers, agents, employees and Subcontractors from and against claims, actions, proceedings, liabilities, losses, damages, costs and expenses, including legal fees, which the Contractor and CRA and their respective officers, agents and employees may sustain by reason of any act or omission by the Architect, its officers, agents, employees or subcontractors, arising out of the Architect's Work.

7.1.2 To the fullest extent permitted by law, and in consideration of ten dollars (\$10.00), the Contractor agrees to defend, indemnify and hold harmless the Architect and

CRA, their officers, agents and employees from and against claims, actions, proceedings, liabilities, losses, damages, costs and expenses, including legal fees, which the Architect or CRA, their officers, agents and employees may sustain by reason of any act or omission by the Contractor, its officers, agents, employees or Subcontractors arising out of the Contractor's work.

7.2. INSURANCE

7.2.1 Before commencing its Work and as a condition of payment, the Architect shall purchase and maintain such insurance as will protect it from the claims arising out of its operations under this Agreement, whether such operations are by the Architect or any of its consultants or subcontractors or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

7.2.2 The Architect shall furnish to the CRA certificates of insurance evidencing the required coverages listed in this Paragraph and upon request of the CRA, shall furnish a copy of its Professional Liability Policy. No policy shall be cancelled or modified without thirty (30) days' prior written notice to the Contractor. The Professional Liability policies shall be continued in effect for 1 year following final payment to the Architect.

ARTICLE 8

DISPUTE RESOLUTION

8.1. INITIAL DISPUTE RESOLUTION If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussion. If the dispute cannot be settled through direct discussions, the parties shall endeavor to settle the dispute by mediation under the Construction Industry Mediation Rules of the American Arbitration Association. The location of the mediation shall be the location of the Project. Once a party files a request for mediation with the other party and with the American Arbitration Association, the parties agree to conclude such mediation within sixty (60) days of filing of the request.

8.2. AGREEMENT TO ARBITRATE Any controversy or claim arising out of or relating to this Agreement or its breach, except for claims which have been waived by the making or acceptance of final payment, not resolved by mediation shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect unless the parties mutually agree otherwise.

8.3. NOTICE OF DEMAND A written demand for arbitration shall be filed with the American Arbitration Association and the other party to this Agreement within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitations for a legal or equitable proceeding would have run.

8.4. AWARD The arbitration award shall be final. Judgment upon the award may be confirmed in any court having jurisdiction.

8.5. WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, the Architect shall continue to perform under this Agreement during any arbitration proceedings. If the Architect continues to perform, the Contractor shall continue to make payments in accordance with this Agreement.

8.6. MULTIPARTY PROCEEDINGS The parties agree that all parties necessary to resolve a claim shall be parties to the same arbitration proceeding. Appropriate provisions shall be included in all other contracts relating to the Project to provide for the consolidation of arbitrations.

8.7. COST OF DISPUTE RESOLUTION The prevailing party in any dispute arising out of or relating to this Agreement or its breach that is resolved by arbitration or litigation shall be entitled to recover from the other party reasonable attorney's fees, costs and expenses incurred by the prevailing party in connection with such arbitration or litigation.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1. OWNERSHIP OF DOCUMENTS Ownership of documents drafted by the Architect shall remain the property of the Architect; however, CRA shall have the right to utilize these documents for the Project.

9.2. ASSIGNMENT Neither the Contractor nor the Architect shall assign their interest in this Agreement without the written consent of the CRA. The parties agree that the lot purchaser shall be a third party beneficiary of this Agreement.

9.3. GOVERNING LAW This Agreement shall be governed by the law of the state of Florida.

9.4. SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

9.5. NO WAIVER OF PERFORMANCE The failure of either party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance.

9.6. TITLES The title given to the Articles of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

This Agreement is entered into as of the day and year entered in Article 1.

CONTRACTOR:
CARRICK CONTRACTING CORPORATION

ATTEST:

Nicholas G. Miland
NICHOLAS G. MILAND

BY:

Thomas J. Carrick

PRINT NAME: Thomas J. Carrick
PRINT TITLE: President

ARCHITECT:
OCAMPO & ASSOCIATES

ATTEST:

Will Allen
WILL ALLEN

BY:

Raul Ocampo, Jr.

PRINT NAME: RAUL OCAMPO, JR.
PRINT TITLE: PRESIDENT

DAVIE COMMUNITY REDEVELOPMENT AGENCY

Cheryl Elliott
Witness

By:

Joan Kovac
Joan Kovac, Vice-Chair

24th day of June, 2003