

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Shirley Taylor-Prakelt, Director
Housing & Community Development, 797-1199

SUBJECT: Resolution

TITLE OF AGENDA ITEM: A Resolution of the Town of Davie, authorizing the Mayor to execute a contract for the purchase of certain real property needed for implementation of the “Harmony Village Community” Redevelopment/Revitalization Plan in the Driftwood CDBG Target Area.

REPORT IN BRIEF: On February 7th, the Davie Town Council approved the “Harmony Village Community” Redevelopment/Revitalization Plan for the area south of Stirling Road, east of 78th Avenue, and north and west of the Davie Road Extension. This Plan represents a holistic approach to neighborhood revitalization which contains both residential and non-residential components.

The center-piece of the Plan is the construction of 22 new single-family homes for income-eligible, first-time home buyers. Habitat for Humanity of Broward County will construct these homes on a 3.8 acre parcel donated by the Town.

The Housing and Community Development Office has finalized the negotiations with the owner of the one parcel not yet acquired by the Town; and, based on the Fair Market Value established by appraisal, the owner has agreed to sell the site for \$40,000.

PREVIOUS ACTIONS: Resolution R-2001-037 adopted February 7, 2001

CONCURRENCES: None

FISCAL IMPACT: Since Davie’s SHIP Grant funds will be used for this purchase, no local funds (General Funds) are required.

Account Name: SHIP Driftwood/Harmony Village

Appropriated from: Account # 001-0406.515.05.24 (SHIP)

RECOMMENDATION(S): To adopt the Resolution

Attachment(s): Resolution , Contract for Purchase/Sale

RESOLUTION_____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR THE PURCHASE OF CERTAIN REAL PROPERTY NEEDED FOR IMPLEMENTATION OF THE “HARMONY VILLAGE COMMUNITY” REDEVELOPMENT/REVITALIZATION PLAN IN THE DRIFTWOOD CDBG TARGET AREA.

WHEREAS, the Town’s Consolidated Plan for Federal Funds adopted in July 1997, set forth Neighborhood Revitalization Plans for the three (3) Community Development Block Grant (CDBG) Target Areas; and

WHEREAS, the Driftwood Target Area lacks adequate affordable housing opportunities for both renters and first-time home buyers, and contains a significant number of existing homes that need renovation; and

WHEREAS, the “Harmony Village Community” Redevelopment/Revitalization Plan sets forth a holistic approach to neighborhood revitalization which encompasses infrastructure improvements, in-fill housing, expansion of recreational facilities for at-risk youth, educational opportunities, health care, and other social services; and

WHEREAS, under the “Harmony Village” Plan, Habitat for Humanity of Broward County will construct 22 new single-family homes that are affordable to Davie’s low/moderate income families, on the vacant parcel of land fronting the Davie Road Extension, which would be donated to Habitat by the Town of Davie; and

WHEREAS, in order to develop these single-family homes, the Town needs to acquire certain real property identified as Lots 3-6, Block 1 of Driftwood Estates No. 21, as recorded in Plat Book 52, Page 1B; and

WHEREAS, the Town’s State Housing Initiatives Partnership (SHIP) Grant Program budget contains funds to be used to develop the Harmony Village Plan.

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

SECTION 1. The Mayor is hereby authorized to execute a contract for the purchase of Lots 3-6, Block 1 of Driftwood Estates No. 21, as recorded in Plat Book 52, Page 1B for \$40,000, in order to implement the “Harmony Village Community” Plan.

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

PASSED AND ADOPTED THIS _____ DAY OF _____ ,

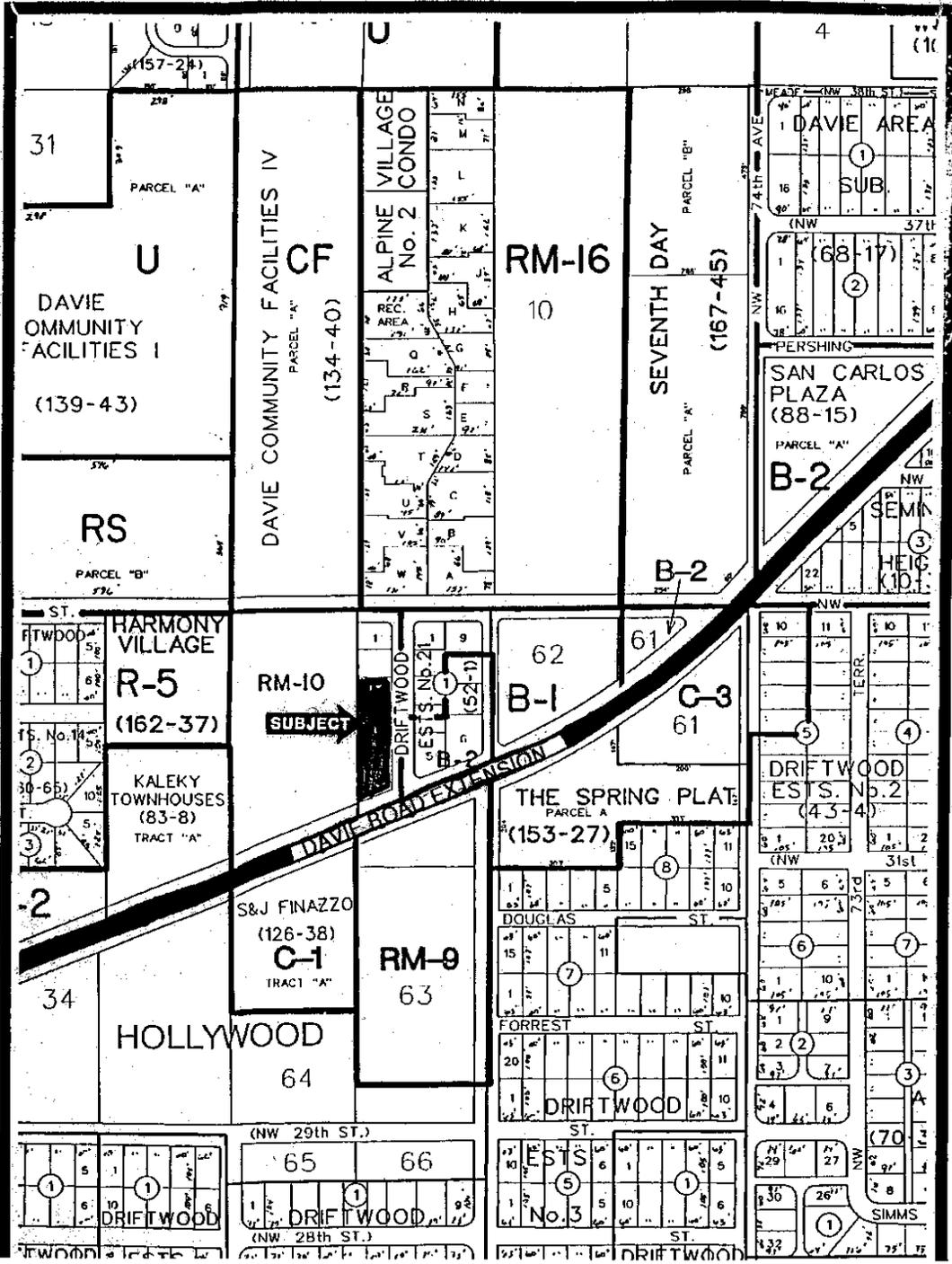
2001.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

Plat Map



**DEPOSIT RECEIPT AND CONTRACT FOR SALE AND PURCHASE
(IF FHA, VA OR CONDOMINIUM CONTRACT, RIDER REQUIRED.)**

BUYER TOWN OF DAVIE, FLORIDA
of 6591 Orange Drive, Davie, FL 33314 (Tel: ()) and
SELLER P.J.C. Properties, Inc.
of 3212 NE 5th St., Pompano Beach, FL 33062 (Tel: ())

hereby agree that the Seller shall sell and the Buyer shall buy the following described property together with existing improvements thereon. UPON THE TERMS AND CONDITIONS HEREINAFTER SET FORTH.

1. LEGAL DESCRIPTION of real estate located in Broward County, Florida. Tax Folio # _____
Lots 3 to 6, Block 1 of Driftwood Estates No. 2, as recorded in PB 52, P 1B.

COMPLETE PROPERTY ADDRESS: Vacant Land
(Address) (City) (Zip)

PERSONAL PROPERTY INCLUDED: All fixed equipment, all window screens, treatments and hardware, all attached floor coverings and attached lighting fixtures as now installed on said property. Also included are the checked major appliances: range _____ refrigerator _____ dishwasher _____ disposal _____ microwave oven _____ trash compactor _____ washer _____ dryer _____ owned pool equipment _____, ceiling fans _____.

ADDITIONAL PERSONAL PROPERTY INCLUDED: _____

PERSONAL PROPERTY NOT INCLUDED: _____

LEASED EQUIPMENT: _____

Seller represents that the property can be used for the following purposes: single family residence

CONCURRENCY: No representation is made regarding the ability to change the current use of, or improve, the subject property under the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163 et seq., Florida Statutes) or any comprehensive plan or other similar ordinance promulgated by local governmental authorities in accordance with the Act.

2. PURCHASE PRICE IS: (In U.S. funds) \$ 40,000.00

METHOD OF PAYMENT:

(a) Deposit herewith \$ _____
(b) Additional deposit due within _____ United States banking days after date of acceptance. Time is of the essence as to additional deposit. \$ _____

ALL DEPOSITS TO BE HELD BY: _____
(c) Amount of new note and mortgage to be executed by the Buyer to any lender other than the Seller. \$ _____

TYPE OF MORTGAGE:
(CHECK ONE) Conventional (), FHA (), VA () (If FHA or VA see Rider)
(CHECK ONE) Fixed Rate (), Variable ()
Interest Rate _____%, with initial Monthly Payment of \$ _____
Other terms: _____

(d) Existing mortgage balance encumbering the property to be ASSUMED by the Buyer approximately \$ _____
Name of the mortgagee _____
Loan No. _____
At an interest rate which may be changeable to the rate of interest at time of closing not to exceed the rate _____% per annum. (CHECK ONE) Fixed rate () or Adjustable rate () with a maximum ceiling of _____%.
Buyer is assuming a balloon mortgage. YES _____ NO _____
Balloon due date _____
Other terms: _____

(e) Purchase money note and mortgage, first () second (), to Seller, bearing interest at the rate of _____% per annum and payable \$ _____ principal and interest per _____ based upon an amortization period of _____ years. If balloon mortgage, final maturity date (balloon payment) shall be _____ years from closing.

(f) OTHER CONSIDERATION: _____ \$ _____

(g) Balance of funds due from Buyer in the form of U.S. currency, cashier's check or equivalent drawn on a Broward County financial institution, on closing and delivery of deed (or such greater or lesser amount as may be necessary to complete payment of purchase price after credits, adjustments and prorations). Said funds may be held in escrow pursuant to provisions of Paragraph U of this Contract. (If FHA or VA see Rider). \$ 40,000.00

TOTAL PURCHASE PRICE \$ 40,000.00

3. FHA, VA or Condominium Contracts: See required rider attached hereto and made a part hereof which shall control.

4. SPECIAL CLAUSES: See Page _____ or Addendum, if any.

5. ACCEPTANCE DATE: This offer shall be null and void unless accepted, in writing, and a signed copy received by Buyer _____ on or before 1st day of Nov., 2001 by 5:00 PM.

6. CLOSING DATE: This Contract shall be closed and the deed and possession shall be delivered on or before the 30 day of November, 2001, unless extended by other provisions of this Contract or separate agreement.

STANDARDS FOR REAL ESTATE TRANSACTIONS

- A. EVIDENCE OF TITLE:** The Seller shall, within _____ banking days (ten(10) banking days if this blank is not filled in), order for Buyer a complete abstract of title prepared by a reputable abstract firm purporting to be an accurate synopsis of the instruments affecting the title to real property recorded in the Public Records of that county to the date of this Contract or alternate title information acceptable to Buyer's closing agent in his sole discretion, showing in Seller a marketable title in accordance with the standards adopted from time to time by the Florida Bar subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract, and those which shall be discharged by Seller at or before closing. The abstract shall be delivered at least fifteen (15) days prior to closing. Buyer shall have fifteen (15) days from receipt of said abstract of title to examine same. Seller shall use best efforts to obtain releases of canal reservations, if any. In the event there are oil, gas and/or mineral reservations; Seller shall use best efforts to obtain releases of same. Failure to release reservations or right of entry for oil, mineral and gas reservations shall constitute a title defect. If title is found to be defective, Buyer shall, within said period, notify the Seller in writing, specifying the defects. If the said defects render the title unmarketable, the Seller shall have ninety (90) days from receipt of such notice to cure the defects, and if after said period, Seller shall not have cured the defects, Buyer shall have the option of (1) accepting title as it then is, or (2) demanding a refund of all monies paid hereunder which shall forthwith be returned to the Buyer, and thereupon, the Buyer and Seller shall be released of all further obligations to each other under this Contract.
- B. CONVEYANCE:** Seller shall convey title to the subject property to Buyer by statutory warranty deed or fiduciary special warranty deed, if applicable, subject to: (1) zoning and/or restrictions and prohibitions imposed by governmental authority; (2) restrictions, easements and other matters appearing on the plat and/or common to the subdivision; (3) taxes for the year of closing; and (4) other matter specified in this Contract, if any.
- C. EXISTING MORTGAGES:** The Seller shall obtain and furnish a statement from the mortgagee setting forth the principal balance, method of payment, interest rate, and whether the mortgage is in good standing. If there is a charge for the change of ownership, including charges for an assumption fee, it shall be borne by the Buyer unless the total charges exceed one percent (1%) of the unpaid balance of the mortgage. In the event the total cost of the above-referred to items exceed one percent (1%) of the unpaid balance of the mortgage to be assumed, then either party shall have the option of paying any amount in excess so that the entire cost is paid, and this Contract shall remain in full force and effect. However, if neither party agrees to pay the additional amount, then, at the Buyer's or Seller's option, this Contract may be cancelled by delivery of written notice to the other party or his agent, the deposit shall be returned to the Buyer and all parties shall be released from all further obligations hereunder.
- Buyer shall make application for assumption of the existing mortgage within _____ banking days (five (5) banking days if this blank is not filled in) from the date of this Contract. Buyer agrees to make a good faith, diligent effort to assume the existing mortgage and agrees to execute all documents required by the mortgagee for the assumption of said mortgage. In the event the mortgagee does not give written consent to permit the Buyer to assume the existing mortgage at the rate and terms of payment previously specified, within _____ banking days (twenty (20) banking days from the date of this Contract if this blank is not filled in), then, either party may terminate this Contract by delivery of written notice to the other party or his agent, the deposit shall be returned to the Buyer and all parties shall be released from all further obligations hereunder. This right of termination shall cease upon the Buyer obtaining written approval for assumption of the mortgage prior to the delivery of the notice of termination.
- Any variance in the amount of a mortgage to be assumed and the amount stated in the Contract shall be added or deducted from the cash payment. In the event the mortgage balance is more than three percent (3%) less than the amount indicated in the Contract, Seller shall have the option of adjusting the purchase price to an amount where the differential is no more than the three percent (3%) allowed, and if he declines to do so, then either party may terminate this Contract by delivery of written notice to the other party or his agent, the deposit shall be returned to the Buyer and all parties shall be released from all further obligations hereunder. The notice must be given no less than five (5) days prior to the closing.
- D. NEW MORTGAGES:** Except as specifically hereinafter provided, any purchase money note and mortgage to Seller shall follow a form with terms generally accepted and used by institutional lenders doing business in the county where the property is located. A purchase money mortgage shall provide for an annual proof of payment of taxes and insurance against loss by fire with extended coverage in an amount not less than the full insurable value of the improvements. A first mortgage and note shall provide for acceleration, at the option of the holder, after thirty (30) days default, and a junior mortgage shall have a ten (10) day default clause. The note shall provide for a late charge of five percent (5%) of the Junior mortgages shall require the owner of the property encumbered to keep all prior liens and encumbrances in good standing and shall forbid the owner from accepting modifications or future advances under any prior mortgages. Any prepayment shall apply against principal amounts last made. In the event Buyer executes a mortgage to one other than the Seller, all costs and charges incidental thereto shall be paid by the Buyer, obtaining said mortgage financing upon the terms stated, or if none are stated, then upon the terms generally prevailing at such time in the county where the property is located. The Buyer agrees to apply within _____ banking days (five (5) banking days if this blank is not filled in) and to make days (thirty (30) banking days if this blank is not filled in) from the date of this Contract, then either party may terminate this Contract by delivery of written notice to the other party or his agent, the deposit shall be returned to the Buyer and all parties shall be released from all further obligations of payment previously specified herein prior to the delivery of the notice of termination.
- E. ASSIGNMENT:** This Contract is not assignable without the specific written consent of the Seller if new mortgage financing or an assumption of an existing mortgage is a contingency.
- F. SURVEY:** The Buyer, within the time allowed for delivery of evidence of title and examination thereof, may have the property surveyed at his expense. If the survey shows any encroachment on said property or shows the improvements located on the subject property in fact encroach on adjoining property, or violate any of the covenants herein, the same shall be treated as a title defect.
- G. INSPECTIONS:** The Buyer shall have the right to have the following inspections at Buyer's expense, subject to the provisions of paragraphs 1-5 below. Seller agrees to provide access and utilities for inspection upon reasonable notice. Seller's agent has the right to be present at inspection and should be given reasonable notice of the date and time of inspections. All inspections shall be completed and written reports submitted to Seller upon completion but not later than _____ days prior to the closing (ten (10) days if blank not filled in). However, the Buyer is entitled to a walk through inspection immediately prior to closing to check the items below to ensure no major functional defects have occurred subsequent to the professional inspections and compliance with subparagraphs below.
1. Termites: The Buyer shall have the right to have the property inspected by a licensed exterminating company to determine whether there is any active termite or wood-destroying organism present in any improvements on said property or any damage from prior termite or wood-destroying organisms to said improvements. If there is any such infestation or damage, the Seller shall pay all costs of treatment and repairing and/or replacing all portions of said improvements which are infested or have been damaged subject to paragraph 5 below.
 2. General: The Buyer shall have the right to have roof, septic, pool, electric, plumbing, appliance, machinery, structural and environmental inspections made by persons or companies qualified and licensed to perform such services. If such inspections reveal functional defects (as differentiated from aesthetic defects), Seller shall pay all costs of repairing said defects subject to paragraph 5 below.
 3. Escrow for Repairs: If treatment, replacement or repair called for in subparagraphs 1 and 2 hereof are not completed prior to closing, sufficient funds shall be escrowed at time of closing to effect same.
 4. Reinspection: In the event the Seller disagrees with Buyer's inspection reports, Seller shall have the right to have inspections made at his cost. In the event Buyer's and Seller's inspection reports do not agree, as submitted to all parties, the parties shall agree on a third inspector, whose report shall be binding upon the parties. The cost of the third inspector shall be borne equally between the Buyer and Seller.
 5. Limitation and Option Clause: Seller shall be responsible for all costs of the above treatment, replacement or repairs up to \$ _____ (or 2% of the purchase price if this blank is not filled in). In the event the total costs of items to be accomplished under subparagraphs 1, 2 and 3 exceed this amount, then either party shall have the option of paying any amount in excess and this Contract shall then remain in full force and effect. However, if neither party agrees to pay the additional amount above the dollar or applicable percentage of the purchase price, then, at the Seller's or Buyer's option, this Contract shall be cancelled by delivery of written notice to the other party or his agent, and the deposit shall be returned to Buyer.
- H. ENVIRONMENTAL CONDITION:** Seller is not aware of any prior or existing environmental condition, situation or incident on, at, or concerning the subject property or any adjacent property that may give rise as against Seller or the subject property to an action or to liability under any law, rule, ordinance or common law theory. This representation shall survive the closing.
- I. RADON GAS:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

J. **INSURANCE:** The premium on any hazard or flood insurance policy in force covering improvements on the subject property, shall be prorated between the parties, or the policy may be cancelled as the Buyer may elect. If insurance is to be prorated, the Seller shall, on or before the closing date, furnish to the Buyer all insurance policies or copies thereof. The Buyer has the option of accepting or rejecting any continuation of service contract if accepted, the charge thereof shall be prorated providing the service contract is assignable to Buyer. Any transfer fee shall be borne by the Buyer.

K. **LEASES:** The Seller shall, ten (10) days prior to closing, furnish to Buyer copies of all written leases and estoppel letters from each tenant specifying the nature and duration of said tenant's occupancy, rental rate, advance rents or security deposits paid by tenant. In the event Seller is unable to obtain estoppel letters from tenants, the same information may be furnished by Seller to Buyer in the form of a seller's affidavit. Unless indicated under special clauses, at closing there shall be no lease or right of occupancy encumbering the property.

L. **SELLER'S AFFIDAVIT:** Seller shall furnish to Buyer at time of closing an affidavit attesting to the absence of any claims of lien or potential liens known to Seller. If the property has been improved within ninety (90) days prior to closing, Seller shall deliver to Buyer an affidavit setting forth names and addresses of all contractors, subcontractors, suppliers and materialmen and stating that all bills for work on subject property have been paid, and Buyer may require releases of all such potential liens. Furthermore, the affidavit shall state that there are no matters pending against the affiant that could give rise to a lien that would attach to the property between the disbursing of the closing funds and the recording of the instrument of conveyance, and that Seller has not, and will not, execute any instrument that could adversely affect the title to the property.

M. **PLACE OF CLOSING:** Closing shall be held at the office of Seller's agent, if located within the county where the property is located, and if not, then at such place as mutually agreed upon.

N. **DOCUMENTS FOR CLOSING:** Seller shall prepare and provide deed, purchase money mortgage, mortgage note, bill of sale, Seller's affidavit regarding liens, FIRPTA affidavit, survey or affidavit regarding coastal construction control line, F.S. 161.57, if applicable, and any corrective instruments that may be required in connection with perfecting the title. Buyer's closing agent shall prepare closing statement.

O. **EXPENSES:** Abstracting prior to closing, state documentary stamps which are required to be affixed to the instrument of conveyance and the cost of recording any corrective instruments, shall be paid by the Seller. Intangible personal property taxes and documentary stamps to be affixed to the purchase money mortgage, if any, or required on any mortgage modification, the cost of recording the deed and purchase money mortgage and documentary stamps and recording costs assessed in connection with assumption of any existing mortgage shall be paid by the Buyer.

P. **PRORATION OF TAXES (REAL AND PERSONAL):** Taxes shall be prorated on the current year's tax, if known. If the closing occurs at a date when the current year's taxes are not fixed, and the current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax; provided, however, if there are completed improvements on the subject premises by January 1st of the year of closing, which improvements were not in existence on January 1st of the prior year, then the taxes shall be prorated to the date of closing based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, requests will be made to the county tax assessor for an informal assessment taking into consideration homestead exemption, if any. However, any tax proration based on an estimate may, at the request of either party to the transaction, be subsequently readjusted upon receipt of tax bill, and this agreement shall survive the closing. All such prorations whether based on actual tax or estimated tax will make appropriate allowance for the maximum allowable discount and for homestead or other exemptions if allowed for the current year.

Q. **PRORATIONS AND ESCROW BALANCE:** Taxes, insurance, assumed interest, utilities, rents, and other expenses and revenue of said property shall be prorated through the day prior to closing. In the event that Buyer assumes mortgage, Seller shall receive as credit at closing an amount equal to the escrow funds held by the mortgages, which funds shall thereupon be transferred to the Buyer.

R. **SPECIAL ASSESSMENT LIENS:** Certified, confirmed and ratified special assessment liens through the day prior to closing (and not as of the date of this Contract) are to be paid by the Seller. Pending liens as of the date of closing shall be assumed by the Buyer.

S. **RISK OF LOSS:** If the improvements are damaged by fire or other casualty before delivery of the deed and can be restored to substantially the same condition as now existing within a period of sixty (60) days thereafter, Seller may restore the improvements and the closing date and date of delivery of possession herein before provided shall be extended accordingly. If Seller fails to do so, the Buyer shall have the option of (1) taking the property as is together with insurance proceeds, if any, or (2) cancelling the Contract and all deposits will be forthwith returned to the Buyer and the parties released of any further liability hereunder.

T. **MAINTENANCE:** Between the date of the Contract and the date of closing, the property, including lawn, shrubbery and pool, if any, shall be maintained by the Seller in the condition as it existed as of the date of the Contract, ordinary wear and tear excepted.

U. **ESCROW OF PROCEEDS OF SALE AND CLOSING PROCEDURE:** The deed shall be recorded and evidence of the title continued at Buyer's expense, to show title in Buyer, without any encumbrances or changes which would render Seller's title unmarketable, from the date of the last evidence and the cash proceeds of sale may be held in escrow by Seller's attorney or by such other escrow agent as may be mutually agreed upon for a period of not longer than ten (10) days. If Seller's title is rendered unmarketable, Buyer's closing agent shall, within said ten (10) day period, notify Seller or Seller's attorney in writing of the defect, and Seller shall have thirty (30) days from date of receipt of such notice to cure said defect and shall use best efforts to do so. In the event Seller fails to timely cure said defect, all monies paid hereunder by Buyer shall, upon written demand therefor, and within five (5) days thereafter, be returned to Buyer and, simultaneously with such repayment, Buyer shall vacate the premises and reconvey the property in question to the Seller by special warranty deed. In the event Buyer fails to make timely demand for refund, he shall take title as is, waiving all rights against Seller as to such intervening defect except such rights as may be available to Buyer by virtue of warranties contained in deed. Possession and occupancy will be delivered to Buyer at time of closing. The broker's professional service fee shall be disbursed simultaneously with disbursement of Seller's closing proceeds. At the option of the closing agent, the professional service fee may be disbursed; 1) directly from the proceeds held by the escrow agent, or 2) through the closing agent. Payment shall be made in the form of U.S. currency, local cashier's check, local certified check, unless in the event a portion of the purchase price is to be derived from institutional financing or refinancing, the requirements of the lending institution as to place, time and procedures for closing and for disbursement of mortgage proceeds shall control, anything in this Contract to the contrary notwithstanding. The foregoing notwithstanding, if title insurance is available, at standard rates insuring Buyer as to any title defects arising between the effective date of title binder and recording of Buyer's deed, proceeds of sales shall be disbursed to the Seller at closing.

V. **ESCROW:** The party receiving the deposit agrees by the acceptance thereof to hold same in escrow and to disburse it in accordance with the terms and conditions of this Contract. Provided, however, that in the event a dispute shall arise between any of the parties to this Contract as to the proper disbursement of the deposit, the party holding the deposit may, at his option: (1) take no action and hold all funds (and documents, if any) until agreement is reached between the disputing parties, or until a judgement has been entered by a court of competent jurisdiction and the appeal period has expired thereon, or if appealed then until the matter has been finally concluded, and then to act in accordance with such final judgement; or (2) institute an action for declaratory judgement, interpleader or otherwise joining all affected parties and thereafter complying with the ultimate judgement of the court with regard to the disbursement of the deposit and disposition of documents, if any. In the event of any suit wherein escrow agent interpleads the subject matter of this escrow, the escrow agent shall be entitled to recover all attorney's fees and costs incurred, including costs and attorney's fees for appellate proceeding, if any, said fees and costs are to be charged and assessed as court costs against the losing party or parties, jointly and severally. The party receiving the deposit shall be entitled to the foregoing interpleader relief and award of attorney's fees and costs regardless of whether said party is also claiming a portion of the deposit monies as real estate commission and whether or not suit is first filed by one or both Buyer and Seller in a suit involving the escrow holder and whether or not any party, Buyer or Seller, has an independent action against the escrow holder and whether or not the escrow holder has instituted the interpleader action for his own protection.

W. **ATTORNEY FEES AND COSTS:** In connection with any arbitration or litigation arising out of this Contract, the prevailing party, whether Buyer, Seller or brokers, shall be entitled to recover all costs incurred including attorney's fees and legal assistant fees for services rendered in connection therewith, including appellate proceedings and postjudgment proceedings.

X. **DEFAULT:** In the event of default of either party, the rights of the non-defaulting party and the broker shall be as provided herein and such rights shall be deemed to be the sole and exclusive rights in such event: (a) If Buyer fails to perform any of the covenants of this Contract, all money paid or deposited pursuant to this Contract by the Buyer shall be retained by or for the account of the Seller as consideration for the execution of this Contract as agreed and liquidated damages and in full settlement of any claims for damages and specific performance by the Seller against the Buyer. (b) If Seller fails to perform any of the covenants of this Contract, all money paid or deposited pursuant to this Contract by the Buyer shall be returned to the Buyer upon demand, or the Buyer shall have the right of specific performance. In addition, Seller shall pay forthwith to broker the full professional service fee provided for in this Contract. Any controversy or claim between Buyer and Seller arising out of or relating to this Contract, or a breach thereof, may, at the election of the parties, be settled by mediation or by arbitration or by litigation. Any of the above proceedings shall be brought in the county where the Real Property is located and shall be conducted pursuant to Florida Statutes relating to mediation, arbitration or litigation.

Y. CONTRACT NOT RECORDABLE AND PERSONS BOUND: The benefits and obligations of the covenants herein shall inure to and bind the respective heirs, representatives, successors and assigns (when assignment permitted) of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders. Neither this contract nor any notice shall be recorded in any public records.

Z. SURVIVAL OF COVENANTS AND SPECIAL COVENANTS: Seller covenants and warrants that there is ingress and egress to subject property over public or private roads or easements, which covenants shall survive delivery of deed. No other provision, covenant or warranty of this Contract shall survive the delivery of the deed except as expressly provided herein.

FINAL AGREEMENT: This Contract represents the final agreement of the parties and no agreements or representations, unless incorporated into this Contract, shall be binding on any of the parties. Typewritten provisions shall supersede printed provisions and handwritten provisions shall supersede typewritten and/or printed provisions. Such handwritten or typewritten provisions as are appropriate may be inserted on this form or attached hereto as an addendum. The date of this Contract shall be the day upon which it becomes fully executed by all parties.

SPECIAL CLAUSES:

1. No broker involved in this transaction.
2. Contract is conditioned upon Seller transferring clear title to Buyer pursuant to paragraph A. on page 2 of this Contract.
3. This transaction is subject to approval by the Davie Town Council to a Resolution authorizing the Mayor of Davie to execute same.

All parties are advised that the I.R.S. code requires the Buyer to withhold ten (10%) of the sales price for tax on sales by certain foreigners. The tax will be withheld unless affidavits of compliance with the I.R.S. code or an I.R.S. qualifying statement are provided to Buyer at closing.

Executed by Buyer
 on _____, 19____ Time: _____
 BUYER _____ (SEAL)
 Social Security or Tax I.D. # _____
 BUYER _____ (SEAL)
 Social Security or Tax I.D. # _____

Deposit received on _____, 19____ to be held subject to this Contract; if check, subject to clearance.
 By: _____ By: _____
 Escrow Agent

ACCEPTANCE OF CONTRACT & PROFESSIONAL SERVICE FEE: The Seller hereby approves and accepts the offer contained herein and recognizes _____

Address: _____ Phone No. _____

AND _____

Address: _____ Phone No. _____

as Broker(s) in this transaction.

(CHECK and COMPLETE THE ONE APPLICABLE)

IF A WRITTEN LISTING AGREEMENT IS CURRENTLY IN EFFECT:

Seller agrees to pay the Broker named above including cooperating sub-agents named, according to the terms of an existing, separate written agreement;

OR

IF NO WRITTEN LISTING AGREEMENT IS CURRENTLY IN EFFECT:

Seller shall pay the Broker(s) named above, at the time of closing, from the disbursements of the proceeds of the sale, compensation in the amount of (COMPLETE ONLY ONE) _____ % of gross purchase price OR \$ _____ for Broker(s) services in effecting the sale by finding the Buyer ready willing and able to purchase pursuant to the foregoing Contract.

If Buyer fails to perform and deposit(s) is retained, 50% thereof, but not exceeding the Broker's fee above provided, shall be paid Broker, as full consideration for Broker's services including costs expended by Broker, and the balance shall be paid to Seller.

Executed by Seller
 on _____, 19____ Time: _____
 SELLER _____ (SEAL)
 Social Security or Tax I.D. # _____
 SELLER _____ (SEAL)
 Social Security or Tax I.D. # _____

BE ADVISED: When this agreement has been completely executed, it becomes a legally binding instrument. The form of this "Deposit Receipt and Contract for Sale and Purchase" has been approved by the Broward County Bar Association and the Fort Lauderdale Area Association of REALTORS®, Inc.