TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Will Allen, Redevelopment Administrator

SUBJECT: Resolution

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: 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.

REPORT IN BRIEF: This agenda item concerns the selection of a builder/architect to construct four homes on lots currently owned by the CRA on SW 43 Street. The Town and CRA went through an RFP process to select the firm to design and build these houses which will complement the nine existing "Key West" style homes on this street. The resolution selects the firm of Ocampo & Associates and ratifies an agreement between the CRA and the architect, Ocampo & Associates, and the builder, Carrick Contracting Corporation.

The selection committee met on July 18, 2002 and heard the presentations and interviewed the top three firms out of the seven firms which submitted proposals in response to the RFP. The firm of Ocampo & Associates was recommended for selection by the selection committee as Mr. Ocampo showed a good understanding of the Eastside Neighborhood Special Zoning District principles and submitted the best plan for the houses. The CRA concurred with the selection of Ocampo at their July 22, 2002 meeting. At the August 26, 2002 CRA meeting, an agreement was reviewed which set out the responsibilities of the architect and the contractor who would build the houses. The concerns of the CRA were that the homes be affordable, and that there be a performance bond be provided to make sure the builder completes the work, as this had been a problem on previous houses.

In the interim period, it was determined that the previous building contractor was not able to obtain a performance bond. The RFP was structured so that the architectural plans and cost of the houses were the determining factors. Due to these factors, Mr. Ocampo was authorized to find another building contractor who is bondable. The agreement being submitted addresses the concerns about affordability and the bonding. The maximum base price of the houses is $116,000 each with the upgrades for garages at the original quoted prices. The CRA approved the agreement at their June 23, 2003 meeting.

The proposed agreement is between the CRA, the architect and the contractor. This agreement is to facilitate the construction of the four houses. The purchasers of the houses will actually

be the beneficiaries of the agreement. A construction agreement between the contractor and the owner is an exhibit to the contract. There is no cost for the architect or builder to the Town or CRA based on the agreement. The homeowner will have a contract with the contractor to build each home. The Office of Housing Finance of Broward County will certify the income eligibility of the families who qualify for the program. A mortgage loan will be submitted and approved to build the house(s). The CRA will agree to provide the lot to the homeowner and will pay a small portion of predevelopment costs. A substantial amount of subsidy will be provided through the State Housing Initiative Program (SHIP) which will reduce the cost of the house to an affordable level. Although the homes are being constructed for a cost of $116,000 the cost of the houses will be reduced to approximately $75,000. Options such as a garage can be added to the base price. Separate liens are placed for the cost of the lot and the amount of the SHIP subsidy. These liens are reduced at the rate of 20% per year. If the homeowner remains in the house for the entire five years and does not sell or rent the property, the lien is forgiven. A letter from the Broward County Office of Housing and Finance has been received which states that funds have been reserved for these incentives. This has been a successful program in the past and this will allow it to continue. It is anticipated the four homes will be under construction by October of 2003 and ready for occupancy in early 2004.

CONCURRENCES: The Davie CRA approved the agreement at their June 23, 2003 meeting.

FISCAL IMPACT: N/A

RECOMMENDATION(S): Motion to approve the Resolution.

Attachment(s): Resolution
Selection Committee Tally Sheet For Ranking Proposals
Agreement Between Contractor, Architect and CRA For Design-Build Contract

RESOLUTION NO. _____

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 _____ DAY OF _____, 2003

_____
MAYOR/COUNCILMEMBER

Attest:

_____
TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003

	1	2	3	4
1	DESIGN/BUILD CRA HOUSES			
2				
3				
4				
5				
6	COMMITTEE MEMBER	OCAMPO &	TOTAL	MR
7		ASSOCIATES	CONTRACTING	CONSTRUCTION
8	C. MENKE	2	1	3
9	R. MUNIZ	1	2	3
10	B. BERNARD	1	2	3
11	W. ALLEN	1	2	3
12	~~H. HYMAN~~ S. Taylor -	1	2	3
13	Proxy			
14				
15	TOTAL	6	9	15
16				
17	RANKING			
18				

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

ARTICLE 1

This Agreement is made this ____ day of _____ in the year _____, 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

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. It 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: _____

PRINT NAME: Thomas J. Carrick
PRINT TITLE: President

ARCHITECT:
OCAMPO & ASSOCIATES

ATTEST: Will Allen
WILL ALLEN

BY: _____

PRINT NAME: RAUL OCAMPO, JR
PRINT TITLE: PRESIDENT

DAVIE COMMUNITY REDEVELOPMENT AGENCY

Witness

By: Joan Kovac,
Joan Kovac, ~~Vice~~ Chair

24th day of June, 2003

FTL1 #600629 v6

EXHIBIT "A"

HOME OWNERSHIP PROGRAM CONSTRUCTION AGREEMENT

This Construction Agreement ("Agreement") is entered into this ___ day of _____, 2003, between:

the Owner: _____
(Name and address)

and the Contractor: _____
(Name and address)

Contractor's license number: _____

The Project is: Construction of a Single Family Residence, ("Dwelling Unit") under the guidelines of the Home Ownership Program.

Owner either owns or is under contract to purchase the vacant lot legally described as: _____ ("Property"),

The Owner and Contractor agree as follows:

ARTICLE I. WORK OF THIS AGREEMENT

1.1 The Contractor shall fully execute the work required to construct one (1) Dwelling Unit for the Owner on the Property under the terms and conditions set forth herein as may be amended by any exhibits or riders to the Agreement. If Owner fails to secure title to the Property within ninety (90) days from the date the last party hereto executes this Agreement then this Agreement shall be void.

1.2 Contractor shall furnish all materials and labor required for construction of the Dwelling Unit, provided however, the Contractor shall not be liable for impact fees, permit fees or real property taxes assessed against the Dwelling Unit.

ARTICLE II. AGREEMENT SUM

2.1 The Owner shall pay the Contractor the Agreement sum of $_____ as a Total Purchase Price. Detailed specifications of the Dwelling Unit are attached hereto as **Schedule "1"** and made a part hereof.

2.2 Owner will seek to obtain a loan commitment from a lending institution ("Lender") for construction of the Dwelling Unit. This Agreement shall be void unless Owner secures a loan commitment for construction upon the Property not later than sixty (60) days from the date the last party hereto executes this Agreement.

ARTICLE III. WORK COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the work shall be ten (10) days after issuance of the building permit.

3.2 The Contractor shall achieve substantial completion of the work within 180 days from the date the building permit is issued. Subject to extensions for time for Contractor to accomplish any options or extras ordered by Owner and the time lost from strikes, lockouts, war, terrorism, riots, casualties, vandalism, acts of God, and lack of available labor, equipment or supplies, or any such other condition beyond Contractor's control.

ARTICLE IV. PAYMENTS.

4.1 The Total Purchase Price shall be paid by Owner according to a schedule of draws, approved by the Lender and accepted by the Owner and Contractor.

4.2 Final payment shall be made to Contractor when substantial completion has occurred, as evidenced by a final Certificate of Occupancy having been issued. Notwithstanding the previous sentence, Owner may hold back funds sufficient to cover "punch work" items. Payment for "punch work" items can be made to Contractor once all "punch work" items are complete. The dollar amount for "punch work" to be held back from final payment shall be decided by Lender. If Lender declines to decide amount to be held back for the "punch work", then Architect of record shall decide the hold back amount.

4.3 Contractor shall be required to obtain lien waivers from materialmen and subcontractors and other documents required by Florida law for Contractor to receive payments for progress work and final payment.

ARTICLE V. CODE COMPLIANCE.

Contractor agrees to perform all requirements of the Florida Building Code, and its related technical codes, and all building and zoning regulations of the Town of Davie. The failure of Contractor to maintain all required licenses and permits from applicable governmental entities shall constitute a default under this Agreement.

ARTICLE VI. NOTICE OF COMMENCEMENT.

Contractor shall provide Lender and Owner with a form Notice of Commencement for recording, as required by the Florida Mechanics Lien Law. Contractor will post such notice when it has been recorded.

ARTICLE VII. UTILITY CHARGES.

It shall be the Owner's obligation and responsibility to contact appropriate utility suppliers to start service to the Dwelling Unit and to pay any utility deposits and start-up fees on the Dwelling Unit (and to reimburse Contractor for any utility meter setting charges or other utility charges as determined by Contractor as to the Dwelling Unit).

ARTICLE VIII. INSURANCE AND PAYMENT AND PERFORMANCE BONDS.

The Contractor shall provide, pay for, and maintain in force at all times during the work performed under this Agreement, Workers' Compensation and Employer's Liability Insurance, and Owner and Contractor Protection Liability Insurance. Such insurance must be issued by a company authorized to do business in the State of Florida, with active agents in Broward County. Insurance limits shall be not less than:

a) Workers' Compensation and Employer's Liability Insurance with a minimum limit for Workers' Compensation as established pursuant to Florida Statutes, and with a minimum limit of $100,000 for Employer's Liability. Unless Contractor is exempt pursuant to Florida statutes from carrying Workers' Compensation Insurance.

The Contractor shall provide to Owner proof of such insurance before the commencement of the work and should notify its insurance carrier to provide the Owner and the Lender a 30-day written notice by the carrier of any cancellation of the policy.

b) Owner and Contractor Protection Liability Insurance with minimum limits of $100,000 each accident; $300,000 each occurrence; $50,000 property damage.

The Contractor shall provide to Owner a Certificate of Insurance for the said insurance before the commencement of work which shall contain the following:

- The name of insurance carrier(s);
- The effective date and expiration dates of policies;

- The interests of the Owner and the Lender as additional named insureds and specifying the address of the Project; and

- A provision for a 30-day written notice by the carrier of any cancellation or material change in any policy.

c) Contractor shall be responsible for all materials or stored on site and shall obtain insurance coverage insuring against any loss to materials for any reason. In addition to the previous sentence, Owner shall be responsible for obtaining and paying for Builder's Risk Insurance with coverage equal to the Total Purchase Price.

d) Subcontractor Insurance. Contractor shall require all of its subcontractors to provide the aforementioned coverage as well as any other coverages that may be necessary. Any deficiency in the coverages or policy limits of any subcontractors will be the sole responsibility of the Contractor.

Contractor will provide to Owner proof of insurance prior to commencement of construction.

It shall be required that prior to commencement of any construction, the Contractor shall deliver, or shall cause to be delivered, to the Owner payment (release of lien) and performance bonds for the Project ("**P&P Bonds**") in a form and on such terms to be approved by the Owner, in the Owner's sole discretion in an aggregate amount at least equal to one hundred percent (100%) of the Contract Sum, such bonds to be executed by a Surety having a rating of not less than A:Class XIV as evaluated in the most recently circulated Best's Key Rating Guide Property-Liability and shall be duly authorized to do business in the state in which the Project is located. The P&P Bonds shall be in compliance with the applicable construction lien law so as to exempt the Project from the attachment of liens or notices of lis pendens, countersigned by a local resident producing agent of such Surety regularly commissioned and licensed in the State of Florida. Satisfactory evidence of the authority of the person or persons executing such bond to execute the bond shall be submitted with the P&P Bonds. The premiums on the P&P Bonds shall be paid for by the Contractor. The Contractor will then send a direct bill to the CRA for reimbursement of the exact cost of the P&P Bonds. The cost of the P&P Bonds shall not exceed four percent (4%) of the Total Purchase Price. The P&P Bonds shall name the Owner and Town of Davie Community Redevelopment Agency as an obligee.

ARTICLE IX. WARRANTY.

The Contractor agrees to warrant and guarantee all work performed under this Agreement for a period of one (1) year for one hundred percent (100%) of the labor and materials cost for repair or replacement. The Contractor further agrees to secure and provide to Owner separate written warranties, which shall guaranty the roof work for five (5) years and exterior painting work for two (2) years. Contractor shall provide to Owner all manufacturers' and suppliers' written guaranties and warranties for supplies, equipment and appliances furnished under this Agreement.

ARTICLE X. INDEMNIFICATION.

Contractor agrees to indemnify and hold harmless Owner and Lender from any claims, damages or causes of action arising out of any act, error, or omission committed by the Contractor, its agents or employees, or any of its subcontractors or their agents or employees, for any work performed under this Agreement. Contractor acknowledges receipt of the sum of ten dollars ($10.00) as specific consideration from Owner and Lender for the indemnity provided for herein.

ARTICLE XI. TERMINATION WITH CAUSE.

Contractor and Owner acknowledge that failure to fulfill the terms and conditions of the Agreement in a timely and proper manner is cause for termination of the Agreement.

ARTICLE XII. WORK SCHEDULE.

Contractor agrees to provide Owner with a schedule of work and approximate timeframes for performance of work prior to commencement of any work under this Agreement.

ARTICLE XIII. CHANGE ORDERS.

Any changes in the Agreement affecting work to be performed shall be covered by a written Change Order, signed by both Contractor and Owner.

ARTICLE XIV. ASSIGNMENT.

This Agreement shall not be assigned by Contractor or Owner; except that Contractor may collaterally assign its interest to a bank, trust company or other financial institution. Notice of any assignment shall be furnished promptly to the Owner.

ARTICLE XV. SEVERABILITY.

Should any section, or any part of any section of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such determination shall not affect the validity of any other section, or part of any other section, of this Agreement.

ARTICLE XVI. VENUE; PREVAILING PARTY.

The parties agree that venue in state or federal courts shall be in Broward County, Florida. In the event of a dispute between the parties resulting in litigation, the prevailing party shall be entitled to an award of its costs and expenses, including reasonable attorneys' fees.

ARTICLE XVII. ADMINISTRATION OF THIS AGREEMENT. Any dispute between the Owner and Contractor, should first be presented to the Architect of record for discussion and reconciliation. If this option is unavailable or cannot settle the matters, the parties agree to submit to the process set forth in Article 8 of the Standard Form of Agreement Between Contractor, Architect and CRA for Design-Build Project which this Agreement is made a part of and incorporated herein.

IN WITNESS WHEREOF, the parties have set their hands the date first written above.

Owner:

By: _____

By: _____

Contractor:

By: _____

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