

SECOND SUPPLEMENTAL AGREEMENT

This Agreement (the "Second Supplemental Agreement") is made as of the 29 day of August, 1991, by and between the Town of Acton, Massachusetts (the "Town"), a Massachusetts municipal corporation, having a usual place of business at the Acton Town Hall, Acton, MA 01720, acting by and through its Town Manager, the duly authorized designee of the Town's Board of Selectmen under the terms and conditions of a certain Comprehensive Development Agreement (the "Comprehensive Development Agreement") dated as of June 23, 1989, and recorded in Book 19966, Page 008 with the Middlesex South District Registry of Deeds, and a Supplemental Agreement (the "Supplemental Agreement" dated as of October 27, 1989, and recorded in Book 20205, Page 227 with said Deeds, and R. Smith Associates, Inc. (the "Developer"), a Massachusetts corporation having a usual place of business at 292 Great Road, Acton, MA 01720.

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RECITALS

Reference is hereby made to the following facts:

A. The Town and the Developer entered into the Comprehensive Development Agreement and the Supplemental Agreement in order to set out the terms and conditions under which the Development Property (as defined in the Comprehensive Development Agreement) would be developed.

B. The Developer has created the Audubon Hill South Condominium by Master Deed dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds (the "Master Deed"). Section 9.2 of the Master Deed indicated that Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38, 48, 2, 4, and 25 would be "Restricted Units" in partial satisfaction of Section 3.3 (c) of the Comprehensive Development Agreement and that Unit Numbers 2, 4, and 25 (the "A.H.A. Restricted Units") would each be conveyed to the Acton Housing Authority for the price of Sixty Five Thousand (\$65,000.00) Dollars in partial satisfaction of Section 3.3(f) of the Comprehensive Development Agreement, subject to the Developers right to amend the restriction as set forth in Section 9.2(b) and Section 9.4 of the Master Deed by substituting a different Unit for any of the above-referenced "Restricted Units" so long as the total number of Units, so restricted is not reduced in number.

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C. Despite an active sales and marketing campaign, the Developer has had difficulty in finding a sufficient number of qualified purchasers ("Eligible Purchasers" as defined in the "Master Deed") to purchase the "Restricted Units" in a manner to accommodate the scheduled order of construction.

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D. The Acton Housing Authority has been unable to obtain sufficient funds to allow it to exercise its right of first refusal

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to purchase Unit Number 25 (an "A.H.A. Restricted Unit") in accordance with the Grant of Right Of First Refusal recorded in Book 19966, Page 264 with said Deeds as an Exhibit to the Comprehensive Development Agreement. While the Developer's obligation to convey Unit Number 25 terminates upon the Acton Housing Authority's failure to exercise its option under the Grant of Right of First Refusal, the Developer desires to transfer the Acton Housing Authority's right of first refusal to a unit to be constructed in the Audubon Hill North Condominium in the hope that the Acton Housing Authority will have funds available at such time in order to allow the AHA to purchase five (5) units in accordance with the original Comprehensive Development Agreement.

E. The Town and the Developer wish to clarify certain of the terms and conditions of the Comprehensive Development Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements in this Second Supplemental Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Unit Numbers 23, 27, 29, and 31 of the Audubon Hill South Condominium shall no longer be "Restricted Units". The Developer shall, at the time of the creation of the Audubon Hill North Condominium, establish Unit Number 125, 127, 130, and 132 as "Restricted Units". Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 48, 2, 4, and 25 shall be the "Restricted Units" within the Audubon Hill South Condominium, subject to the Developers continuing right to substitute a different Unit for any of the above-described "Restricted Units", so long as the total number of Units so restricted is not reduced in number.

2. Section 3.3(f) of the Comprehensive Development Agreement is hereby amended to reflect that three (3) of the "A.H.A. Restricted Units" shall be constructed in the Audubon Hill North Condominium and that two (2) of the "A.H.A. Restricted Units" shall be constructed in the Audubon Hill South Condominium. Further, Unit Number 25 shall no longer be an "A.H.A. Restricted Unit" since the Acton Housing Authority has failed to exercise its right of first refusal to purchase said Unit. The Developer hereby grants the Acton Housing Authority a right of first refusal to purchase Unit Number 130 in the Audubon Hill North Condominium, upon the same terms and conditions as existed in regard to the purchase of Unit Number 25 of the Audubon Hill South Condominium. Unit Numbers 2 and 4 of the Audubon Hill South Condominium remain the only "A.H.A. Restricted Units" within the Audubon Hill South Condominium.

3. Capitalized terms used in this Second Supplemental Agreement and not otherwise defined shall have the meaning ascribed to them in the Comprehensive Development Agreement.

4. Except as amended hereby, the Comprehensive Development Agreement and the Supplemental Agreement remain in full force and effect and this Second Supplemental Agreement shall be construed so as to supplement, clarify and amend such prior agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Agreement to be executed under seal as of the date first written above.

TOWN OF ACTON  
Acting by and through  
its Town Manager

Don P. Johnson 8/28/91  
Don P. Johnson, hereunto  
duly authorized

R. SMITH ASSOCIATES, INC.

By: Roy C. Smith  
Roy C. Smith, President  
Jean Smith  
Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 28, 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

Charles M. Joyce  
Notary Public  
My commission expires: 05-14-94

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August, 1991

Then personally appeared the above-named Roy C. Smith, President, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Albert O. Merrill  
Notary Public  
My commission expires:  
December 4, 1993

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August, 1991

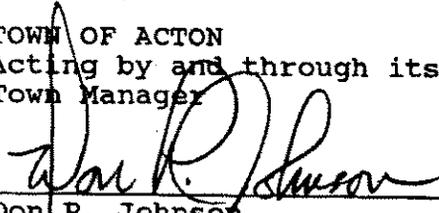
Then personally appeared the above-named Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Albert O. Merrill  
Notary Public  
My commission expires:  
December 4, 1993

k/supplemental

The Town of Acton hereby assents to the foregoing Amendment Number 3 To The Master Deed of Audubon Hill South Condominium and certifies that this document complies with the Terms, Conditions and Restrictions as delineated in the Comprehensive Development Agreement dated June 23, 1989, recorded in Book 19966, Page 008, with the Middlesex South District Registry of Deeds, as supplemented by a Supplemental Agreement dated October 27, 1989, recorded in Book 20205, Page 227, said Deeds.

TOWN OF ACTON  
Acting by and through its  
Town Manager

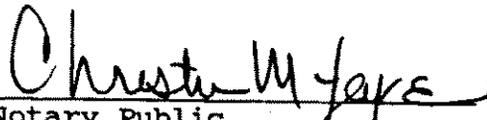
  
Don P. Johnson 8/28/91

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

August 28, 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

  
Notary Public  
My commission expires: 05-13-94

k/amendment.vii