7RB0122089

AMENDMENT TO CONTRACT FOR SALE OF LAND TO REDEVELOPER

BETWEEN

THE CITY OF NEWARK THROUGH THE DEPARTMENT OF DEVELOPMENT

AND

K. HOVNANIAN AT NEWARK II, INC.

PROJECT: UNIVERSITY HEIGHTS REDEVELOPMENT PLAN
NEWARK, NEW JERSEY (SITES A, B, C & E)

ROBERT M. SCHWARTZ, ESQ.
ATTORNEY FOR:
K. HOVNANIAN AT NEWARK II, INC.
10 HIGHWAY 35, P.O. BOX 500
RED BANK, NEW JERSEY 07701

7RB012 2089

AMENDMENT TO CONTRACT FOR THE SALE OF LAND AND REDEVELOPMENT OF UNIVERSITY HEIGHTS REDEVELOPMENT PROJECT

THIS AGREEMENT, (hereinafter referred to as the "Amendment") made on or as of the ____ day of _____, 1989, by and between the City of Newark, through the Department of Development (hereinafter referred to as the "Agency") having its office at 920 Broad Street, Newark, New Jersey 07102 and K. Hovnanian at Newark II, Inc., a New Jersey corporation, having its office at 10 Highway 35, P.O. Box 500, Red Bank, New Jersey 07701 (hereinafter referred to as the "Redeveloper").

PRELIMINARY STATEMENT

WHEREAS, parties hereto previously executed a "Contract for the Sale of Land and Redevelopment of University Heights Redevelopment Project" affecting Sites A, B, C and E (hereinafter referred to as the "Agreement"); and

WHEREAS, the parties to the Agreement understood that it is essential to the future success of the residential development in the University Heights Redevelopment Plan that real estate tax incentives be offered to contract purchasers, and towards that end the City of Newark agreed to make available to any such purchasers and owners the benefit of tax abatement; the details of which are set forth in the Agreement, Section 3.13 and Appendix 4 of same; and

WHEREAS, the parties have determined that it is in the best interest of the City of Newark and contract purchasers to alter and change the tax abatement formula contained in the aforesaid portions of the Agreement, so as to fulfill the spirit and intent of the Agreement as originally expressed within same.

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WITNESSETH:

NOW, THEREFORE, in consideration of the promises and mutual obligations contained within the original Agreement and in this Amendment, and for other good and valuable consideration, it is hereby covenanted and agreed as follows:

1. Section 3.13 (captioned "Tax Abatement") and Appendix 4 ("Tax Abatement Schedule") of the Agreement are hereby deleted in their entirety and of no further force and effect. Said Section 3.13 and Appendix 4 are replaced with the following:

Section 3.13 Tax Abatement:

(a) The City agrees to make available to any purchasers and owners of condominium or other dwelling units erected by Redeveloper within Sites A, B, C and E (hereinafter referred to as "Units"), either directly or through Redeveloper or a qualified entity designated by Redeveloper (including condominium associations), on proper and good faith application, the benefit of tax abatement in such a manner that the Units owned by the private purchasers or Redeveloper shall be exempt from taxation for a period of not more than thirty (30) years from the date of the execution of a financial agreement(s) for the redevelopment of the property upon which the improvements and construction of Units are to be made pursuant to financial agreement(s) entered into with the City. The Urban Renewal Corporation or Association, or a condominium Unit owner, as the case may be, for the first ten (10) years of operation after issuance of a Certificate of Occupancy for each

such Unit shall pay to the City, the greater of an amount equal to fifteen (15%) percent of the annual gross revenue from each Unit in the project as determined by the provisions of the Urban Renewal Corporation and Association Law of 1961, N.J.S.A. 40:55C-40 et seq., as amended, or an amount equal to two (2%) percent of the most recent true consideration paid for a Deed to a Unit in a bona fide arm's length sales transaction, but not less than the initial sales price between the Redeveloper and the first Unit purchaser (hereinafter referred to as the "Formula Amount"). These amounts will be calculated from the first day of the month following the issuance by the City of a Certificate of Occupancy, for each Unit in the manner required herein. Against such annual charge, the Redeveloper or the Unit owner, as the case may be, shall be entitled to a credit for the amount without interest to the real estate taxes on land paid by it in the last four preceeding quarterly installments. However, it is nevertheless provided that in no event shall such payment excluding the taxes on the land in any year after the first occupancy of a Unit (which shall be deemed to be the date that the Certificate(s) of Occupancy are issued for each Unit) be less than the total taxes apportioned to each Unit as assessed on all real property in the area covered by the project in the calendar year immediately preceeding the year in which that area was acquired by the City of Newark or the Agency, or by the private or public owner from whom the Redeveloper acquired the real property. See N.J.S.A. 40: 55C-65.1.

(b) Payment of the Annual Service Charge on improvements shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. By paying the Annual Service Charge, quarterly rather than annually, the payor and the Redeveloper shall not be deemed to have waived any rights under the "Urban Renewal Corporation Association Law of 1961", as amended and supplemented, which would otherwise be available if such payment had been made annually.

(c) The Annual Service Charge, with respect to each Unit and its appurtenant, undivided percentage interest in the common elements, for the first year shall be on a pro rata basis, from its commencement to the close of the calendar year; for year ending the tax abatement, from the first day of the year to termination.

(d) After the expiration of the first ten (10) years of operation of each Unit, commencing upon the tenth (10th) anniversary date of the completion of each Unit, the Annual Service Charge for the remainder of the period of exemption of such Unit shall be determined as provided in N.J.S.A. 40:55C-65, as currently amended, as follows:

(i) for the eleventh year and for every succeeding year thereafter through the fifteenth year, an amount equal to either fifteen (15%) percent of the annual gross revenue, the Formula Amount, or twenty (20%) percent of

the amount of the taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(ii) for the sixteenth year for each succeeding year thereafter through the twentieth year an amount equal to either fifteen (15%) percent of the annual gross revenue, the Formula Amount, or forty (40%) percent of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(iii) for the twenty-first year and for each succeeding year thereafter through the twenty-fifth year, an amount equal to either fifteen (15%) percent of the annual gross revenue, the Formula Amount, or sixty (60%) percent of the amount of taxes otherwise due on the value of the land and improvements, whichever is greater;

(iv) for the twenty-sixth year and for each succeeding year thereafter through the thirtieth year, an amount equal to either fifteen (15%) percent of the annual gross revenue, the Formula Amount, or eighty (80%) percent of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(e) The Annual Service Charge for projects with an annual service charge based on Annual Gross Revenues or total project costs shall be increased in each year of the period by the amount determined as follows: for each year following the first year of the period, there shall be added to the Annual Service Charge an amount calculated as the result of

multiplying the Annual Service Charge of the previous year by the percentage that the total tax levy of the City of Newark for that year has increased over the tax levy of the City of Newark for the previous year. For purposes of this section "total tax levy" means the total amount of property taxes levied from municipal, school and county purposes, as shown in the Table of Aggregates prepared pursuant to R.S. 54.4-52. In any year in which there is no increase in the tax levy, the amount to be added for this purpose shall be zero (-0-). ~~Notwithstanding anything set forth in this paragraph, the annual increase to the Annual Service Charge in any one year shall not exceed three (3%) percent of the previous year's Annual Service Charge even if the percentage increase in the City of Newark's total tax levy exceeds three (3%) percent in that year.~~

(f) In addition to the payment of the Annual Service Charge, all Unit owners shall be required to pay an annual administrative fee to the City of Newark. The annual administrative fee shall be two and a half (2.5%) percent of the Annual Service Charge. The annual administrative fee shall be payable and due on or before December 31st of each year.

(g) The Annual Service Charge in lieu of taxes for a condominium Unit owner who does not reside within the Unit owned shall be increased by one (1%) percent over that permitted, pursuant to the formula set forth above.

(h) pursuant to Resolution 7RCR(A.S.) adopted 2/15/89 by the Municipal Council of the City of Newark, not more than forty-nine percent of the condominium Units within each project may be owned by investors or non-residents. Any Unit owned by investors or non-residents which causes this forty-nine percent limit to be exceeded, shall not be entitled to receive tax abatement benefits and will be charged those taxes that would have been paid had that Unit been fully taxed. If the above referenced Resolution is repealed or amended, this paragraph (h) shall be considered repealed and of no further force and effect or amended, as the case may be.

(i) All applications for tax abatement shall be in accordance with the applicable state and local policies in affect at the time when such application is approved: The Director of the Department of Development shall represent the City of Newark's interest in regard to the Davis-Bacon Act.

(j) Application to Site A: The Financial Agreement executed and approved by the City pursuant to Resolution 7RDC adopted November 2, 1988 relative to the condominium Units constructed and to be constructed on University Heights Redevelopment Area Site A shall be modified consistent with the terms of the Amendment. A revised Financial Agreement consistent herewith relative to Site A shall be resubmitted by the Redeveloper, if approved as to form, the Municipal Council of the City of Newark shall pass a resolution which shall rescind or modify Resolution 7RDC adopted November 2, 1988 by the Municipal Council of the City of Newark.

(k) Application to Site B, C & E: Redeveloper shall submit to the City of Newark separate proposed Financial Agreements for each of Sites B, C and E of the University Heights Redevelopment Area consistent with the terms hereof. Upon review and approval of the form of said Financial Agreements, the Municipal Council of the City of Newark shall pass a Resolution authorizing the execution of each of same.

IN WITNESS WHEREOF, the Agency has caused this Agreement to be fully executed in its name and behalf by its proper officers and its seal to be hereunto duly affixed and attested, and the Redeveloper has caused this Agreement to be duly executed in its name and behalf by its proper corporate officers and its corporate seal to be hereunto duly affixed and attested, on or as of the day first above written.

Approved as to Legality and Form:

_____
GLENN A. GRANT, ESQ.
Corporation Counsel

Approved on the basis of facts set forth:

_____
HAROLD LUCAS, Director
Department of Development

ATTEST:

_____
ROBERT MARASCO, City Clerk

CITY OF NEWARK

By: _____
SHARPE JAMES, Mayor

K. HOVNANIAN AT NEWARK II, INC.

By: _____
CONRAD E. GACK, President

_____
ROBERT M. SCHWARTZ
Assistant Secretary

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