

City of Alexandria, Virginia

MEMORANDUM

DATE: APRIL 9, 2012

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: RASHAD M. YOUNG, CITY MANAGER

SUBJECT: AMENDMENT TO THE 1981 AGREEMENT OF SALE FOR THE PARKER GRAY SCHOOL SITE

ISSUE: Amendment to 1981 Agreement of Sale to be consistent with pending land use approvals.

RECOMMENDATION: That Council authorize the City Manager to execute an amendment to the 1981 Agreement of Sale to reflect the land use goals and zoning restrictions that were applied to this site subsequent to the original agreement, which were reconfirmed in the 2008 Braddock Metro Neighborhood Plan, and which are consistent with the Council's 2012 actions on DSUP #2011-0024.

BACKGROUND: In 1981, the City sold the Parker Gray School Site, now known as Braddock Place, to the Braddock Metro Joint Venture for development of the site in accordance with a phased development plan. The site was entirely built out in accordance with the development plan except one parcel, 1261 Madison Street, which remains vacant today. The development plan in the Agreement of Sale shows a 62,800 square foot office building at this site. Braddock Metro Place Investors, LLC has requested approval of a development special use permit to construct a multi-family residential building at this location in accordance with current zoning rather than the approved office building. In order to move forward with this development special use permit, the Agreement of Sale would need to be amended to reflect the residential square footage proposed for the site.

The site is located within the Braddock Place development, east of the Braddock Road Metro Station. The Braddock Place development occupies 7.5 acres and was the former site of the Parker-Gray School, which was declared surplus by Alexandria City Public Schools and returned to the City in 1979. Due to the proximity of the site to the Braddock Road Metrorail station, the City Council voted to offer the site for private purchase and redevelopment. The City selected Braddock Metro Joint Venture as the purchaser in 1981 and entered into a contract for purchase, under the CO (Commercial Office) zone, in accordance with a phased development plan. The City Council subsequently approved SUP #1493, which proposed 3 seven-story office buildings with ground floor retail, a mid-rise condominium building, townhouses and below-grade parking.

In 1983, the site was rezoned from CO to M-2 (Metro-Braddock Road Station Area) and a revised SUP (SUP #1606) and site plan (Site Plan #83-040) were approved for the construction of the office, retail and townhouse units. The mid-rise condominium building approved in the original special use permit was eliminated and the original contract of purchase was revised to reflect the approved revisions. The office and ground-level retail were constructed on the western portion of the site pursuant to the approved site plan, but the townhouse units were not constructed.

In 1986, the City Council approved an amendment to the 1981 contract of purchase which proposed two alternatives for the second phase of the Braddock Place development. The first alternative proposed 90 units (62 townhouse units and 28 flats), while the second alternative proposed 128 units (38 townhouses and 90 mid-rise units). Subsequent to the contract amendment, City Council approved SUP #1871, which proposed the construction of 90 residential units (the first alternative) and 3 additional office buildings ranging in height from two- to four-stories.

In 1987, City Council approved a contract amendment and Special Use Permit #2006 which authorized construction of the second alternative but added an additional 30 mid-rise units. The purchaser obtained approval of Site Plan #85-065 to construct the second alternative, 38 townhouse units (Braddock Place Townhouses) and 120 mid-rise units (Braddock Condominiums) and constructed both buildings. Ultimately, the three additional office buildings authorized by Special Use Permit #1871 were not constructed but have been preserved through the contract. In 1992, as part of a City-wide rezoning process, the site was rezoned upward from M-2 to CRMU-H which is the zone it remains in today.

In the 2008 Braddock Metro Neighborhood Plan, this property was specifically identified as a redevelopment site with a potential for 2.5 FAR with a SUP. It was considered for other uses, such as a public park; however, the final plan recommended the public park for a different location in the neighborhood and showed this property as a redevelopment site.

FISCAL IMPACT: Consistent with the previous contract amendments, the applicant requests approval to amend the existing contract to include the development proposed. Specifically, the applicant proposes to revise the contract to reflect that the development proposed for this site is either 149,306 square feet (Option A) or 129,904 square feet (Option B) of residential development, rather than the 62,800 square feet of office development identified in the existing contract.

As the proposed development is significantly higher than the square footage which is currently permitted by the land use contract, it was necessary to consider whether or not the City should be compensated for an amendment to a contract where the amendment permits a much higher land use density than the existing contract allows.

Staff is not recommending additional compensation. It is important to note that the site was rezoned, as part of a City-wide process, to CRMU-H in 1992, which permits a floor area ratio

(FAR) of 2.5 with the approval of a development special use permit and the current proposal is consistent with that zoning. No expectation of compensation for this up-zoning in 1992 was expressed at that time by the City. Staff believes that the legislative action to rezone this property in 1992 to CRMU-H set a land use goal for this site that was more dense than the one identified in the original contract. The reaffirmation of this zoning in the recent small area plan and the identification of the property as a redevelopment site with a potential for 2.5 FAR also set a clear direction for the nature of development that the City expected on this property. It does not seem within the City's 1992 rezoning actions that there was an expectation by the City of future compensation for the up-zoning. It, therefore, does not seem appropriate to go back and to seek compensation some two decades later. The City Attorney has reviewed this and concurs with this analysis.

It may also be worthwhile to note that the only amendment to the contract that resulted in additional compensation was the fifth amendment and that compensation was in the form of a contribution to the City's Affordable Housing Trust Fund. The applicant asserts that, if compensation is appropriate, an affordable housing contribution, such as that offered with both Option A and Option B, is consistent with the compensation provided during the fifth amendment to the contract, which increased the residential units in the condominium building from 90 to 120 units. With the approval of the fifth contract amendment, the purchaser was required to contribute an additional \$150,000 to the City Housing Fund at the time of settlement.

With the proposed development special use permit, the applicant proposes to provide two (2) affordable set-aside rental units within Option A, a monetary value of approximately \$322,970, in addition to the eight (8) units that they are required to provide as compensation for the bonus height being requested pursuant to Section 7-700 of the Zoning ordinance. The additional floor area gained with Option A, not including the floor area obtained by the bonus height provision is 55,944 square feet. Under Option B, the applicant proposes to make a voluntary contribution of approximately \$375,000 which is consistent with the guidelines established by the City's voluntary contribution formula. The additional floor area obtained from Option B is 67,104 square feet. The applicant believes that this affordable housing contribution is an adequate compensation for the increased density provided by the contract amendment.

ATTACHMENT: 1982 Contracts with Addendums

STAFF:

Mark Jinks, Deputy City Manager
James Banks, City Attorney
Joanna Anderson, Assistant City Attorney
Faroll Hamer, Director, Department of Planning and Zoning
Gwen Wright, Chief, Development Division, P&Z
Dirk Geratz, Principal Planner, Development Division, P&Z
Jessica McVary, Urban Planner, Development Division, P&Z

AGREEMENT FOR SALE OF THE PARKER GRAY SCHOOL SITE

This Agreement of Sale, made this 7th day of May 1982, by and between the City of Alexandria, a municipal corporation of Virginia (hereinafter "City" or "Seller"), and the Braddock Metro Joint Venture, its successors or assigns.

WHEREAS, the City through the Parker Gray Development Prospect solicited proposals for the development of the Parker Gray School from qualified developers, and after careful review and analysis the proposals submitted in response to the prospectus, selected the Braddock Metro Joint Venture's plan and proposal, and designated Braddock Metro Joint Venture as the preferred developer of the Parker Gray School site; and

WHEREAS, by action taken by the City Council for the City of Alexandria on December 8, 1981, the City Council authorized the City Manager to proceed to negotiate with Braddock Metro Joint Venture the sale of the Parker Gray School site under the proposal of Braddock Metro Joint Venture, which proposal is incorporated herein by reference; and

WHEREAS, this Agreement is to provide for successive conveyances of sections of the overall site, the exact legal descriptions of which will be reflected in site plans submitted pursuant to the approved development plan; and

WHEREAS, staged settlement and phased development is essential for the economic viability of this long-term development plan which is shown on the plats attached hereto as "Exhibits A-1 -- A-11".

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) cash hand paid, the receipt and sufficiency of which is hereby acknowledged, the Seller hereby agrees to sell and the Braddock Metro Joint Venture agrees to buy that parcel of land in the City of Alexandria, Virginia, known as the Parker Gray School Site and more particularly described in the attached "Exhibit B", under the following conditions:

1. Form of Deeds. All conveyances of land under this agreement shall be made by the Seller to the Braddock Metro Joint Venture by General Warranty Deed subject only to those exceptions and reservations, if any, set forth in "Exhibit C" attached hereto.

2. Title. Title to the property to be conveyed pursuant to this Agreement shall be merchantable and insurable at reasonable and normal rates by a reputable title insurance company, good of record and in fact in the City to date of settlement, free from any easements except public utility easements, covenant, or restriction which would interfere with the proposed development by Braddock Metro Joint Venture. In case legal steps are necessary to perfect the title, such action must be taken promptly by the City at its own expense and settlement shall be extended to allow said perfection of title but in no event for longer than one year. Upon execution of this agreement the City shall promptly complete the examination of title.

3. Purchase Price. The total sales price for the property shall be SIX MILLION ONE HUNDRED NINETY-NINE THOUSAND DOLLARS (\$6,199,000) which amount shall be paid as hereinafter set forth. The hereinafter schedule of payments in paragraph 5 includes a 10% per year interest factor from May 1, 1982. In the event of an early

settlement on any of the sections, an appropriate adjustment to the required payment is to be made so as to give Braddock Metro Joint Venture a credit for the interest factor which is already contained the payment schedule; provided that the total cumulative payments, absent penalties, shall be no less than SIX MILLION ONE HUNDRED NINETY-NINE THOUSAND DOLLARS (\$6,199,000).

4. Deposit. The sum of FIFTY THOUSAND and no/100 DOLLARS (\$50,000.00), cash or certified check, shall be delivered to Seller the time of the execution of this agreement by the City. Said sum shall constitute a good faith deposit as security for the performance of the obligations hereunder of Braddock Metro Joint Venture.

5. Staged Settlements and Payment Schedule. The subject property is to be conveyed in five successive sections, the exact legal description and development rights of each section will be established by the final approved site plan for each of the five successive phases of development. The exact payment for each section will be determined by the amount of development and the applicable unit prices in the proposal with the cumulative total principal payment remaining unchanged. It is understood that the City shall convey at the time of each settlement only those development rights which are necessary for the development of such section of the development plan for which settlement is held. The City will not convey in any settlement any development rights which are necessary develop those sections to be conveyed subsequently. The proposed payment schedule and the date of conveyance of each section, which is intended to coincide with the projected development phases of the project, are set forth as follows:

<u>Phase No.</u>	<u>Settlement Price</u>	<u>Approximate Acreage</u>	<u>Settlement Date</u>	<u>Proposed Development</u>
Phase 1	\$1,310,000	3.000 ac. ±	Nov. 1, 1982	134 midrise units, 64 townhouses
Phase 2	\$ 934,500	1.791 ac. ±	May 1, 1984	64 townhouses, 29,400 sq. ft. retail
Phase 3	\$1,439,900	.719 ac. ±	Nov. 1, 1984	20,600 sq. ft. retail 94,000 sq. ft. office
Phase 4	\$1,197,900	.910 ac. ±	Nov. 1, 1985	90,000 sq. ft. office
Phase 5	<u>\$1,317,600</u>	<u>.870 ac. ±</u>	<u>Nov. 1, 1986</u>	90,000 sq. ft. office
TOTAL	\$6,199,000	7.290 ac. ±		

Subject to the conditions and covenants contained in this agreement the Braddock Metro Joint Venture, in its sole discretion and upon 60 days written notice to the City, may advance the date of settlement on any or all parcels.

As is set out in paragraph 3 above, parties hereto agree that the foregoing schedule of payments includes a ten percent (10%) per year interest factor from November 1, 1982. In the event of an early settlement on any of the above sections an appropriate adjustment to the required payment is to be made so as to give Braddock Metro Joint Venture a credit for the interest factor which is already contained in the payment schedule; provided that the total cumulative payments, absent penalties, shall be no less than SIX MILLION ONE HUNDRED NINE THOUSAND DOLLARS (\$6,199,000.00).

6. Adjustment of Settlement Price. It is understood that the purchaser's method for determining the proposed price of purchase has been to apply a unit price for each proposed townhouse, midrise apartment, retail square foot and office square foot. The unit prices are: \$10,000 per townhouse unit, \$5,000 per midrise unit, \$10 per

retail square foot . . . \$10 per office square foot. The staged settlement amounts then add an appropriate 10% interest factor for unpaid balance. It is the intention of the parties that the total price be no less than as set out in paragraph 3 above. It is essential to the parties that the agreed upon project proceed in the fashion best calculated to assure its success. The parties recognize that a certain flexibility based upon best judgment of current economic and market conditions will be required in determining the precise development to be included in each phase of the development. Therefore, Braddock Metro Joint Venture shall have the ability to designate what portion of the project shall be included in each phase provided that in no event shall the total purchase price be less than the agreed upon amount, and in no event shall the staged settlement amount be less than 80% of the cumulative amount proposed through the stage in question. The settlement price for each phase shall be adjusted by applying the above unit prices with appropriate interest to the precise development designated for such phase.

7. Penalty for Late Settlement. In the event that any settlement is delayed beyond the scheduled date, interest shall accrue on the payment due from that scheduled date to date of actual settlement at the rate of twenty percent (20%) per year in lieu of the ten percent (10%) rate already included in the schedule. In the event that Braddock Metro Joint Venture should fail to settle on any section of the property by the 365th day after the scheduled date, City, at its option, may declare this Agreement breached and may thereafter contract with another buyer to develop the remaining sections of the property and the unused density that has not been conveyed with the

property for which settlements have been held. In such event the City shall have the right to title of all plans, plats and studies, complete or incomplete, related to the property.

8. Survey. Upon the execution of this agreement by the City the City shall promptly provide, at its sole expense, a current survey of the entire property to be conveyed, which survey, upon the express agreement of Braddock Metro Joint Venture within thirty days of its delivery to Braddock Metro Joint Venture, shall be attached hereto and made a part hereof as revised Exhibit B. Thereupon it shall become the determinative property description. The Braddock Metro Joint Venture agrees to provide at each settlement a certified survey plat of that section of the property which is then being conveyed and which is no more than six months old depending on the requirements of the title insurance company.

9. Access to Property. Prior to the vesting of title to the first section of the property conveyed hereunder, and prior to the date of the Construction Easement as provided for herein, the City shall permit Braddock Metro Joint Venture, its agents and representatives access to all parts of the property at all reasonable times for the purpose of obtaining data and making such tests as are reasonably necessary for the development of the project. Such tests may include but are not limited to drilling for soil samples and surveys. Such tests shall not unreasonably interfere with the operation of the existing ball field prior to November 1, 1982. Braddock Metro Joint Venture agrees to defend, to hold harmless and indemnify City against all claims, causes of action, demands, or suits resulting from Braddock Metro Joint Venture's acts or omissions in conducting such tests and studies on the property.

10. Construction Easement. At the time of each settlement City shall grant to the Braddock Metro Joint Venture a Construction Easement over the remainder of the property described in Exhibit B a period of up to one year beyond the next scheduled settlement date which easement shall grant to Braddock Metro Joint Venture the exclusive right to access, use, and operation upon said property, including fencing off of the property, for all lawful purposes necessary or convenient for the development of the project including the right to demolish all improvements thereon.

11. Guaranteed Minimum Construction Expenditures. The Braddock Metro Joint Venture hereby guarantees under penalty as set forth in paragraph 12, the following:

- a) construction on the first section should begin on or about May 1, 1983;
- b) construction should be completed on or about May 1, 1989;
- c) that it will spend a minimum of \$61,000,000.00 for construction on the entire project as set forth in the approved development plan;
- d) that it will spend a minimum of \$10,000,000.00 for construction during each 12 month period beginning with May 1, 1983;

Demolition costs, utility adjustments, marketing and construction financing costs, and architectural fees shall be considered construction expenses for purposes of this paragraph.

12. Penalty for Delay in Scheduled Construction.

In the event of Braddock Metro Joint Venture's failure to expend the amounts guaranteed in paragraphs 11(c) and 11(d), a penalty shall be assessed in the amount of two percent (2%), up to \$200,000.00, of the amount that the accumulated construction expenditures at the end of each year fall behind the accumulated guaranteed construction expenditures through that year, but not to exceed TWO MILLION DOLLARS (\$2,000,000) in the aggregate for the entire project.

The annual penalties shall continue until a minimum of \$61,000,000.00 has been expended for construction, or until the end of the project as approved, is approved for occupancy. Any penalties assessed under this paragraph shall be due and payable at the next following settlement. If a penalty occurs after the last settlement, it shall become due and payable six months from the end of the year for which it was assessed.

The penalties called for in this paragraph may be waived by the City Council for any period of delay which it determines is due to circumstances beyond the control of Braddock Metro Joint Venture and is not the result of any failure by Braddock Metro Joint Venture to exercise good faith efforts to remain on schedule. Such waiver shall not be unreasonably withheld. All times set forth in this agreement shall be extended by the time of such periods of approved delay.

13. Security for Construction Guarantee. Braddock Metro Joint Venture shall give the City an acceptable second trust, certificate of deposit, performance and payment bond, irrevocable letter of credit or other security satisfactory to the City in the amount of \$2,000,000 at the time of the first settlement as security for the above

construction guarantee. Such security shall stay in effect until final settlement has been made or at least \$61,000,000.00 of construction has been completed or until the entire project as approved has been approved for occupancy. To the extent that any penalty assessed hereunder is not paid when due, the City may take payment from the above required security.

14. Utilities and Streetscape. As part of the construction guarantee under Sections 11, 12, and 13 above, Braddock Metro Joint Venture is responsible for maintaining and/or relocating existing public utilities within the site, and Braddock Metro Joint Venture shall be responsible, at its sole expense for the undergrounding of overhead wires fronting the site, for sidewalks, trees and curbs as required by the City.

15. Demolition. At the time of the first settlement Braddock Metro Joint Venture shall be granted the right to demolish all improvements located on the property described in Exhibit B. As of the construction guarantee Braddock Metro Joint Venture shall be responsible at its sole expense for all demolition of the fixtures buildings on the property; provided, however, that the City will be responsible for the removal of asbestos materials from the building. The City shall have the option either of granting an agreed upon credit at the time of the first settlement in lieu of undertaking removal of asbestos or of contracting with a third party to remove asbestos. In the event that the City elects to contract for the removal of the asbestos, such removal shall be coordinated with the demolition of the building.

16. Insurance and Indemnification. Braddock Metro Joint Venture agrees to defend, to hold harmless and to indemnify the City against all claims, causes of action, demands, or suits resulting from Braddock Metro Joint Venture's act or omission in conducting or causing to be conducted such work as is contemplated by the development plan. Braddock Metro Joint Venture shall submit evidence of liability and other insurance in such amounts as shall be required by the City. Said amounts shall not exceed liability coverage of \$500,000 per occurrence and property damage insurance of \$50,000 per accident and \$100,000 aggregate, unless greater coverage is desired by Braddock Metro Joint Venture.

17. Settlement. The first scheduled settlement under the provisions of this agreement is on November 1, 1982. Possession of the property conveyed in the first settlement shall be given at the time of settlement and the construction easement as set forth in paragraph 10 above shall be executed at such settlement. At the time of each settlement the City shall pay the State grantors tax, if applicable, and the seller settlement fee including the cost of the preparation of deed required at settlement for each section. Braddock Metro Joint Venture shall pay its settlement fees and attorney's costs, and state and local taxes on the recordation of the deed to each section of the property. The parties acknowledge that there are no rents, taxes, charges, or other assessments on the property and therefore no pro-ration thereof is required; should any be discovered they shall be pro-rated between the parties. The deposit with the settlement attorney of the payments as aforesaid, the deed of conveyance and other papers as are required of either party by the

terms of this agreement shall be considered good and sufficient proof of performance of the terms hereof at the time of each settlement.

Settlement shall be held at the offices of Real Title, Co., or at such other place as the parties may agree upon.

18. Force Majeure. In the event of a force majeure, act of God, strike, riot, war, rebellious uprising, which interferes with performance of any of the obligations contained herein, all deadlines provided in this agreement shall be extended for a reasonable period and no parties shall be deemed to be in default of a deadline. A reasonable extension of any deadline shall, at a minimum, be for the actual time delay caused by the disturbance or interference plus a reasonable "start up" time period.

19. Time Requirements. All times specified herein are agreed to in anticipation of execution of the agreement on or before May 1, 1982, and shall be extended by the number of days that the execution of this agreement by the City is delayed beyond May 1, 1982. Those time frames set forth herein which are related to or affected by approvals from or actions by the City or its departments, are predicated upon such approval or action within 90 days of application or request except approval of the use permit which is predicated on a 120 day period. All such time frames shall likewise be extended to the length of any delay beyond said 90 days or 120 days as the case may be not caused by Braddock Metro Joint Venture. Provided that where the time limit terminates in the months of July or August, and the City Council does not meet and the approval requires City Council action, the time for City approval shall be extended until the first possible time when the City Council can act.

20. Building Permits and Other Approvals. Braddock Metro Joint Venture agrees to make timely applications for appropriate rezonings, variances, special use permits, site plan approvals, subdivision plat approval, building permits, and such other review and permits as may be required by the City, State or Federal authorities, and necessary for the development of the property consistent with the approved development plan. The City agrees that it will, at all times, use its best efforts to secure the most expeditious processing of such applications for necessary permits and approvals.

21. Brokerage. The parties hereto acknowledge and warrant each other that there is no brokerage agreement and no broker for this transaction and that neither party is obligated to pay any agent's broker's fee.

22. Progress Reports. Subsequent to the vesting of title and possession of each section of the property, and until construction of all planned improvements to each section have been completed, Braddock Metro Joint Venture shall make reports, in such detail and such times as may reasonably be requested by the City, as to the actual progress of the Braddock Metro Joint Venture with respect to each such section's construction.

23. Assignments. This agreement is not assignable in whole or in part by Braddock Metro Joint Venture without the express written consent of the City, which consent shall not be unreasonably withheld.

24. Costs and Expenses of Litigation. If either party shall institute legal proceedings against the other based upon a cause of action arising out of this agreement, the prevailing party in such

proceedings shall recover from the other party all costs and expenses incurred by it in such proceedings, including reasonable attorneys fees to be fixed by the court.

25. Miscellaneous: The provisions of this Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia. The covenants and provisions hereof shall survive the delivery of any deed and not be merged therein. This Agreement represents the full and complete Agreement between the parties and any amendment hereto shall be made only in writing, executed by both parties. This Agreement shall bind all successors, assigns, heirs, devisees or other parties in interest. The headings on the paragraphs herein are for convenience only and in no way limit or add to the meaning of the text.

26. Notices: Notices under this Agreement shall be sent by certified mail to the City at:

Douglas Harman, City Manager
Room 100, City Hall
King Street
Alexandria, Virginia 22314

cc: Cyril D. Calley, Esquire
City Attorney
320 King Street, Suite 200
Alexandria, Virginia 22314

And sent by certified mail to Purchaser at:

Braddock Metro Joint Venture
c/o Mr. William Savage
699 Prince Street
P.O. Box 1413
Alexandria, Virginia 22313

cc: Hart, Nugent & Ahearn, P.C.
307 North Washington Street
Alexandria, Virginia 22314

27. City Attorney Review/Opinion: By his signature in the space provided below, the City Attorney opines, represents and warrants that he has reviewed this Agreement, that the City Manager empowered and authorized to execute this Agreement on behalf of the City and that the City Manager's signature hereto will bind the City to all the terms, conditions and provisions contained herein.

WITNESS the following signatures and seals:

BRADDOCK METRO. JOINT VENTURE

By:  5-7-82

ATTEST:

CITY OF ALEXANDRIA, a municipal corporation of Virginia

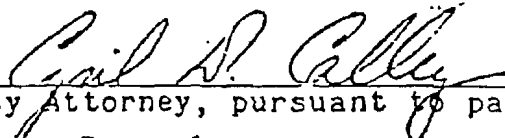
By: 

City Clerk

By: 

Douglas Harman
City Manager

5-30-82
Date of Execution by the City


City Attorney, pursuant to paragraph # 27

April 28, 1982
Date of Signature by City Attorney

26/braddock2

ADDENDUM NUMBER ONE

This Addendum to the Agreement of Sale is made this 9th day of November, 1983, by and between the City of Alexandria, a municipal corporation of Virginia (hereinafter "City" or "Seller"), and the Braddock Metro Joint Venture, its successors or assigns.

NOW THEREFORE in consideration of Ten Dollars (\$10.00) or in hand paid, receipt and sufficiency of which is hereby acknowledged the parties hereto agree to amend the above referenced Contract as follows.

1. The proposed development plan as shown on plats attached to the original Contract as Exhibits A-1 -- A-11 is hereby amended to incorporate those changes shown on the generalized development plan attached hereto as Exhibit 1.

2. Pursuant to paragraph 6 of the Contract, Braddock Metro hereby designates one hundred sixty (160) townhouse units, the three hundred and nine thousand (309,000) square feet office development and fifty thousand (50,000) square feet of the retail development, as set forth on Exhibit 1, to be established as Phases 1 through 5 in lieu of the designations set forth for Phases 1 through 5 of paragraph 5 of the Contract.

<u>Phase No.</u>	<u>Settlement Price</u>	<u>Approximate Acreage</u>	<u>Settlement Date</u>	<u>Proposed Development</u>
Phase 1	\$1,310,000	3.000 ac.±	Nov. 30, 1982	131 townhouses
Phase 2	\$ 934,500	1.791 ac.±	May 30, 1984	29 townhouses 35,000 sq. ft. office 29,400 sq. ft. retail
Phase 3	\$1,439,900	.719 ac.±	Nov. 30, 1984	20,600 sq. ft. retail 94,000 sq. ft. office
Phase 4	\$1,197,900	.910 ac.±	Nov. 30, 1985	90,000 sq. ft. office
Phase 5	<u>\$1,317,600</u>	<u>.870 ac.±</u>	Nov. 30, 1986	90,000 sq. ft. office
TOTAL	\$6,199,000	7.290 ac. ±		

3. Settlement on at least one phase shall be held on or before November 30, 1983.

4. By a signature in the space provided below the City Attorney opines, represents and warrants that he has reviewed this Addendum, that the City Manager is empowered and authorize to execute this Addendum on behalf of the City and that the City Manager's signature hereto will bind the City to all terms, conditions and provisions contained herein.

WITNESS the following signatures and seals:

BRADDOCK METRO JOINT VENT

By: [Signature]

ATTEST:

CITY OF ALEXANDRIA, a
municipal corporation of
Virginia

By: [Signature]
City Clerk

By: [Signature]
Douglas Harman
City Manager

November 7, 1983
Date of Execution by the City

[Signature]
City Attorney, pursuant to paragraph #4

November 7, 1983
Date of Signature by City Attorney

75/BradMetro2

Detention Tank/ fountain - Responsible party - see yellow marker.

(A)

SECOND ADDENDUM

Over

This Addendum to the Agreement of Sale is made this 9th day of November, 1983, by and between the City of Alexandria, a municipal corporation of Virginia (hereinafter "City" or "Seller"), and the Braddock Metro Joint Venture, its successors or assigns.

NOW THEREFORE in consideration of Ten Dollars (\$10.00) cash in hand paid, receipt and sufficiency of which is hereby acknowledged the parties hereto agree to amend the above referenced Contract as follows.

1. Pursuant to paragraph 6 of the Contract, Braddock Metro hereby designates Phases 3, 4, and 5 and part of Phase 2 as set forth in Addendum Number One and shown as office buildings 1, 2, 3 and 4 on the attached preliminary site plan, for settlement November 30, 1983 ("the Commercial Project"). Construction expenditures attributable to this portion of the project under paragraphs 11 and 12 of the Contract and paragraph 5 hereof are in the amount of FORTY MILLION DOLLARS (\$40,000,000.00).

2. The total amount to be paid for the Commercial Project land shall be FOUR MILLION FOUR HUNDRED FORTY-NINE THOUSAND DOLLARS (\$4,449,000.00).

3. All interest and penalties which may otherwise be applicable to the balance of the purchase price under the original Contract, which balance is ONE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$1,750,000.00), shall be abated through and until November 30, 1986.

4. In consideration of the accelerated purchase of several phases on November 30, 1983 the City shall waive all penalties currently assessable under the terms of paragraph 7 of the Contract as a result of the one year delay in the first settlement date, and further, shall waive the first year penalty assessable under the terms of paragraphs 11(d) and 12 as a result of the delay in commencement of construction.

5. The construction schedule under paragraph 11 shall now commence on May 30, 1984, with a completion date for the Commercial Project of May 30, 1986 (estimated construction cost of \$40,000,000) and a total project completion date of May 30, 1989 (estimated total construction cost of \$60,000,000). In return for the accelerated construction the City agrees to reimburse Savage-Fogarty for up to \$500,000 of public improvements (includes undergrounding, demolition of existing school building [including asbestos removal, which Braddock Metro agrees to undertake, therefore amending Paragraph 15 of the original contract] and regular public improvements, such as curbs, sidewalks, dedicated street pavement, sewer main construction and relocation, etc.). Said reimbursements shall not exceed \$250,000 per year or a cumulative total of \$500,000. These payments will be made after the May 30, 1986 completion date is

met and within thirty (30) days of billing to the City, which billing shall include invoices showing the actual public improvement expenditures made.

In case the above May 30, 1986 completion date is not met, the reimbursement otherwise payable by the City shall be decreased by \$685/day until said completion does occur. The penalty set forth in paragraph 12 of the contract shall remain in full force and effect except for waiver of the first year's penalty. The date of the Commercial Project completion or completion of the project is the date certified by the architect when construction is sufficiently complete so that the owner can occupy or utilize the Commercial Project or the entire project respectively for the use for which they are intended.

6. The option is reserved to Braddock Metro, at its sole discretion any time before final settlement under the terms of this addendum, to settle on only one phase of the development under the terms of the original contract as amended by Addendum Number One. In such event sections 1, 2, 3, 4, and 5 of this Addendum Number Two shall be null and void.

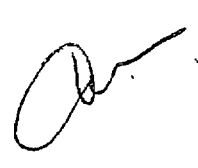
7. The City hereby agrees and consents to the assignment by Braddock Metro Joint Venture as follows:

a) All rights, interest and title to the property and development rights for office buildings 1,2,3 and 4 (the Commercial Project) to be conveyed at or in conjunction with the sale of that part of the property as identified in paragraph one above, together with all obligations under the Contract as amended pertaining to

that part, and subject to such rights as are agreed as necessary for the development of the remainder of the project, shall be assigned to and thereafter be the sole rights and obligations of Savage-Fogarty Companies, Inc. or their nominee.

Does this include definition tank & fountain?

b) All rights, interest and title to the property and development rights to be conveyed at or in conjunction with the sale of the remaining part of the property identified as the residential part of the project (inclusive of 15,000 square feet ± of retail at the plaza level), together with all obligations under the Contract as amended pertaining to that portion and subject to such rights as are agreed as necessary to the development of office buildings 1, 2, 3, and 4 (the Commercial Project) shall be assigned to and thereafter be the sole rights and obligations of MIW Investors of Washington or their nominee.



c) The performance bond required by paragraph 13 of the Contract shall be provided by MIW Investors of Washington and the terms and application of that paragraph shall in no way be affected by reason of this assignment.

8. By a signature in the space provided below the City Attorney opines, represents and warrants that he has reviewed this Addendum, that the City Manager is empowered and authorized to execute this Addendum on behalf of the City and that the City

INSTRUMENT OF ASSIGNMENT

This Instrument of Assignment, executed this 17th day of November, 1983 by BRADDOCK METRO JOINT VENTURE ("Assignor") and MIW INVESTORS OF WASHINGTON ("Assignee").

WHEREAS Assignor is the Contract Purchaser of certain property located in the City of Alexandria, Virginia, under a contract dated May 7, 1982, as amended by a first addendum of November 9, 1983 and a second addendum of November 9, 1983 with the City of Alexandria, Virginia;

WHEREAS Assignor wishes to transfer and assign certain of its rights to Assignee; and

WHEREAS the City of Alexandria by execution of the second addendum to the Contract has given its consent to such assignment;

NOW THEREFORE, in consideration of \$10.00 cash in hand paid, receipt and sufficiency of which is hereby acknowledged,

1. Assignor hereby assigns all of its rights, interests and title to the Property and development rights to the property identified as the residential part of the Project (inclusive of 15,000 square feet of retail at the plaza level), together with all obligations under the contract as amended pertaining to that portion and subject to such rights as are agreed as necessary to the development of Office Buildings I, II, III and IV (the "Commercial Project").

2. Assignee hereby accepts said assignment and agrees to assume all rights and obligations arising under said assignment.

IN WITNESS HEREOF, the parties have executed the foregoing Instrument of Assignment:

*Residential Project
inclusive of 15,000 square feet
retail at the plaza level
Office Buildings I, II, III, IV*

ASSIGNOR
BRADDOCK METRO JOINT VENTURE

By: Savage/Fogarty Companies, Inc.,
General Partner

MIW Investors of Washington,
General Partner

ASSIGNEE
MIW Investors of Washington

By:

THIRD ADDENDUM

COI

This Addendum to the Agreement of sale is made this _____ day of _____ 1984, by and between the City of Alexandria, a municipal corporation of Virginia (hereinafter "City" or "Seller"), and the Braddock Metro Joint Venture, its successors or assigns.

NOW THEREFORE in consideration of Ten Dollars (\$10.00) cash in hand paid, receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the above-referenced Contract as follows:

1. The proposed development plan as shown on the plats attached to the original contract as Exhibits A-1 to A-11 as amended, is further amended to restore some of the parking that was deleted in Addendum numbered One. This addendum shall provide for a total of 630 off street parking spaces in the commercial project. The development plan and the site plan referred to in the agreement are hereby amended to include a total of 630 off street parking spaces in the commercial project. An drawing is attached as Exhibit 1 for reference in this regard.

2. By a signature in the space provided below the City Attorney opines, represents and warrants that he has reviewed this Addendum, that the City Manager is empowered and authorized to execute this Addendum on behalf of the City and that the Cit

WITNESS the following signatures and seals:

BRADDOCK METRO JOINT VENTURE

By: _____

ATTEST:

CITY OF ALEXANDRIA, a
municipal corporation of
Virginia

By: *Helene Shelton*
City Clerk

By: *Douglas Harman*
Douglas Harman
City Manager

November 7, 1983
Date of Execution by the City

Carl D. Kelley
City Attorney, pursuant to paragraph #4

November 7, 1983
Date of Signature by City Attorney

75/BradMetro2

ADDENDUM NUMBER FOUR

This Addendum to the Agreement of Sale is made this 20th day of October, 1986, by and between the City of Alexandria, a municipal corporation of Virginia (hereinafter "City" or "Seller"), and the Braddock Metro Joint Venture, its successors or assigns.

NOW THEREFORE in consideration of Ten Dollars (\$10.00) cash in hand paid, receipt and sufficiency of which is hereby acknowledged the parties hereto agree to amend the above referenced Contract as follows.

1. The proposed development plan as shown on plats attached to the original Contract as Exhibits A-1 -- A-11 is hereby amended to incorporate those changes shown in the alternative development plan attached hereto as Exhibit 1, with alternatives 4A and 4B.

2. The total amount to be paid for the remaining phases of the property shall be one million nine hundred and eight thousand dollars (\$1,908,000.00), payable in three payments, 9 months apart, commencing on November 30, 1986. Payments to the City shall be appropriated by the City as, \$1,750,000.00 for purchase of land, and \$158,000.00 as donation to the City's Low Income Housing Fund. Payments shall be proportional for the amount of each phase needed for construction at the time of settlement. The proportion shall be determined with reference to the contract formula for the residential unit or square feet of development, plus a proportional share of the amount over and above the

formula, e.g. - by present contract the remaining phases are worth \$1,750,000.00. (See the attached memo.) Therefore, the amount over and above the present contract is \$158,000.00. If the number of residential units taken down with its necessary land on November 30, 1986 accounts for one fourth of the F.A.R. left under the present contract - then one fourth of the \$1,750,000.00 and of the \$158,000.00 over and above the present contract will be paid as well at that time. The subsequent settlement shall be calculated the same until the full \$1,908,000.00 has been paid.

3. All penalties for late settlement shall be abated through and until May 30, 1988 contingent on meeting the three payment schedule outlined above.

4. By a signature in the space provided below the City Attorney opines, represents and warrants that he has reviewed this Addendum, that the City Manager is empowered and authorized to execute this Addendum on behalf of the City and that the City Manager's signature hereto will bind the City to all terms, conditions and provisions contained herein.

WITNESS the following signatures and seals:

BRADDOCK METRO JOINT VENTURE

By: 

CITY OF ALEXANDRIA, a municipal corporation of Virginia

ATTEST:

By: 

City Clerk

By: 

Volva Lawson
City Manager

10-17-86

Date of Execution by the City

Thos G. Sullivan

City Attorney, pursuant to paragraph #4

10/7/86

Date of Signature by City Attorney

75/BradMet21

PEOPLE	BEDROOMS	RESIDENTIAL CARS REQUIRED	RESIDENTIAL SPACE	REAL ESTATE TAXES	SALE PRICE TO CITY UNDER CONTRACT
(Present Approved Plan) 160 Piggybacks- Townhouses (sale) 288- 346 12,000 Retail	333	160 (181 provided)	170,000	\$273,162 gross*	Min. Guarantee <u>\$1,750,000</u> by Formula <u>1,720,000</u> Offered <u>1,750,000</u>
<u>#4A</u> (Preferred Redesign) 62 Townhouses (sale) & 28 flats 217- 256 62,800 Office 75% 74%	231 - 69%	90 (104 provided)	134,000 79%	\$290,704 gross*	Min. Guarantee <u>\$1,750,000</u> by Formula <u>1,388,000</u> Offered (F) <u>1,750,000</u> + Donation <u>108,000</u> low income housing in three (3) payments
<u>#4B</u> (Acceptable Redesign) 128 Units- 38 Townhouses (sale) 216- 223 62,800 Office 75% 64%	255 - 77%	128 (159 provided)	131,700 77%	\$268,020 gross*	Min. Guarantee <u>\$1,750,000</u> by Formula <u>1,458,000</u> Offered (F) <u>1,750,000</u> + Donation <u>108,000</u> low income housing in three (3) payments

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Formula: \$10,000/ townhouse
5,000/ apartment
\$10/ square ft./ commercial

F- assumes three (3) equal payments over eighteen (18) months. No interest with three phased settlements.

* The net return (after cost of services) goes down substantially for the residential units, widening the margin in favor of the preferred redesign even more.

ADDENDUM NUMBER FIVE

This Addendum to the Agreement of Sale is made this day of July 2, 1987, 1987, by and between the City of Alexandria, a municipal corporation of Virginia (hereinafter "City" or "Seller"), and the "Braddock Metro Joint Venture, its successors or assigns", (hereinafter "Purchaser")

WHEREAS Purchaser proposes to increase the number of residential units of previously submitted plan 4B by increasing the number of mid-rise units from 90 to 120 pursuant to the attached plan 4C,

NOW THEREFORE in consideration of Ten Dollars (\$10.00) cash in hand paid, receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the above referenced Contract and Amendments as follows.

1. The proposed development plan, as shown on plats attached to the original contract as exhibits A-1 through A-11 and amended in Addendum Number Four to incorporate alternatives 4A and 4B, is amended to incorporate an additional alternative attached hereto as alternative 4C.

2. Should the Purchaser choose alternative 4C, then upon approval of the amendment to the special use permit for said plan with its additional 30 mid-rise units, Purchaser agrees to contribute an additional \$150,000.00 donation to the City Housing Fund at the time of settlement of lot 601. If the processing of the amendment to the special use permit extends beyond the August 30, 1987, date scheduled for the next settlement under Addendum Four, then said settlement shall be extended for up to 30 days

for the approval of such amendment to the special use permit.

3. If alternative 4C is chosen, the total amount to be paid for the remaining phases of the property shall be \$1,422,000.00, payable as follows:

a.) \$786,000.00 for lot 601 (inclusive of the \$150,000.00 for the City Housing Fund) within thirty days of approval of the amended special use permit for alternative 4C. Application for said amendment to the special use permit has already been made and shall be diligently pursued and processed by the parties hereto.

b.) The remaining \$636,000.00 will still be due on or before May 30, 1988.

4. By a signature in the space provided below the City Attorney opines, represents and warrants that he has reviewed this Addendum, that the City Manager is empowered and authorized to execute this Addendum on behalf of the City and that the City Manager's signature hereto will bind the City to all terms, conditions and provisions contained herein.

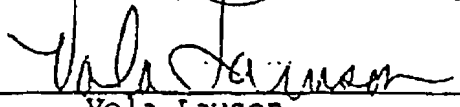
WITNESS the following signatures and seals:

BRADDOCK METRO JOINT VENTURE

By: 

ATTEST: CITY OF ALEXANDRIA, a municipal corporation of Virginia

By: 
City Clerk

By: 
Vola Lawson
City Manager

July 2, 1987
Date of Execution by the City

R. E. Sullivan

City Attorney, pursuant to paragraph 4

6/23/87

Date of Signature by City Attorney

124/Braddock03

ADDENDUM NUMBER SIX

This Addendum to the Agreement of Sale is made this ____ day of _____, 1987, by and between the City of Alexandria, a municipal corporation of Virginia (hereinafter "City" of "Seller"), and the "Braddock Metro Joint Venture, its successors or assigns", (hereinafter "Purchaser")

NOW THEREFORE in consideration of Ten Dollars (\$10.00) cash in hand paid, receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the above referenced Contract and Amendments as follows:

The date for next settlement shall be extended until thirty days after City Council disposition of Purchaser's Transportation Management Plan scheduled to be heard at the October, 1987, City Council public hearing.

By signature in the space provided below the City Attorney opines, represents and warrants that he has reviewed this Addendum, the the City Manager is empowered and authorized to execute this Addendum on behalf of the City and that the City Manager's signature hereto will bind the City to all terms, conditions and provisions contained herein.

WITNESS the following signatures and seals:

BRADDOCK METRO JOINT VENTURE

By: AMERICAN INVESTORS GROUP

By: 

William H. Savage

President and Chief Executive Officer

-1-

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ATTEST: CITY OF ALEXANDRIA, a municipal corporation of Virginia

By: Helen Holloman
City Clerk

By: Volva Lawson
Volva Lawson
City Manager

10-19-87
Date of Execution by the City

Rep. Robert S. Murphy
City Attorney

10/16/87
Date of Signature by City Attorney:

hph/Braddock09