

EXHIBIT NO. 1

City of Alexandria, Virginia

MEMORANDUM

~~18~~  
3-11-03

14  
3-15-03

DATE: MARCH 4, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *ps*

SUBJECT: ORDINANCE TO CONVEY THE CITY-OWNED PROPERTY LOCATED AT 423 SOUTH REYNOLDS STREET TO THE ALEXANDRIA REDEVELOPMENT AND HOUSING AUTHORITY

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**ISSUE:** Ordinance to convey the property located at 423 South Reynolds Street to the Alexandria Redevelopment and Housing Authority.

**RECOMMENDATION:** That City Council introduce the ordinance and pass it on first reading, and set it for public hearing, second reading and final passage on Saturday, March 15 (Attachment I). The ordinance conveys the property at 423 South Reynolds Street to the Alexandria Redevelopment and Housing Authority (ARHA), with the understanding that the Office of Housing's net outlays of \$656,110 for acquisition, business relocation, and other expenses for the property will be counted as part of the City's contribution in connection with the redevelopment of the Samuel Madden Homes (Downtown).

**DISCUSSION:** In February 1998 (Attachment II), City Council authorized the acquisition of the property at 423 S. Reynolds Street for possible future use by ARHA as a replacement housing site for the Samuel Madden Homes (Downtown), with the understanding that the City would hold the site until ARHA was ready to proceed with redevelopment. The City purchased the property later that month. In June 2002, the ARHA Board of Commissioners and City Council approved this site as one of three sites for replacement housing in connection with the redevelopment of the Samuel Madden Homes. On December 14, 2002, Council approved a special use permit for the development of 18 units of replacement public housing on this property. ARHA is applying to the Virginia Housing Development Authority for an allocation of Low Income Housing Tax Credits, and the conveyance of this property will establish ARHA's site control for that purpose.

The City acquired the property in February 1998 at a total acquisition cost of \$635,780. The property was acquired from W. R. Manchester, Inc. (Manchester Builders), which then leased the property back from the City for seven months, paying the City a total of \$17,500 in lease payments. The City paid \$2,103 in property taxes for the period during which the property was under lease. The City also paid a total of \$35,727 in relocation expenses (including consulting services) for W. R. Manchester, Inc., which vacated the property in October 1998, in accordance with the federal Uniform Relocation Act. The City's net outlay for the purposes described above is \$656,110. The City then used the property for Police Department operations, and the

expenses since that time, with the exception of the demolition of the structure (which the City is undertaking at a projected cost of approximately \$43,000), are City expenses not relevant to ARHA.

Although the 1998 action contemplated that ARHA would purchase the property from the City at the appropriate time, staff now recommends, given the City's agreement to provide up to \$3.5 million toward any shortfall between actual expenses and the available non-City resources for Madden-related activities, that the property be conveyed at this time without any payment by ARHA, and that the City outlays described above be counted toward the City's contribution to this project. In addition, any costs incurred by the City for the demolition of the structure at the site, if not subsequently reimbursed by ARHA from federal funds, will also be counted toward the City's contribution.

**FISCAL IMPACT:** Property will be conveyed without additional compensation from ARHA, but City outlays related to the property will be counted toward City's contribution to the Samuel Madden (Downtown) redevelopment effort.

**ATTACHMENTS:**

Attachment I. Ordinance

Attachment II. Docket item authorizing the acquisition of 423 S. Reynolds Street (February 10, 1998 Council meeting)

**STAFF:**

Mildrilyn Stephens Davis, Director, Office of Housing

Attachment L  
14  
3-15-03

~~18~~  
~~3-11-03~~

Introduction and first reading:	3/11/03
Public hearing:	3/15/03
Second reading and enactment:	3/15/03

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE approving and authorizing the conveyance of property owned by the City of Alexandria, located at 423 South Reynolds Street in the City of Alexandria, Virginia, to the Alexandria Redevelopment and Housing Authority for low- or moderate-income public housing.

Summary

The proposed ordinance authorizes the conveyance of the city-owned property at 423 South Reynolds Street to the Alexandria Redevelopment and Housing Authority for low- or moderate-income public housing in connection with the redevelopment of Samuel Madden Homes.

Sponsor

Staff

Mildrilyn S. Davis, Director, Office of Housing  
Karen S. Snow, Assistant City Attorney

Authority

§ 2.04.2(b), Alexandria City Charter

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

14  
3-15-03

~~18~~  
~~3-11-03~~

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE approving and authorizing the conveyance of property owned by the City of Alexandria, located at 423 South Reynolds Street in the City of Alexandria, Virginia, to the Alexandria Redevelopment and Housing Authority for low or moderate income public housing.

WHEREAS, the City of Alexandria ("City") owns the real property located at 423 South Reynolds Street in Alexandria, Virginia; and

WHEREAS, the city manager has recommended the conveyance of this property to the Alexandria Redevelopment and Housing Authority ("ARHA") in accordance with Resolution No. 1857, adopted by city council on February 10, 1998; and

WHEREAS, the conveyance of this property shall be considered as a credit to the \$3.5 million funds that on or about September 15, 2001, city council agreed to provide to ARHA for the redevelopment of Samuel Madden Homes; and

WHEREAS, the contribution by the City to ARHA attributable to the conveyance of this property shall be at a minimum, calculated to be \$656,110, plus any and all future costs and expenses paid by the City attributable to the demolition of this property; and

WHEREAS, the city council is of the opinion that a public necessity exists for the conveyance by the City of this property to ARHA for the construction of low-or moderate-income housing as replacement housing in connection with the redevelopment of Samuel Madden Homes (Downtown), and so finds; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the conveyance of the real property, shown on a plat entitled "Boundary Survey Part of Parcel 3509-04-01" dated September 3, 1997, recertified January 8, 1998, and prepared by Holland Engineering, and more particularly described below, to the Alexandria Redevelopment and Housing Authority, for replacement housing site for the Samuel Madden Homes (Downtown) and under the terms and conditions contained in the Agreement, which Agreement is hereby incorporated in this ordinance as if fully set forth herein, be, and the same hereby is, approved and authorized:

BEGINNING at an iron pipe at a corner to W. R. Mitchell and Edwards in the northern line of Edsall Road; thence with the said northern line S. 88 degrees 15' 30" E. 83.59 feet to a point; thence N. 75 degrees 43' 50" E. 21 feet to a point in the center of Edsall Road; thence along the center of Edsall Road N. 21 degrees 24' 20" E. 53.65 feet to a point and N. 3 degrees 06' 00" E. 252.35 feet to a point; thence with the land of others S. 77 degrees 20' 10" W. 127.68 feet

to a point; then N. 14 degrees 16' 10" W. 54.0 feet to a point in the line of W. R. Mitchell; thence with the line of Mitchell S. 0 degrees 07' 50" E. 328.91 feet to the point of beginning, containing 0.855 acres of land, more or less;

LESS AND EXCEPT Outlot A, being Parcel 3509-0402 of a resubdivision of Parcel 3509-04, Property of W. R. Manchester, Inc., conveyed in Deed Book 640, Page 325, among the land records of the City of Alexandria, Virginia;

FURTHER LESS AND EXCEPT 5,003 square feet conveyed to the City of Alexandria, Virginia, in Deed Book 707, Page 189, among the aforesaid land records;

TOGETHER WITH all improvements and fixtures on the above-described land and all rights, privileges, easements, benefits and agreements appurtenant thereto; and

Section 2. That the real property described in Section 1, shall be developed exclusively for public housing in accordance with development Special Use Permit No. 2002-0035, approved by city council on or about December 14, 2002, as the same may be amended from time to time by city council.

Section 3. That the city manager be, and hereby is, authorized, on behalf of the City of Alexandria, to do all things necessary and desirable to carry out the conveyance of the real property described in Section 1, including, but not limited to, the execution and delivery of a deed and other appropriate documents.

Section 4. That the city clerk be, and hereby is authorized, to attest the execution of the deed and other necessary documents executed by the city manager pursuant to Section 3, and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 5. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY  
Mayor

Introduction: 3/11/03  
First Reading: 3/11/03  
Publication: 3/13/03  
Public Hearing: 3/15/03  
Second Reading: 3/15/03  
Final Passage: 3/15/03

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City of Alexandria, Virginia

MEMORANDUM

Attachment II  
15  
2-10-98

DATE: FEBRUARY 5, 1998

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: VOLA LAWSON, CITY MANAGER *Vola Lawson*

SUBJECT: CONSIDERATION OF RESOLUTION AUTHORIZING THE ACQUISITION OF PROPERTY AT 423 S. REYNOLDS STREET FOR POSSIBLE FUTURE USE BY THE ALEXANDRIA REDEVELOPMENT AND HOUSING AUTHORITY AS A REPLACEMENT PUBLIC HOUSING SITE

**ISSUE:** Acquisition of property for possible future use as a replacement public housing site.

**RECOMMENDATION:** That the City Council:

1. Approve the acquisition of the property at 423 S. Reynolds Street, in accordance with the terms and conditions of the attached agreement of sale (Attachment I) for possible future use by the Alexandria Redevelopment and Housing Authority (ARHA) as a replacement public housing site for the Samuel Madden Homes, with the understanding that the City will hold the site until ARHA is ready to proceed with redevelopment, and that the terms of the transfer of ownership to ARHA will be negotiated at that time based on the financial resources available to ARHA for the replacement housing, and taking into account the value as determined by an independent appraisal to be obtained by ARHA.
2. Allocate \$665,000 in Housing Trust Fund monies to be used for acquisition (\$635,000), closing costs, and business relocation costs (to be determined), with the understanding that all monies (not to exceed \$665,000) received from ARHA related to the transfer of this property, as well as monies received through the leasing of this property, will be returned to the Housing Trust Fund.
3. Approve, by roll-call vote, the resolution authorizing the sale, which is an attachment to this docket item.
4. Authorize the City Manager to execute all necessary documents.

The Affordable Housing Advisory Committee approved the use of Housing Trust Fund monies for this purpose at its February 4, 1998 meeting.

**BACKGROUND:**

In March 1996, the ARHA Board of Commissioners voted to proceed with mixed density redevelopment of the 100 units at the Samuel Madden Homes (Downtown) site. In September 1996, ARHA solicited redevelopment proposals that would incorporate a majority (52) of the 100 replacement units on site. Five

proposals were received, and two were forwarded to the Board in April 1997. In June 1997, the ARHA Board of Commissioners approved a proposal from North Village L.L.C.<sup>1</sup> for the redevelopment of the Samuel Madden Homes (Downtown) public housing site.

However, federal regulations require that ARHA also solicit, secure and evaluate offers to purchase the Samuel Madden Homes (Downtown) site from a residents' organization.<sup>2</sup> Two organizations sought to be designated as the appropriate organization for this purpose, resulting in litigation. The proposed redevelopment is currently on hold due to pending appeals by ARHA and by the Samuel Madden Homes Cooperative of a court decision in favor of the Alexandria Resident Council.

### DISCUSSION:

Replacement housing sites will be needed for the 48 off-site public housing replacement units called for in ARHA's RFP. During 1997, staff learned of the potential availability of a possible replacement housing site, located at 423 S. Reynolds Street (on the corner of S. Reynolds and Edsall Road), that can potentially accommodate 11 public housing units. The site is owned by W. R. Manchester, Inc., which has a construction company (Manchester Builders) office and construction equipment on the site. Acquisition of this site was investigated at the direction of the Samuel Madden Working Group, which includes both City and ARHA representatives.

Staff is recommending that the property be acquired now, rather than when ARHA is ready to proceed with redevelopment, because the cost of acquisition is expected to increase if the purchase is delayed. According to its president, Thomas Michie, Manchester Builders has an immediate need to expand at its current site, or move to a new location. If the business expands in place, the assessment would most likely increase, resulting in higher costs of acquisition in the future. If Manchester Builders moves and sells the site, it is also likely that the new use of the site would also increase the value, and thereby the future acquisition price.

The City's 1997 assessed value of the property is \$569,000, and an appraisal obtained by the City valued the property at \$606,000 in September 1997. However, the City's appraiser considers his value

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<sup>1</sup>North Village, L.L.C. consists of SFRE, Inc. (50% interest), represented by Jeffrey H. Riddel, Senior Vice President; Madison Homes, Inc. (25% interest), represented by Milton Schneiderman and Russell S. Rosenberger, Jr., Principals; and the Mayhood Company (25% interest), represented by David R. Mayhood, President and Ann Scully, Vice President. Other participants include CHK Architects and Planners, Inc., Cunningham + Quill, Architects; Hart and Calley, land use attorneys; Ballard, Spahr, Andrews & Ingersoll, tax credit attorneys; and Hopkins House Association, Inc., minority participant.

<sup>2</sup>Pages 7 and 8 of the RFP for the Redevelopment of Samuel Madden Homes (Downtown) states the following: "As a condition precedent to entering into a binding contract to dispose of the site to the selected developer, the Authority must first submit to, and secure the approval of, the United States Department of Housing and Urban Development ("HUD") to a plan of disposition. ...(HUD) imposes upon the Authority four express requirements...which serve to safeguard the interests of the current residents of Samuel Madden Homes (Downtown) and must be satisfied before HUD will approve the disposition plan: (1)...an approved replacement plan to accommodate all current residents...; (2) a relocation plan to accommodate all current residents while replacement units (... on or off-site) are being constructed...; (3)...(an) application for demolition ... (which) must have been developed with input from public housing residents and resident organizations...; and (4) offering the subject housing to resident organizations... "It is currently contemplated by the Authority that it will pursue, simultaneously with the administration of the RFP process, the completion of all of the substantive requirements which must be satisfied before a plan of disposition can be submitted for HUD approval..."

(\$606,000) to be at the low end of the range, and also considers the owner's 1995 appraisal for \$650,000 to be a reasonable high end value, particularly in light of evidence that values in the area have begun to increase since the preparation of the appraisal. Taking this into account, and in the interest of reaching a negotiated sale, the City Attorney has negotiated, and the City Manager has executed, subject to Council approval, an agreement of sale to purchase the property for \$635,000. W. R. Manchester would then lease back the property for six to twelve months for \$2,500 per month, which would be returned to the Housing Trust Fund. (The owner recently expressed an intent to remain on the site for at least ten months.)

The recommended allocation is \$30,000 more than the purchase price in order to cover both closing costs and relocation expenses. Because the recommended acquisition of this property involves a federally-assisted purpose, the provision of replacement public housing units, the acquisition is subject to the requirements of the federal Uniform Relocation and Real Property Acquisition Policies Act. The City, as the acquiring agency, must pay Manchester's reasonable actual costs of moving (e.g., transportation of personal property within 50 miles; packing and unpacking; changing stationery, etc.), along with expenses of reestablishing the business in the new location (e.g., required improvements to the replacement property, advertisement of the replacement location, construction/installation of exterior signs to advertise the business) with such reestablishment expenses not to exceed \$10,000. While the total expenses cannot be determined until the business solicits cost estimates, staff currently estimates that the moving and reestablishment expenses will not exceed \$25,000. Staff will engage the services of a consultant experienced in federal relocation policies and practices to handle the business relocation.

According to ARHA Executive Director William Dearman, at its January 26 meeting, the ARHA Board voted to support the City's acquisition of the property. However, the ARHA Board also approved a total payment for the property of \$550,000 (based upon \$50,000 per buildable lot, a number ARHA staff believes to represent the upper end of the West End real estate market, for each of the 11 units). However, ARHA staff is prepared to negotiate a purchase price based on a different valuation methodology once it has the opportunity to secure an independent appraisal and other information.

Regardless of ARHA's estimate of value, the City does not have the option of acquiring this site for \$550,000. As previously noted, this acquisition is subject to the requirements of the federal Uniform Relocation and Real Property Acquisition Policies Act. The City was therefore obligated to begin negotiations with an offer at the appraised value of \$606,000.

According to City Attorney Phil Sunderland, the negotiated contract price of \$635,000 is perfectly proper. First, with respect to the \$550,000 value suggested by ARHA, it is essential to recognize that this property was not appraised on the basis of its potential for residential use. Rather, its highest and best use was determined to be commercial, and it was this use that was utilized by the appraiser in deciding its fair market value. It is of no consequence to the property's valuation, or its fair market value, that it is to be used by the purchaser for residential purposes.

Second, while the value stated by the City's appraiser in his appraisal document was \$606,000, in discussions with staff he indicated he believed that the property's value could well be higher, and that a value of \$650,000 was not unreasonable.

Finally, for a period of at least ten (and likely more) months following settlement, the Reynolds Street property will be leased back by the current owner. Assuming a lease period of 12 months, \$30,000 in lease payments will be paid, producing a "net price" to the city of \$605,000, which is in line with the value stated in the City appraisal. That the property would produce this amount of income immediately after



settlement, without any delay, and without any marketing costs or lease commissions, was a significant factor in reaching the contract price.

Despite the difference of opinion between City staff and ARHA concerning the value of the site, ARHA staff consider acquisition of the site as soon as possible to be beneficial to ARHA for two reasons. First, ARHA intends to reapply for HOPE VI funding for the Samuel Madden redevelopment, and one of the factors identified by the U. S. Department of Housing and Urban Development (HUD) as a deficiency in ARHA's previous application was the lack of specificity as to where the replacement housing will be built. ARHA believes that the City's purchase of this site for future use by ARHA will strengthen ARHA's application for the next round of HOPE VI funding. In addition, ARHA staff are also considering the possibility of financing the acquisition and development of this site with tax credit financing. If the site were owned by the City, ARHA would be better able to establish site control necessary for the tax credit process.

Staff recommends that the City hold the site until ARHA is ready to proceed with redevelopment, with the terms of the transfer of ownership to ARHA to be determined at that time based on the financial resources available to ARHA for the replacement housing and ARHA's independent appraisal of the property. If ARHA does not receive HOPE VI or other funding for the replacement units, the City will place a lien on the property for the agreed-upon amount owed by ARHA.

**STAFF:**

Mildrilyn Stephens Davis, Director, Office of Housing

**ATTACHMENTS:**

- I. Agreement of Sale
- II. Resolution Authorizing the Acquisition of Property at 423 S. Reynolds Street for Possible Future Use by the Alexandria Redevelopment and Housing Authority as a Replacement Public Housing Site

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1998, by and between W.R. MANCHESTER, INC., a Virginia corporation, hereinafter referred to as "Seller," and the CITY OF ALEXANDRIA, a municipal corporation of Virginia, hereinafter referred to as "City."

WHEREAS, by letter dated October 7, 1997, the City indicated the City may elect to acquire the "Property" (as hereinafter defined) through the exercise of its power of eminent domain, and Seller has agreed to enter into this Agreement based on the threat of such condemnation.

WHEREAS, the City has appraised the property of Seller and has provided Seller with a written statement of, and summary of, the basis for the amount the City has established as just compensation for the property of Seller; and,

WHEREAS, Seller has agreed to accept said amount as just compensation for Seller's property.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the mutual rights and obligations hereunder and the Deposit (as hereinafter defined), the Seller does hereby agree to sell and the City does hereby agree to buy for the sum of Six Hundred Thirty-Five Thousand and No/100 Dollars (\$635,000.00) cash at the date of conveyance, the Property (as hereinafter defined).

As used in this Agreement, the term "Property" shall include:

- (a) that certain real property known as 423 South Reynolds Street, Alexandria, Virginia, identified as Tax Map Number 057.00 04 08 and more particularly described as follows:

BEGINNING at an iron pipe at a corner to W.R. Mitchell and Edwards in the northern line of Edsall Road; thence with the said northern line S. 88 degrees 15' 30" E. 83.59 feet to a point; thence N. 75 degrees 43' 50" E. 21 feet to a point in the center of Edsall Road; thence

along the center of Edsall Road N. 21 degrees 24' 20" E. 53.65 feet to a point and N. 3 degrees 06' 00" E. 252.35 feet to a point; thence with the land of others S. 77 degrees 20' 10" W. 127.68 feet to a point; then N. 14 degrees 16' 10" W. 54.0 feet to a point in the line of W.R. Mitchell; thence with the line of Mitchell S. 0 degrees 07' 50" E. 328.91 feet to the point of beginning, containing 0.855 acres of land, more or less;

LESS AND EXCEPT Outlot A, being Parcel 3509-0402 of a resubdivision of Parcel 3509-04, Property of W. R. Manchester, Inc., conveyed in Deed Book 640, Page 325, among the land records of the City of Alexandria, Virginia;

FURTHER LESS AND EXCEPT 5,003 square feet conveyed to the City of Alexandria, Virginia, in Deed Book 707, Page 189, along the aforesaid land records; and

(b) all improvements and fixtures on the above-described real property and all rights, privileges, easements, benefits and agreements appurtenant thereto.

The improvements and fixtures located on said real property are hereinafter sometimes collectively referred to as the "Improvements".

1. The Seller shall convey to the City by special warranty deed marketable title to the Property. Such title shall be satisfactory to the City, with such satisfaction to be determined by the City on or before January 27, 1998. In the event the City is not satisfied with the status of title, the City may, unless Seller agrees to cure such objectionable matter(s) of title to the reasonable satisfaction of the City terminate this Agreement by giving written notice to Seller on or before January 27, 1998, and upon such termination, the City shall receive the return of its Deposit and neither Seller nor City shall have any further obligations hereunder. The City reserves the right to further object to any matters arising after the effective date of its title commitment with which the City is not satisfied. Seller shall be responsible for obtaining the release of any monetary

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encumbrances, judgments or liens created by Seller or arising as a result of Seller's actions.

2. The City will pay directly, at time of settlement, all reasonable documented settlement costs necessarily incurred by the Seller, to include recording fees, state and local transfer taxes, title certificates and other evidence of title, boundary surveys and legal descriptions of the Property. This does not include costs incurred by the Seller to perfect the Seller's title to the Property, to the extent Seller is required to (as to monetary encumbrances, judgments or liens only), or elects to, so perfect the Seller's title. The City will also pay any prepayment penalty the Seller may incur by reason of paying off any existing recorded mortgage or deed of trust encumbering the Property, at time of settlement.

The City will also reimburse Seller for Seller's reasonable and actually incurred out of pocket expenses (a) for moving and installing in Seller's replacement facility, as directed by Seller and in an operational manner substantially similar to that achieved by the installation at the Property, Seller's personal property, including furniture, equipment (including computer equipment), supplies, records, telephones, telephone equipment and security devices from the Property to Seller's new business location, (b) for reprinting Seller's stationery and business cards on the same quality and quantity of Seller's stationery and business card supply on hand immediately prior to Seller's vacating the Property, and (c) for modification or, if less costly, replacement with like quality of construction signs and truck signs. To obtain any such reimbursement, Seller shall provide paid invoices to the City which evidence such expenses within thirty (30) days of the date of the invoice, but in no event more than twelve (12) months after the Seller vacates the Property, and the City shall pay such reimbursement to the Seller within thirty (30) days of City's receipt of request for payment. Notwithstanding anything to the contrary contained herein, Seller shall also be entitled to such other moving, reimbursement, re-establishment or similar costs to which Seller is entitled under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (the "Act"). If Seller elects to "self move" (as defined in the Act), Seller recognizes that Seller and/or the City, as applicable, will need to comply with the procedural requirements contained in the Act for self moves.

3. The City shall be entitled to possession of the Property at the time of delivery of the deed, subject to Seller's lease of the Property pursuant to paragraph 12 hereof, and this Agreement, upon acceptance by the Seller, shall serve as written notice to vacate the Property as of the settlement date or, in the event of a lease to Seller, the expiration of such lease. Any occupant other than Seller lawfully occupying the Property shall not be required to move from any dwelling or to move his business without at least ninety (90) days written notice from the City of the date by which such move is required.

4. Payment of the purchase price specified herein shall be deposited with the Escrow Agent (as hereinafter defined) at settlement and such purchase price shall be disbursed to Seller within two (2) days subsequent to recordation of the deed.

5. Loss or damage to the Property shall be at risk of the Seller until the date and hour of delivery of the deed. In the event of any loss or damage to the Property, prior to such conveyance of title, the City may, at its option, terminate this Agreement by delivery of written notice to Seller, in which event the Deposit shall be returned to the City and the parties hereto shall have no further rights or obligations hereunder, or settle hereunder without adjustment of the purchase price.

6. Full settlement in accordance with the terms of this Agreement shall occur at the offices of the Escrow Agent (as hereinafter defined) on or before the expiration of thirty (30) days after approval of this Agreement by the Alexandria City Council (in accordance with paragraph 11 below). In the event of failure of the Seller to make full settlement in accordance with the terms of this Agreement, the City, as its sole remedies may terminate this Agreement, by delivery of written notice to Seller, in which event the Deposit shall be returned to the City and the parties hereto shall have no further rights or obligations hereunder, or may pursue specific performance of Seller's obligation to convey the Property.

In the event of failure of the City to make full settlement in accordance with the terms of this Agreement, the Seller, as its sole and exclusive remedy, shall be entitled to terminate this Agreement by delivery of written notice to the City and thereupon the Deposit shall be delivered by Escrow Agent to Seller and retained by Seller as full liquidated damages, in lieu of any other claims or causes of action which may be available to

Seller at law or in equity by reason of such default hereunder by the City; the foregoing forfeiture of the Deposit to Seller is agreed upon as liquidated damages by the parties hereto because of the difficulty of ascertaining the actual damages Seller may suffer by reason of the City's breach of this Agreement.

7. Both the Seller and the City agree that current taxes, water and sewage bills and rentals, if any, shall be pro-rated as of the date of the settlement.

8. All items of personal property which are appurtenant to the real estate by attachment to the real estate, or intended for use of the real estate as distinguished from Seller's operations thereon, including, but not limited to, light fixtures, plumbing fixtures, heating appliances, furnaces, window shades, Venetian blinds, storm windows, screens and storm doors, and awnings shall be considered fixtures and a part of the real estate and shall be included in the purchase price for the Property. Personal property not attached to the real estate, but used in connection with the real estate, and described as follows, if any, shall be included in the sale of the Property: None

9. Seller warrants that the Property is not subject to any unrecorded lease and agrees to save the City harmless in the event that it is necessary for the City to take legal action to evict any tenants claiming under a lease not made expressly known to the City prior to the settlement.

10. The parties to this Agreement mutually agree that it shall be binding upon them, and each of their respective heirs, executors, administrators, successors and assigns; that the provisions hereof shall survive the execution and delivery of the aforesaid deed and shall not be merged therein for a period of twelve (12) months; that this Agreement constitutes the final and entire agreement between the parties hereto; and that they shall not be bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained.

11. The parties acknowledge that this Agreement is subject to and conditioned upon approval by the Alexandria City Council, which approval shall be in the form of a resolution approving the City's acquisition of the Property and stating that the council would have authorized condemnation of the Property were the voluntary acquisition provided for in this Agreement not achieved. In the event this condition is not satisfied on or

before January 31, 1998, this Agreement shall terminate without further action on the part of either party, in which event the Deposit shall be returned to the City and the parties hereto shall have no further rights or obligations hereunder. The City will provide the Seller with notice of the action taken (and a copy of any resolution adopted) by the City Council prior to February 7, 1998.

12. The parties intend that Seller shall lease the Property from the City from and after the date of settlement, at a rent of \$2,500 per month, for a term of six (6) months with an option in favor of Seller to extend the term of such lease for up to six (6) additional months, on a month to month basis. Under such lease, Seller shall be permitted to use the Property in the same manner and for the same purposes as the Property is presently used. The parties further acknowledge that this Agreement is subject and conditioned upon negotiation of such a lease on terms otherwise mutually acceptable to the parties. In the event this condition is not satisfied on or before January 27, 1998, this Agreement shall terminate without further action on the part of either party, in which event the Deposit shall be returned to the City and the parties hereto shall have no further rights or obligations hereunder.

13. Within five (5) business days after full execution of this Agreement, the City shall deliver to Fireside Settlement & Title Services, Inc. (the "Escrow Agent"), a deposit (the "Deposit") in the amount of Thirty-One Thousand Seven Hundred Fifty and No/100 Dollars (\$31,750.00), in the form of the City's check. Escrow Agent shall hold the Deposit in a federally insured interest-bearing account reasonably acceptable to Seller and the City at a bank or other financial institution reasonably acceptable to Seller and the City, and all interest accruing on the Deposit shall be deemed to be a part of the Deposit for all purposes hereunder. Escrow Agent shall hold the Deposit in accordance with the terms of the Escrow Agreement attached hereto as Exhibit "A" and incorporated herein by reference which shall be executed by Seller, the City and Escrow Agent contemporaneously with delivery of the Deposit by the City to Escrow Agent. The Deposit shall be credited to the purchase price at settlement.

14. Seller represents and warrants to the City as follows:

(a) After the date of full execution hereof, Seller shall not: (i) grant any easements and/or rights of way and/or other encumbrances over or through the Property, (ii) enter into any new leases affecting all or any portion of the Property, (iii) enter into any agreement or any proffers or other commitments affecting the Property that would be binding on the City or the Property, (iv) further encumber the Property, or (v) construct or install any improvements or allow any existing Improvements or natural deposits to be wasted, removed, sold or in any way encumbered without the prior written consent of the City, which consent may be withheld by the City in its sole discretion. Any trailers or sea containers now or in the future located on the Property (i) shall be and remain the property of Seller, (ii) may be removed by Seller at any time prior to settlement or the expiration of the lease term, and (iii) shall not be transferred to the City.

(b) Seller has not received notice of any violations of any state or federal law or ordinances, orders, or requirements noted or issued by any state or federal governmental department or authority having jurisdiction over or affecting the Property, nor does Seller have any knowledge of any such violations. If any such notices, orders or requirements are noted or issued prior to the date of settlement, by any state or federal governmental department or authority having jurisdiction over or affecting the Property, and Seller elects not to comply therewith, the City may terminate this Agreement by delivery of written notice thereof to Seller and thereupon the Deposit shall be returned to the City and the parties hereto shall have no further rights or obligations hereunder.

(c) All bills and claims for labor performed and materials furnished to or for the benefit of the Property for all periods prior to the date of settlement have been (or prior to the date of settlement will be) paid in full, and on the date of settlement there shall be no mechanics' liens or materialmen's liens, whether or not perfected, on or affecting any portion of the Property, and if there shall be any such liens, Seller shall obtain the release of the same on or before the date of settlement so that the City's owner's policy of title insurance shall contain no exception for such liens. However, any bills, claims or liens relating to or arising from the City's pre-settlement activities on the Property are expressly excluded from



the provisions of this warranty. In connection therewith, Seller agrees, at settlement, to execute any affidavits and/or customary agreements which may be required by the City's title insurance company in order for the City to obtain from such title insurance company an owner's policy of title insurance covering the Property without exception for mechanics' liens or rights of parties in possession.

(d) Seller is a Virginia corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia. Seller has the power to enter into this Agreement and to consummate the transaction contemplated herein and the execution of this Agreement and the consummation of the transaction contemplated herein do not violate any of the terms and provisions of the organizational documents of Seller or any agreement, contract, or other instrument to which Seller is a party or is bound. The party executing this Agreement on behalf of Seller has the authority to execute this Agreement on Seller's behalf and to bind Seller hereunder.

(e) To the best of Seller's knowledge, there are no legal actions, suits, or other legal or administrative proceedings pending or, threatened against Seller that would impact its ability to convey the Property (including, without limitation, any voluntary or involuntary actions or suits pursuant to state or federal bankruptcy or other creditors' rights laws, statutes, rules or regulations) or affecting the Property before any federal or state instrumentality, and Seller is not aware of any facts which might result in any such action, suit or other proceedings. This representation and warranty expressly excludes any of the above matters in which the City is a party or participant, and with respect to such matters the City shall be deemed to have constructive notice thereof.

It shall be a condition precedent to the City's obligation to settle hereunder that all of the representations and warranties of Seller contained in this paragraph 14 and in paragraph 15 below shall be true and correct in all material respects at the date of settlement, just as though the same were made at such time.

In the event that prior to settlement hereunder the City learns that any of the representations and warranties of Seller set forth in this paragraph 14 or in paragraph 15 below are not true and correct in any material respect or in the event the

physical condition of the Property has changed from the date of execution of this Agreement in a way that would materially increase the cost of the City's development of the Property for the City's intended purpose or that would permit Seller not to lease the Property from the City, then the City, at its option, may either (a) terminate this Agreement by delivery of written notice thereof to Seller and thereupon the Deposit shall be returned to the City and the parties hereto shall have no further rights or obligations hereunder, or (b) waive such inaccuracy and proceed to settlement hereunder with no abatement in the purchase price.

15. Seller hereby expressly represents and warrants to the City that based solely on and except as set forth in that certain Phase 1 Environmental Site Assessment dated September 15, 1995, and prepared by Environmental Investigation Services, Inc. (the "Environmental Audit") no hazardous substances or hazardous materials have been released, deposited, stored or placed in, on, under or above the Property during Seller's ownership of the Property or prior to Seller's ownership thereof, and, except as set forth in such Environmental Audit, no such hazardous substances or hazardous materials existed in, on or under the Property as of the date of the Environmental Audit, such that their existence would violate applicable laws, ordinances, statutes and regulations. As used herein, all references to hazardous materials and raw materials, products or waste of a toxic or hazardous nature shall mean and refer to hazardous waste as that term is defined in the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et. seq.), the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et. seq.), or under any other federal, state or local law, ordinance, statute, rule or regulation, including, without limitation, any asbestos or asbestos-related products and any oils or pesticides. The City acknowledges that given the age of the improvements on the Property such improvements may well contain asbestos and/or lead paint and the City agrees that Seller shall have no liability as to such matters. The City agrees that it has performed its own environmental due diligence with respect to the Property.

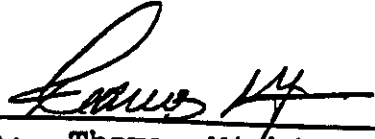
16. Commencing on the date of full execution hereof and for the entire term of this Agreement, the City, at its sole cost and expense, shall have reasonable access to the Property for the purpose of conducting such surveys, soil borings, soil analyses, engineering tests and studies, environmental tests and studies,

economic and/or topographic tests, studies, and/or investigations with respect to the Property as the City may deem necessary; provided, the City shall provide reasonable prior written notice of its entry onto the Property and provided such entry does not disrupt Seller's operations on the Property. City hereby agrees to restore upon termination of this Agreement (or immediately if such damage would (i) have a material impact on Seller's operations on the Property or (ii) present a significant risk of injury to any person or property) any damage to the Property as result of City's entry on the Property and activities thereon and agrees, to the extent permitted by law, to reimburse Seller for any costs, expenses (including reasonable attorney's fees) or liabilities incurred by Seller as a result of City's entry on the Property and activities thereon, including, but not limited to, with respect to property damage and bodily injury or death.

17. This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties have executed this agreement this \_\_\_ day of \_\_\_\_\_, 1998.

W. R. MANCHESTER, INC., a  
Virginia Corporation

By:   
Name: Thomas Michie  
Title: President

CITY OF ALEXANDRIA, a municipal  
corporation of Virginia

APPROVED AS TO FORM:

  
ASSISTANT CITY ATTORNEY

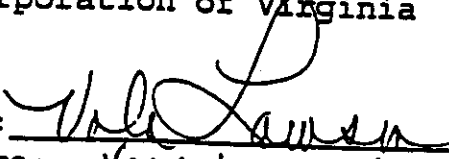
By:   
Name: VIOLA LAWSON  
Title: CITY MANAGER

Exhibit A

\_\_\_\_\_, 1998

Fireside Settlement & Title Services, Inc.  
429 North St. Asaph Street  
Alexandria, Virginia 22314  
Attention: Jesse Devereaux

Re: Escrow Deposit under Agreement of Sale by and  
between W.R. Manchester, Inc. ("Seller") and City  
of Alexandria ("City")

Ladies and Gentlemen:

Delivered herewith by the City to you (the "Escrow Agent") is the sum of Thirty-One Thousand Seven Hundred Fifty and No/100 Dollars (\$31,750.00) as the deposit ("Deposit") under the above-captioned agreement (the "Agreement") in the form of the City's check.

The Deposit shall be delivered by the Escrow Agent to the City upon the expiration of ten (10) business days after the City's certification to Escrow Agent stating that Seller is in default under the Agreement, specifying Seller's default, and stating that the City is entitled to a return of the Deposit, or that the City has terminated the Agreement pursuant to a termination right permitted under the Agreement and is entitled to a return of the Deposit, with a copy of said certification simultaneously being delivered by the City to Seller. However, if prior to the expiration of such ten (10) business day period Seller sends written notice to the Escrow Agent disputing the City's entitlement to the Deposit, then Escrow Agent shall retain the Deposit until such dispute is resolved by (i) written instructions to the Escrow Agent signed by Seller and the City, or (ii) a decree by a court of competent jurisdiction and the expiration of all appeal periods.

The Escrow Agent shall deliver the Deposit to Seller upon the expiration of ten (10) business days after Seller's certification to the Escrow Agent stating that the City is in default under the Agreement, specifying the City's default, and stating that Seller is entitled to a forfeiture of the Deposit, with a copy of said certification simultaneously being delivered by Seller to the City. However, if prior to the expiration of such ten (10) business day period the City sends written notice to the Escrow Agent disputing such default, then Escrow Agent shall retain the Deposit until such dispute is resolved by (i) written instructions to the Escrow Agent signed by Seller and the City, or (ii) a decree by a court of competent jurisdiction and the expiration of all appeal periods.

Escrow Agent shall hold the Deposit in an interest-bearing account (which identifies the fact that Escrow Agent is holding the Deposit, in escrow, pursuant to the terms of this escrow letter and that Escrow Agent has no ownership interest in the Deposit) pursuant to the Agreement, and the Deposit shall not be commingled with any other funds of Escrow Agent.

In no event shall the Escrow Agent be liable for any act or failure to act under the provisions of this escrow letter except where its acts are the result of its gross negligence or willful wrongdoing. The Escrow Agent shall perform no further duties other than those hereinabove described.

Seller and the City hereby indemnify the Escrow Agent against any loss, liability, or damage (including costs of litigation and counsel fees) arising from and in connection with the performance of its duties under this escrow letter. Should any dispute arise with respect to this escrow letter, whether such dispute arises between the parties hereto and others, or merely between themselves, it is understood and agreed that the Escrow Agent may interplead such dispute and Seller and the City will hold the Escrow Agent harmless and indemnify it against all consequences and expenses which may be incurred by the Escrow Agent in connection therewith.

The fee of the Escrow Agent for its services hereunder shall be paid by the City.

Please indicate your receipt of the Deposit and your acceptance of the foregoing provisions of this escrow letter by signing two copies of this letter.

Very truly yours,

SELLER:


W.R. MANCHESTER, Inc., a Virginia corporation

By:   
Thomas Michie, President

\_\_\_\_\_  
Date

CITY:

CITY OF ALEXANDRIA, a municipal corporation of Virginia

By:   
Virginia Louder, City Manager

1-7-98  
Date

Accepted and Agreed to:

Escrow Agent:

**APPROVED AS TO FORM**

  
**ASSISTANT CITY ATTORNEY**

FIRESIDE SETTLEMENT & TITLE SERVICES, INC.  
a Virginia corporation

By: \_\_\_\_\_  
Title: \_\_\_\_\_

## RESOLUTION NO. \_\_\_\_\_

WHEREAS, the City of Alexandria desires to acquire 31,926 square feet of land, more or less, located at 423 South Reynolds Street, within the City of Alexandria, for purposes of the construction of low- or moderate-income housing, the said land being shown on a plat entitled "Boundary Survey Part of Parcel 3509-04-01" dated September 3, 1997, recertified January 8, 1998, and prepared by Holland Engineering, and more particularly described as follows (the "Land"):

BEGINNING at an iron pipe at a corner to W. R. Mitchell and Edwards in the northern line of Edsall Road; thence with the said northern line S. 88 degrees 15' 30" E. 83.59 feet to a point; thence N. 75 degrees 43' 50" E. 21 feet to a point in the center of Edsall Road; thence along the center of Edsall Road N. 21 degrees 24' 20" E. 53.65 feet to a point and N. 3 degrees 06' 00" E. 252.35 feet to a point; thence with the land of others S. 77 degrees 20' 10" W. 127.68 feet to a point; then N. 14 degrees 16' 10" W. 54.0 feet to a point in the line of W. R. Mitchell; thence with the line of Mitchell S. 0 degrees 07' 50" E. 328.91 feet to the point of beginning, containing 0.855 acres of land, more or less;

LESS AND EXCEPT Outlot A, being Parcel 3509-0402 of a resubdivision of Parcel 3509-04, Property of W. R. Manchester, Inc., conveyed in Deed Book 640, Page 325, among the land records of the City of Alexandria, Virginia;

FURTHER LESS AND EXCEPT 5,003 square feet conveyed to the City of Alexandria, Virginia, in Deed Book 707, Page 189, among the aforesaid land records;

TOGETHER WITH all improvements and fixtures on the above-described land and all rights, privileges, easements, benefits and agreements appurtenant thereto; and

WHEREAS, the City of Alexandria is authorized by section 13.01 of its charter to acquire private property by purchase for the purpose of carrying out its powers and duties; and

WHEREAS, the city council is of the opinion that a public necessity exists for the acquisition by the City of Alexandria of the Land for purposes of the construction of low- or moderate-income housing, and so finds; and

WHEREAS, the land records of the City of Alexandria indicate

that the owner of the Land is W.R. Manchester, Inc., a Virginia corporation; and

WHEREAS, the city attorney has negotiated, and the city manager has executed, an Agreement of Sale, dated January 7, 1998, for the acquisition of the Land by the City of Alexandria (as amended, the "Agreement"), subject to the approval of the city council; and

WHEREAS, the city council would have authorized acquisition by condemnation of the Land were the voluntary acquisition provided for in the Agreement not achieved;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL  
OF THE CITY OF ALEXANDRIA, VIRGINIA:

1. That, pursuant to the provisions of section 13.01 of the Charter of the City of Alexandria, the Agreement shall be, and hereby is, approved, ratified and confirmed.

2. That the city manager shall be, and hereby is, authorized to execute on behalf of the City of Alexandria such other requisite documents in connection with the settlement of the transaction contemplated by the Agreement, including the lease referenced in paragraph 12 of the Agreement, and, if required, the city clerk is authorized and directed to affix or to cause to be affixed the seal of the city to such documents executed by the city manager and to attest such execution.

3. That the city manager, or her designee, shall be, and hereby is, authorized on behalf of the City of Alexandria to do and perform such things and acts, as she or her designee shall deem necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Agreement.

ADOPTED: \_\_\_\_\_

\_\_\_\_\_  
KERRY J. DONLEY MAYOR

ATTEST:

\_\_\_\_\_  
Beverly I. Jett, CMC City Clerk





<StansburyL@aol.com

>

03/15/03 07:09 PM

To: <beverly.jett@ci.alexandria.va.us>  
Subject: Feedback for city Council Meeting

3, 11, 14

3-15-03

SUP for 85 S. Bragg Street

I have to express some concern about placing a school in an area that has been plagued by break ins, assaults and auto thefts. I would ask that a detailed safety review by the police department be performed prior to any approval and a plan of action be put in place prior to adding this use in that area.

SUP for 400 Cameron Station Blvd.

When approving this use I believe that it is critical that the builder/developer provide parking as required. Under no circumstances should there be any approval in a reduction of parking anywhere in Cameron Station.

Public Hearing 425 S. Reynolds Street.

I have no objection to this going forward with the condition that all parking must be contained on the site. No requests for reduction in parking in the future will be accommodated. If necessary the project should be reduced to meet the current standards for parking.

Thank you for your time and understanding.

Larry Stansbury

ORDINANCE NO. 4292

AN ORDINANCE approving and authorizing the conveyance of property owned by the City of Alexandria, located at 423 South Reynolds Street in the City of Alexandria, Virginia, to the Alexandria Redevelopment and Housing Authority for low or moderate income public housing.

WHEREAS, the City of Alexandria ("City") owns the real property located at 423 South Reynolds Street in Alexandria, Virginia; and

WHEREAS, the city manager has recommended the conveyance of this property to the Alexandria Redevelopment and Housing Authority ("ARHA") in accordance with Resolution No. 1857, adopted by city council on February 10, 1998; and

WHEREAS, the conveyance of this property shall be considered as a credit to the \$3.5 million funds that on or about September 15, 2001, city council agreed to provide to ARHA for the redevelopment of Samuel Madden Homes; and

WHEREAS, the contribution by the City to ARHA attributable to the conveyance of this property shall be at a minimum, calculated to be \$656,110, plus any and all future costs and expenses paid by the City attributable to the demolition of this property; and

WHEREAS, the city council is of the opinion that a public necessity exists for the conveyance by the City of this property to ARHA for the construction of low-or moderate-income housing as replacement housing in connection with the redevelopment of Samuel Madden Homes (Downtown), and so finds; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the conveyance of the real property, shown on a plat entitled "Boundary Survey Part of Parcel 3509-04-01" dated September 3, 1997, recertified January 8, 1998, and prepared by Holland Engineering, and more particularly described below, to the Alexandria Redevelopment and Housing Authority, for replacement housing site for the Samuel Madden Homes (Downtown) and under the terms and conditions contained in the Agreement, which Agreement is hereby incorporated in this ordinance as if fully set forth herein, be, and the same hereby is, approved and authorized:

BEGINNING at an iron pipe at a corner to W. R. Mitchell and Edwards in the northern line of Edsall Road; thence with the said northern line S. 88 degrees 15' 30" E. 83.59 feet to a point; thence N. 75 degrees 43' 50" E. 21 feet to a point in the center of Edsall Road; thence along the center of Edsall Road N. 21 degrees 24' 20" E. 53.65 feet to a point and N. 3 degrees 06' 00" E. 252.35 feet to a point; thence with the land of others S. 77 degrees 20' 10" W. 127.68 feet

to a point; then N. 14 degrees 16' 10" W. 54.0 feet to a point in the line of W. R. Mitchell; thence with the line of Mitchell S. 0 degrees 07' 50" E. 328.91 feet to the point of beginning, containing 0.855 acres of land, more or less;

LESS AND EXCEPT Outlot A, being Parcel 3509-0402 of a resubdivision of Parcel 3509-04, Property of W. R. Manchester, Inc., conveyed in Deed Book 640, Page 325, among the land records of the City of Alexandria, Virginia;

FURTHER LESS AND EXCEPT 5,003 square feet conveyed to the City of Alexandria, Virginia, in Deed Book 707, Page 189, among the aforesaid land records;

TOGETHER WITH all improvements and fixtures on the above-described land and all rights, privileges, easements, benefits and agreements appurtenant thereto; and

Section 2. That the real property described in Section 1, shall be developed exclusively for public housing in accordance with development Special Use Permit No. 2002-0035, approved by city council on or about December 14, 2002, as the same may be amended from time to time by city council.

Section 3. That the city manager be, and hereby is, authorized, on behalf of the City of Alexandria, to do all things necessary and desirable to carry out the conveyance of the real property described in Section 1, including, but not limited to, the execution and delivery of a deed and other appropriate documents.

Section 4. That the city clerk be, and hereby is authorized, to attest the execution of the deed and other necessary documents executed by the city manager pursuant to Section 3, and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 5. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY  
Mayor

Final Passage: March 15, 2003