



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
July 19, 2008**

DATE: June 27, 2008

SUBJECT: Approval of a First Amendment to Deed of Lease between Clarendon Square Associates Limited Partnership, Landlord, and the County Board of Arlington County, Virginia, Tenant, to extend the deadline date by two months for Tenant to provide notice to Landlord of the exercise of Tenant's option to extend the term of the Lease, and to extend the Expiration Date of the Lease by two months for a portion of the building and the garage located at 3033 Wilson Boulevard, Arlington, VA (RPC 15067002, 15067003, 15067005, 15067006, 15067007, 15067033 and 15067036).

C. M. RECOMMENDATIONS:

1. Approve the First Amendment to Deed of Lease between Clarendon Square Associates Limited Partnership, Landlord, and the County Board of Arlington County, Virginia, Tenant, to extend the deadline date by two months for Tenant to provide notice to Landlord of the exercise of Tenant's option to extend the term of the Lease, and to extend the Expiration Date of the Lease by two months for a portion of the building and the garage located at 3033 Wilson Boulevard, Arlington, VA (RPC 15067002, 15067003, 15067005, 15067006, 15067007, 15067033 and 15067036).

2. Authorize the Real Estate Bureau Chief, or his designee to execute, on behalf of the County Board, the above referenced First Amendment to Deed of Lease, and all related documents, subject to approval as to form by the County Attorney.

ISSUE: As a part of the lease amendment process, the County Board is being requested to approve and authorize the execution of the attached First Amendment to Deed of Lease.

SUMMARY: By the County Board approving the First Amendment to Deed of Lease, and after it has been properly executed, the deadline date for the County to exercise its option to renew the lease will be extended by two months. Similarly, the expiration date of the lease will be extended by two months for the Department of Human Services (DHS) staff and programs to continue occupying a portion of the building and use the parking garage located at 3033 Wilson Boulevard, Arlington, VA.

County Manager: _____

County Attorney: _____

Staff: Linda DePersis, DES-Real Estate Bureau and Patricia Durham, DHS

BACKGROUND: The County entered into a Deed of Lease, dated October 16, 1999 ("Lease"), with the Landlord for leasing 145,777 square feet of office space and the parking garage for a ten year Lease term to consolidate a majority of DHS staff and programs.

DISCUSSION: The attached document has been structured to provide a commercially viable agreement to protect the County's rights and needs as a local government. Some of the pertinent provisions of the First Amendment are as follows:

- The Lease requires the Tenant to notify the Landlord by August 31, 2008, of the Tenant's exercise to renew the Lease.
- Under the First Amendment, the deadline date would be extended from August 31, 2008 to October 31, 2008 for the County to provide a written notice to Landlord to exercise its option to extend the term of Lease.
- Under the First Amendment, the expiration date for the Lease would be extended by 2 months; County would continue to pay base rent and additional charges and expenses during the two-month period from May 1, 2010 through June 30, 2010.

FISCAL IMPACT: There are no changes to fiscal impact. Funds are included in the FY 2009 budget for the leasing of office space for DHS operations.

EXHIBIT A
FIRST AMENDMENT TO DEED OF LEASE

THIS FIRST AMENDMENT TO DEED OF LEASE (this "First Amendment") is made this ____ day of July 2008 (the "Effective Date"), by and between **CLARENDON SQUARE ASSOCIATES LIMITED PARTNERSHIP**, a Virginia limited partnership ("Landlord"), and **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body politic ("Tenant").

WITNESSETH:

WHEREAS, pursuant to that certain Deed of Lease, dated October 16, 1999 (the "Original Lease"), Landlord leased to Tenant, and Tenant leased from Landlord, the Demised Premises (as defined therein) located at 3033 Wilson Boulevard, Arlington, Virginia 22201 (the "Building");

WHEREAS, the Expiration Date of the Term of the Original Lease, as established by the provisions of the Original Lease, is April 30, 2010;

WHEREAS, Tenant has an option to extend the Term pursuant to the provisions of Article 48 of the Original Lease, which may be exercised by providing written notice to Landlord no later than twenty (20) months prior to the Expiration Date, such deadline date currently being August 31, 2008; and

WHEREAS, representatives of Tenant and Landlord are in discussions regarding the possible terms under which Landlord would continue to lease the Demised Premises to Tenant for a term of years if Tenant were to exercise its option to extend the Term;

WHEREAS, to give representatives of Tenant and Landlord additional time to develop those terms for Tenant's consideration as well as to possibly seek due authority to permit Tenant to exercise its option to extend the Lease should Landlord's and Tenant's representatives arrive at the terms of an agreement for consideration by the County Board, Landlord and Tenant desire to amend the Original Lease (a) to extend the deadline date by which Tenant must provide notice to Landlord of the exercise of Tenant's option to extend the Term of the Lease by two (2) months, and (b) to extend the Expiration Date of the Lease by two (2) months, all upon the terms and conditions set forth in this First Amendment.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration and of the mutual agreements hereinafter set forth, it is hereby mutually agreed as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated in this First Amendment and made a part hereof by this reference.

2. Definitions. All capitalized terms not defined in this First Amendment shall have the meanings ascribed thereto in the Original Lease. As used herein and in the Original Lease, the term "Lease" shall mean the Original Lease, as amended by this First Amendment.

3. Modification of Section 48.02 of Original Lease. As of the Effective Date, Section 48.02 of the Original Lease is deleted in its entirety and the following substitute section is inserted in lieu thereof:

"Section 48.02. Tenant may exercise either Option A or Option B by giving Landlord written notice thereof (the "Option Notice") on or before October 31, 2008."

4. Expiration Date. As of the Effective Date, Section 1.16 of the Original Lease is deleted in its entirety and the following substitute section is inserted in lieu thereof:

"Section 1.16. Expiration Date: June 30, 2010."

5. Rent. For the two (2)-month period from May 1, 2010 through June 30, 2010, Tenant shall continue to pay Rent, including Monthly Rent and any sums, charges, expenses and costs identified in the Lease as Additional Rent to be paid by Tenant to Landlord, at the time set forth in Article 5 of the Original Lease, and, as to Monthly Rent, in the same amount specified in **Exhibit "H"** to the Original Lease as due per month during the tenth (10th) Lease Year, and, as to Additional Rent, as provided for under Article 8 of the Original Lease.

6. Brokerage. Landlord represents that it has not retained with any real estate broker, finder or other person (excluding legal counsel), to represent Landlord vis-à-vis Tenant with respect to this transaction, except Cassidy & Pinkard, as Landlord's broker (the "Broker"). Tenant represents that it has not retained any real estate broker, finder or other person (excluding legal counsel), to represent Tenant vis-à-vis Landlord with respect to this transaction. Landlord hereby agrees to indemnify and hold harmless Tenant against and from any claim for any brokerage commission or other fees and all costs, expenses and liabilities in connection therewith, including, without limitation, attorneys' fees and expenses, arising out of a breach of the foregoing representation. Landlord shall pay any commission or fees that are payable to the Broker with respect to this transaction, if any.

7. Counterpart Copies. This First Amendment may be executed in two (2) or more counterpart copies, all of which counterparts shall have the same force and effect as if all parties hereto had executed a single copy of this First Amendment.

8. Miscellaneous. This First Amendment (a) shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, transferees, successors and assigns and (b) shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

8. Ratification. Except as expressly amended by this First Amendment, all other terms, conditions and provisions of the Original Lease are hereby ratified and confirmed and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Deed of Lease under seal as of the day and year first hereinabove written.

LANDLORD:

CLARENDON SQUARE ASSOCIATES LIMITED PARTNERSHIP, a Virginia limited partnership

By: 3033 Clarendon, L.L.C., Managing General Partner

By: _____ [seal]
Leland H. Phillips, Managing Member
Date: July __, 2008

TENANT:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic

Approved as to form:

By: _____
County Attorney

By: _____ [seal]
Name: _____
Title: _____
Date: July __, 2008

ATTACHMENT 1
Vicinity Map
3033 Wilson Boulevard
Arlington, VA

(RPC 15067002, 15067003, 15067005, 15067006, 15067007, 15067033 and 15067036)

